

SCANNED BY FACILITIES  
27 JUL 2015

MAGNA GROUP DORCHESTER  
27 JUL 2015  
RECEIVED



**MANAGEMENT AGREEMENT  
FOR  
TENANTED AND LEASEHOLD PROPERTIES**

**Management Agreement between Magna Housing Association Ltd and  
Buckland Newton Community Property Trust**

**THIS AGREEMENT** is made on 20<sup>th</sup> day of September 2012 (and subsequently revised on                      day of                      2015)

**BETWEEN:**

- (1) Buckland Newton Community Property Trust whose registered office is at C/o Edwards and Keeping, Unity Chambers, 34 High East Street, Dorchester, Dorset DT1 1HA ('the Client'); and
- (2) Magna Housing Association Limited (Charitable I&P Society number 26971R) whose registered office is at Holland House, Poundbury Road, Dorchester, DT1 1SW) ('the Agent')

NOW IT IS AGREED as follows:

**1 Background**

- 1.1 The Client is a Community Property Trust hereinafter referred to as "BNCPT".
- 1.2 The Agent is a registered provider under number L3950 with the Tenant Services Authority, operating as Magna Housing Association and hereinafter referred to as "MHA".
- 1.3 MHA has knowledge skill and experience in the business of managing affordable housing and BNCPT wishes to use Lydden Meadow and the dwellings therein to provide housing and to draw upon the special skills and services of MHA by appointing them as managing agent on the terms of this Agreement.

**2 Definitions and interpretation**

- 2.1 In this Agreement:
  - 2.1.1 **'Agent's Services'** means the services (but only in relation to Lydden Meadow and the dwellings therein) more particularly set out in Schedule 1;
  - 2.1.2 **'Agreement'** means this document (including its schedules) as varied from time to time in accordance with the provisions of this Agreement or as agreed between the parties in writing;
  - 2.1.3 **'Agent's Central Management Charge'** means MHA's costs of management of Lydden Meadow and the dwellings therein which in respect of the Financial Year ending next after the Commencement Date is 8% of the gross rent, the sum of £100 per year for the shared ownership dwellings;
  - 2.1.4 **'Agent's Services'** means the services (but only in relation to the Property) more particularly set out in Schedule 2;
  - 2.1.5 **'Commencement Date'** means 01 August 2011
  - 2.1.6 **'Financial Year'** means a year commencing on 01 May and ending 30th April.
  - 2.1.7 **'Occupancy Agreement'** means an agreement for occupation in the form set out in Schedule 3 and 4;
  - 2.1.8 **"Property"** means all dwellings at Lydden Meadow, Buckland Newton, Dorchester, Dorset DT2 7FA.
- 2.2 The headings in this Agreement are inserted for convenience and shall not affect its meaning.
- 2.3 Reference to any statute or statutory provision is to be taken as a reference to that statute or statutory provision as amended or re-enacted from time to time.

- 2.4 References to clauses and schedules are unless the context otherwise requires to clauses of and schedules to this Agreement.

### **3 Duration**

This Agreement shall commence on the Commencement Date and (unless ended sooner under clause 9 below) shall continue for an initial period of five years and then shall continue until ended by at least 6 months' written notice by either party to the other expiring at any time.

### **4 Appointment of MHA**

- 4.1 BNCPT appoints MHA to be its exclusive agent for the provision of the agreed Agent's Services in relation to Lydden Meadow and the dwellings therein and MHA accepts such appointment.
- 4.2 BNCPT authorises MHA on behalf of Lydden Meadow and the dwellings therein and in accordance with the terms of this Agreement:
- 4.2.1 to provide the Agent's Services; and
- 4.2.2 generally to execute and perform any other reasonable act or thing which BNCPT could not do itself in respect of the provision of the Services in relation to Lydden Meadow and the dwellings therein.
- 4.3 MHA shall have no responsibility under this Agreement to any person other than BNCPT.
- 4.4 BNCPT agrees not to appoint any other agent in relation to the provision of the Agent's Services set out in Schedule 2 or otherwise to deviate from this Agreement without prior discussion and agreement in writing with MHA
- 4.5 In the event of any default on the part of MHA or any sub-contractor in the provision of the Agent's Services BNCPT may (in addition and without prejudice to its other rights and remedies) after notice to MHA suspend the appointment of MHA to provide all or any of the Agent's Services for such period as BNCPT may think fit and may itself carry out or appoint some other person to carry out the Agent's Services in respect of which the appointment of MHA has been suspended. MHA shall co-operate fully with BNCPT or any person so appointed in the provision of the services in question.
- 4.6 Nothing in this Agreement shall entitle or require MHA to do anything outside the scope of the objects and powers of BNCPT.

