

Wiltshire Council

The logo for Wiltshire Council, featuring a green wavy line underneath the text.

Dated 20 MARCH 2020

WILTSHIRE COUNCIL

and

STONE CIRCLE HOUSING COMPANY LIMITED

Nomination Agreement
relating to properties
purchased with loan finance
from Wiltshire Council

Nomination Agreement relating to properties purchased with loan finance from Wiltshire Council

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This Agreement is dated the 20th of MARCH 2020

Between

(1) Wiltshire Council whose principal office is at County Hall, Bythesea Road, Trowbridge, Wiltshire BA14 8JN (the "Lender" or "Council")

and

(2) Stone Circle Housing Company Limited a company registered in England and Wales under company number 12195127 and whose registered address is at County Hall, Bythesea Road, Trowbridge, Wiltshire BA14 8JN (the "Company")

separately a "Party" and together the "Parties".

It is agreed:

1. Definitions

- | | |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| "Agreement" | means this agreement; |
| "Commencement Date" | means the date when a tenancy can commence; |
| "Property" | Means property purchased by the Company with use of loan finance from Wiltshire Council under the Loan Agreement and charged against the property be made available to a nominee in accordance with the procedure set out in this agreement; |
| "Lettings Policy" | means the lettings policy of Stone Circle Housing Company Limited; |
| "Nominee" | means a person nominated by the Council who complies with the requirement of the letting policy and has a housing need; |
| "Nomination" | has the meaning given to it clause 3; |

Procedure”

“Nomination Rights” means the rights granted by the Company to the Council to nominate tenants to a Property;

2. Nomination rights

2.1. The Company shall offer the Council Nomination Rights in respect of the all company property in accordance with Nomination Procedure.

3. Nomination Procedure

3.1. The Company shall request from the Council a Nominee for a property no less than 20 working days before the available for letting date.

3.2. If the Company rejects the Nominee, it will request a further nomination within 5 days of the rejection.

3.3. If the Company accepts the nomination of a Nominee, they will offer the property to the Nominee within 5 days.

3.4. If the Nominee rejects the Property, the Company will request a further Nominee within two days of rejection and then again until 5 days before the available for letting date.

3.5. If a Nominee has not accepted the Property by 5 days before the letting date the Company will be free to advertise the Property for letting on the open market.

3.6. Council Nominees made within 5 days of the available for letting date will be considered before any other households who express an interest in the Property.

3.7. The Company will provide information on successful Nominee within 5 days of the Commencement Date.

4. Lettings policy

4.1. Council Nominees to be offered a default assured shorthold tenancy of six months. Subject to tenancy and credit history the length of tenancy will be extended to five years maximum.

4.2. Council to nominate households subject to the following requirements:

- i. Tenancy history of household for up to the last 5 years.
- ii. Satisfactory credit history checks or satisfactory income and expenditure analysis to show the property is affordable.
- iii. Verification of right to rent.
- iv. Confirmation of deposit and rent in advance payment.
- v. For those households who do not have satisfactory history/credit check Council to indemnify rent payments for first twelve months of tenancy.

5. Disposal of the Land

5.1. The Company agrees with the Council that the Company will not dispose of the Property or any part of it except to a purchaser or transferee who is a registered social landlord within the meaning given in the Housing and Regeneration Act 2008 who is willing to enter into an agreement on similar terms to this Agreement in so far as such obligations remain to be observed and performed and prior to any such disposal the Company must seek the written consent of the Council.

6. Liability

6.1. No liability shall devolve on the Council to reimburse the Company for any loss of rent service charge or for any legal or other costs or fees or any other expenses incurred by the Company arising or in any way connected to the Nomination Rights.

7. Notices

7.1 Any notice required to be served shall be in writing and (unless otherwise herein provided) shall be deemed to be sufficiently served if sent by registered or recorded delivery post to the address of the party specified in this Agreement or to such other address (in substitution thereof) as may be notified in writing by that party from time to time for this purpose and in the case of the Council shall be addressed to the Head of Legal Services save for in respect of any notices served in accordance with clause 3 where such notice shall be addressed to the Housing Allocations and Lettings Manager.

8. Equal Opportunities

8.1 The parties shall during the terms of this Agreement comply with the provision of the Equality Act 2010 as it is unlawful for a contractor to discriminate on the grounds of colour race nationality ethnic or national origins (which includes citizenship) sex and marital status in the fields of employment education and the provision of goods and services and the premises and further the Company will consider any failure in respect of the above matters shall also be considered a breach of this Agreement.

9. Data Protection

- 9.1 Both parties shall comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not remove or replace, a party's obligations under the Data Protection Legislation.
- 9.2 The parties shall comply with their respective obligations set out in Schedule 1 (Data Protection).
- 9.3 Each party shall ensure that it does nothing knowingly or negligently which places the other party in breach of Data Protection Legislation.
- 9.4 The provisions of this clause and Schedule 1 (Data Protection) shall apply during the term of this Contract and indefinitely after its expiry.