### **5 Obligations of the MHA**

#### **5.1 Performance of duties**

MHA shall at all times during the period of this Agreement:

- 5.1.1 faithfully and diligently provide the Agent's Services and perform those duties and exercise such powers consistent with them which are from time to time necessary in connection with the provision of the Agent's Services; and
- 5.1.2 act upon all lawful and reasonable directions of BNCPT.

#### **5.2 Records**

The MHA shall keep proper records of all actions completed in relation to the provision of the Agent's Services and the use of Lydden Meadow and the dwellings therein and at the request of BNCPT shall make them available for inspection at reasonable times and/or provide copies.

**5.3 Keeping BNCPT informed**

MHA shall keep BNCPT fully and promptly informed of all events acts and omissions arising out of or in the course of the provision of the Agent's Services or the use of Lydden Meadow and the dwellings therein:

5.3.1 which are material; or

5.3.2 which ought to be known to BNCPT.

5.3.3 which are of a kind of which BNCPT has notified MHA that it wishes to be informed.

**5.4 Steering group**

MHA will establish a steering group on which MHA and BNCPT shall be represented and which shall meet at least once every year, in July. The functions of the steering group shall include a review of the annual rent and service charges, a review of this management agreement and the services provided by each party.

**5.5 Payments**

MHA will make payment to BNCPT (together with such VAT as may be properly due) in accordance with clause 11 below but receipt by BNCPT shall be without prejudice to any claims or rights which BNCPT may have against MHA and shall not constitute any admission by BNCPT as to the performance of MHA of its obligations hereunder.

**5.6 Staff**

MHA shall at all times be responsible for the provision of sufficient suitable staff to fulfil its duties under this Agreement. MHA may employ such staff directly or may contract with a third party for this purpose.

5.6.1 The employer/employee relationship between MHA and any staff whether directly employed or contracted to it shall be entirely between MHA and the said staff and not between BNCPT and the staff.

5.6.2 BNCPT accepts no responsibility under any contract of employment entered into between MHA and such staff or for any legal obligations of MHA in this respect.

**6 Confidentiality**

6.1 In this clause '**Confidential Information**' means all information relating to Lydden Meadow and the dwellings therein or the provision of the Agent's Services or the Client's Services obtained by BNCPT or MHA from the other or obtained in the course of the operation of this Agreement, being information which BNCPT or (when the information has been obtained from MHA) MHA has specified in writing is to be treated as confidential, or information which would appear to a reasonable person to be confidential.

6.2 BNCPT and MHA respectively agree to take reasonable steps to keep and to ensure that their personnel shall keep the Confidential Information confidential and not at any time for any reason whatsoever disclose it or permit it to be disclosed to any third party except as required by law or by the appropriate government bodies or its advisers or as permitted under this Agreement to enable BNCPT and MHA to carry out their respective duties and obligations.

6.3 The obligations of confidence referred to in the preceding clause shall not apply to any Confidential Information which:

6.3.1 is in the possession of and at the disposal of either BNCPT or MHA or is published or is otherwise in the public domain at the Commencement Date; or

- 6.3.2 is or becomes publicly available on a non-confidential basis through no fault of either BNCPT or MHA; or
  - 6.3.3 is received in good faith by either BNCPT or MHA from a third party who on reasonable enquiry by either BNCPT or MHA claims to have no obligations of confidence to either BNCPT or MHA in respect of it and who imposes no obligations of confidence on either BNCPT or MHA.
- 6.4 The obligations of the parties in respect of Confidential Information shall survive the expiry or the termination of this Agreement for whatever reason.

## **7 Liability**

- 7.1 BNCPT relies and will throughout the duration of this Agreement be relying on MHA's skill expertise and experience in the performance of the Agent's Services. BNCPT has also relied and will rely upon the accuracy and completeness of all representations and statements made or advice given by MHA (whether before or after the date of this Agreement) in connection with the provision of the Agent's Services.
- 7.2 MHA will maintain employer's liability insurance of at least £10 million for any one claim and public liability insurance of at least £5 million in respect of any one claim with an insurance office of repute and will at BNCPT's request produce a copy of the insurance policy and the receipt for the last premium due for inspection.
- 7.3 MHA will provide building insurance on behalf of Lydden Meadow for properties as agreed by BNCPT. Any premium excess shall be payable by BNCPT or home owner where applicable

## **8 Obligations of the BNCPT**

- Throughout the period of this Agreement BNCPT shall:
- 8.1 supply MHA with such information and other material relevant to Lydden Meadow and the dwellings therein and within the control of BNCPT as MHA may reasonably require to provide the Agent's Services and shall make available appropriate personnel to liaise with MHA; and
  - 8.2 faithfully and diligently perform the Clients Services and those duties and exercise such powers consistent with them which are from time to time necessary in connection with the provision of the Clients Services.

## **9 Termination**

- 9.1 If either party wishes to terminate the contract six months notice in writing must be given to the other party.
- 9.2 The contract may be terminated on expiry of 28 days notice if:
  - 9.2.1 either party engages in conduct prejudicial to Lydden Meadow and the dwellings therein or the provision of services
  - 9.2.2 BNCPT acts in a way that prevents MHA performing the services required under this agreement
  - 9.2.3 either party becomes insolvent, or ceases to be registered
  - 9.2.4 either party is in breach of company law regulations
  - 9.2.5 there is a change in the management of control of which either party does not agree
  - 9.2.6 either party is in breach of the contracted terms and conditions of this agreement. However in such situation the party not in default may give to the other written notice specifying the default and giving 28 days to rectify the default. If the default is not rectified the party not in default may then give 28 days notice to terminate the agreement

- 9.3 Termination of this Agreement is without prejudice to any right or remedy of either party against the other whether in respect of any breach of contract or any payments due or otherwise.
- 9.4 On termination of this Agreement:
- 9.4.1 MHA shall hand over Lydden Meadow and the dwellings therein to BNCPT having complied with its obligations under this Agreement.
- 9.4.2 amounts paid or due including service charges and sinking funds shall be apportioned on a time basis between BNCPT and MHA, however some funds may be held to cover the cost of invoices addressed to MHA that have not been paid. These matters should be finalised with 28 days or a timescale otherwise agreed between BNCPT and MHA. This does not include the collection of rents or service charges from residents
- 9.4.3 all appropriate records shall be made available to BNCPT within 28 days of the termination. This excludes any records that are the intellectual property of MHA.
- 10 Assignment and sub-contracting**
- 10.1 BNCPT may on a disposal of its interest in Lydden Meadow and the dwellings therein assign this Agreement to the transferee and if the transferee shall enter into a direct covenant with MHA to observe and perform the Clients obligations under this Agreement BNCPT shall in respect of obligations to be performed or observed after the date of that covenant have no further liability to MHA under this Agreement.
- 10.2 Except as permitted by clause 10.1 above neither party shall (without the prior written consent of the other) assign transfer or in any other manner make over to any other party in whole or in part the benefit or burden of this Agreement or sub-contract the performance of all or any obligations hereunder.
- 11 Finance**
- 11.1 MHA will pay to BNCPT by the 15 day of each calendar (or nearest to) month:
- 11.1.1 all rent charges received by MHA from the residents under the Occupancy Agreements from the 6<sup>th</sup> of the previous month to the 5<sup>th</sup> of the month in which payment is to be made less 8% management fees and any other reasonable costs.
- 11.2 Manage all sinking fund accounts in accordance with MHA's procedures.
- 11.3 Supply BNCPT with accounts in respect of the provision of the Agent's services for each Financial Year by 30 July annually.
- 11.4 MHA shall invoice BNCPT with costs incurred for repairs and maintenance of the rented dwellings, including 15% administration fee where appropriate. MHA will invoice BNCPT on a quarterly basis for repairs and maintenance carried out payment of said invoice shall be debited from the next available payment of rent charges.
- 11.5 All MHA's charges shall be reviewed annually after the first five years that this agreement shall subsist and agreed with BNCPT.
- 12 General**
- 12.1 The parties agree to operate this Agreement at all times in accordance with their respective Equal Opportunities Policies current from time to time and which at the commencement of this Agreement are as set out Schedules 4 and 5 respectively.