10. Dispute Resolution

10.1 If a dispute arises out of or in connection with the Contract or the performance, validity or enforceability of it (a "Dispute") then the parties shall follow the procedure set out in this clause:

- (i) Either party shall give to the other written notice of the Dispute setting out its nature and full particulars (a "Dispute Notice"), together with relevant supporting documents. On service of the Dispute Notice, the Council's representative and the Company's representative (including any other key personnel reasonably required by either party) shall attempt in good faith to resolve the Dispute;
- (ii) if the Council's representative and Company's representative are for any reason unable to resolve the Dispute within 10 days of service of the Dispute Notice, the Dispute shall be referred to the

relevant senior managers of each party who shall attempt in good faith to resolve it;

(iii) if the senior managers of each party are for any reason unable to resolve the Dispute within 15 days of it being referred to them, the Dispute shall be referred to the Council's relevant service director or other senior officer and the Supplier's relevant director who shall meet within 5 days of any failure of the senior managers to resolve the Dispute, and who shall attempt in good faith to resolve it. Such meeting shall be minuted and shall be chaired by the party who first called for the meeting (but the chairman shall not have a casting vote); and

(iv) if the Council's senior officer / director and the Company's relevant director are unable to settle the Dispute the parties shall (subject to any alternative dispute resolution procedures stated in any Form of Agreement) attempt to settle the Dispute either by:

- a. mediation
- b. where appropriate and reasonable in the case of any disputes relating to technical issues, by expert determination.

10.2 During any Dispute, and without prejudice to any other provision of the Contract, it is mutually agreed between the parties that they shall continue their performance of the provisions of the Contract.

10.3 The parties shall bear their own legal costs in respect of the dispute resolution procedure in clauses 10.1 (i) to 10.1 (iii).

11. General

10.1 Neither of the parties to this Agreement may assign or dispose of its interest in this Agreement (other than by way of mortgagee or charge) without the prior written consent of the other PROVIDED ALWAYS that in the event of the Company wishing to assign its interest in this Agreement it shall not be at liberty to do so until such time as the proposed assignee has entered into direct covenants with the Council to carry out any remaining obligations on the part of the Company under the terms of this Agreement which remain to be performed or observed at the time of the proposed assignment

PROVIDED always that nothing contained in this Agreement is intended to bind any mortgagee of:-

- a) the Company or
- b) any purchaser from the Company or
- c) any successor in title from the Company

or any Receiver appointed by such mortgagee nor any successor in title of any person deriving title through or under such mortgagee or Receiver

10.2 Nothing herein contained shall constitute or be deemed to constitute a partnership between the parties hereto

10.3 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Agreement

10.4 No variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of each Party.

IN WITNESS whereof this Agreement has been duly executed as a DEED by the parties and DELIVERED on the date which first appears in this Agreement.

THE COMMON SEAL of
WILTSHIRE COUNCIL
was hereunto affixed
in the presence of:




.....
Authorised Officer

Team Leader (Legal)

SIGNED and DELIVERED as a DEED by
**STONE CIRCLE HOUSING COMPANY
LIMITED**
acting by a Director and its Secretary or two
Directors:


..... Director


..... Director/Company Secretary

Schedule 1

Data Protection

1 Definitions

In this Schedule 11 (Data Protection, Processing, Personal Data and Data Subjects):

1.1 Unless defined elsewhere in this Schedule 11 defined terms shall have the same meaning as they have in clause 1, the Definitions.

1.2 In this Schedule 11, the following additional terms have the following meanings unless inconsistent with the context:

Controller has the meaning given to it in the GDPR;

Personal Data has the meaning given to it in the GDPR;

Processor has the meaning given to it in the GDPR;

2 Data Processing

2.1 As at the Commencement Date, the Council has determined that the performance of this Agreement does not require processing of Personal Data.

2.2 The parties acknowledge that each of them retains the role of Controller only for their respective organisation in connection with this Agreement.

2.3 In the event that the Council determines that processing of Personal Data is required for the proper performance of this Agreement, before either party makes any such disclosure:

2.3.1 the parties shall co-operate in good faith to review relevant requirements;

2.3.2 should the Council determine that changes to the terms of this Schedule 1 are necessary to ensure compliance with Data Protection Legislation (the **Required Changes**), the Council will provide at least [one month's] written notice to the Company of the Required Changes (such notice to be given in accordance with clause 51 (Notices)). The Company will upon receipt of such notice confirm that it will accept these changes. For the avoidance of doubt, the variation procedure set out at clause 10.6 (Changes) shall not apply to the Required Changes; and

2.3.3 The Company shall enter into such further agreements relating to compliance with Data Protection Legislation as the Council may reasonably require.