- 12.2 The parties expressly agree that nothing in this Agreement shall in any way create a partnership between them.
- 12.3 Except with the prior written consent of the other or as expressly and specifically permitted by this Agreement neither party may enter into any engagement or commitment or obligation of any kind on behalf of the other or make any representation or warranty on behalf of the other.
- 12.4 This Agreement embodies and sets forth the entire Agreement and understanding of the parties relating to its subject matter.
- 12.5 Any notice or other document to be given under this Agreement shall be in writing and be deemed to have been properly given if left at or sent by:
- 12.5.1 first class post;
  - 12.5.2 registered post or recorded delivery;
  - 12.5.3 facsimile; or
  - 12.5.4 e-mail attachment
- to a party at the address or relevant telecommunication number for the recipient as stated at the beginning of this Agreement or at such other address or number as the recipient may from time to time designate by written notice to the other in accordance with the provisions of this Agreement.
- 12.6 Any failure by the parties hereto to agree any matter in accordance with this Agreement, or any dispute or difference arising between the parties as to the construction or interpretation of this Agreement, or as to the rights duties or obligations of the parties under this Agreement, or as to any other matter in any way arising out of or connected with the subject matter of this Agreement, shall be referred to the decision of an independent arbitrator to be appointed on the application of either party by the Chief Executive or other senior officer for the time being of the National Housing Federation and this Agreement shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force. The powers of the arbitrator shall include a power to make interim awards.
- 12.7 The waiver or forbearance or failure of a party insisting in any one or more instances upon the performance of any provision of this Agreement shall not be construed as a waiver or relinquishment of that party's rights to future performance of such provision and the other party's obligation in respect of such future performance shall continue in full force and effect.

## SCHEDULE 1

### The Agent's Services

#### **1 Maintenance and Repairs**

- 1.1 The MHA will ensure that all repairs and maintenance authorised by BNCPT under the lease and tenancy agreement are adhered to including:
- 1.1.1 receive requests for emergency response repairs from residents or general repair instructions from BNCPT, arrange appointments and liaise with contractors;
  - 1.1.2 recharge tenant where maintenance and repair is in the event of any act of omission or neglect by residents of Lydden Meadow and the dwellings therein to include the internal decoration of the dwelling;
  - 1.1.3 notify BNCPT of any matter arising in connection with the repair and maintenance of the dwelling which is the responsibility of BNCPT over £250 per property and

- 1.1.4 manage the ten year warranty (where appropriate) on Lydden Meadow and the dwellings therein;
  - 1.1.5 manage and repair any system if requested by BNCPT i.e. heating; waste; rainwater harvesting systems or similar
  - 1.1.6 provide a caretaker service on request and at the expense of BNCPT to maintain communal areas and removal of flytipped items;
- 1.2 BNCPT shall indemnify MHA against the cost of repairs carried out by MHA to rectify any damage to Lydden Meadow and the dwellings therein and any fixtures or fittings therein due to the act of omission or negligence of the residents or the BNCPT.

## **2 Rent and Service Charge Setting and Collection**

MHA agrees to:

- 2.1 set and collect the rent and service charge payable pursuant to the Occupancy Agreement on instruction from BNCPT;
- 2.2 maintain weekly and monthly records of the charges collected as applicable;
- 2.3 take all steps as may be required to ensure that the Occupancy Agreement is complied with and to recover any rent/service charge or sum of money in arrears including commencing (at BNCPT's expense) any action or legal proceedings in any court or submitting any dispute to arbitration if necessary in all matters connected with the letting of Lydden Meadow and the dwellings therein or part thereof and fully co-operating or defending all actions or other legal proceedings which may be brought against MHA in connection with the letting of Lydden Meadow and the dwellings therein or any part thereof;
- 2.4 from the Commencement Date maintain a separate revenue account for Lydden Meadow and the dwellings therein.

## **3. Termination, Relet, Resale & Staircasing**

- 3.1 BNCPT and MHA agree to advise each other as soon as knowledge of an intended termination is known.
- 3.2 MHA will grant on behalf of BNCPT tenancy and lease agreements to occupy the dwellings in Lydden Meadow, once BNCPT has agreed the successful applicant. The form of the Occupancy Agreement shall be in the form attached as Schedule 3 or Schedule 4
- 3.3 undertake all administration if required with the re-sales of any shared owner dwelling; The form of the Occupancy Agreement shall be in the form attached as schedule 4 or schedule 3 if ownership reverts to BNCPT.
- 3.4 Void inspections will be carried out jointly between BNCPT, MHA and the outgoing resident.
- 3.5 BNCPT will instruct MHA as to the work to be completed and MHA will recharge appropriately.

## **4. Tenancy and Leasehold Management**

- 4.1 carry out occasional inspections of the communal areas to check for repair and maintenance; NOTE: But not to include letters to residents.
- 4.2 manage parking enforcement and abandoned vehicles in accordance with the Occupancy Agreement;
- 4.3 effect internal inspections of the tenanted dwellings on a two yearly cycle.
- 4.3 manage other clauses in the Occupancy Agreement in consultation with BNCPT and the resident. This could include tenancy enforcement action.
- 4.4 Enforce the terms of the Occupancy Agreement should a breach occur relating to the residents responsibilities.



## **5 Insurance**

- 5.1 MHA will be responsible for insurances on behalf of Lydden Meadow for the shared ownership units therein (excluding contents insurance) and shall keep insured for their full replacement value and shall whenever reasonably required by BNCPT supply to BNCPT a true copy of the Policy for such insurance.
- 5.2 MHA will use its best endeavours to protect all monies in its possession and affect such fidelity insurance cover as may be appropriate and approved by BNCPT.
- 5.3 MHA will encourage all residents to effect adequate insurance to cover their own belongings.

## **6. Items not covered by the Agent's Services**

- These will be rechargeable to BNCPT; payable from service charges and sinking funds administered by MHA
- 6.1 any communal utilities associated with Lydden Meadow and the dwellings therein,
  - 6.2 any repairs and maintenance costs associated with Lydden Meadow and the dwellings therein,
  - 6.3 any internal and external block cleaning,
  - 6.4 flytipping,
  - 6.5 buildings insurance and public liability insurance
  - 6.6 cost and management of any major works or cyclical and planned works (in excess of £250.00 per dwelling)

## SCHEDULE 2

### The Clients Services

## **1 Maintenance and Repairs**

- 1.1 BNCPT is obligated and desires to keep all dwellings and communal areas/components in good repair and condition.
- 1.2 In respect of the tenanted properties, the maintenance of the following is to be completed by BNCPT or their appointed local contractors or by MHA at the request of BNCPT. At no time can MHA accept an unauthorised request from a householder except in an emergency, if no BNCPT member is available:
  - 1.2.1 drains, gutters and external pipes;
  - 1.2.2 the roof;
  - 1.2.3 foundations, outside walls, outside doors, window sills and frames;
  - 1.2.4 internal walls (excluding decorative services), skirting boards, plaster work, doors, floors, ceilings, paths, boundaries, steps and means of access
  - 1.2.5 all outbuildings
  - 1.2.6 kitchen units and cupboards;
  - 1.2.7 locks; doors and glazing;
  - 1.2.8 installations for the supply of water and electricity and for sanitation, heating and hot water, including without prejudice to the generality of the foregoing electrical wiring, sockets, light fittings, fitted heaters, radiators and water heaters, baths, toilets, sinks and basins for tenanted dwellings only.
  - 1.2.9 all communal areas including grounds maintenance if required; paths and access routes including the unadopted road and parking area

- 1.2.10 foot bridge;
- 1.2.11 cleaning of the rain-water harvesting filter;
- 1.2.12 cleaning of the roof gutters;
- 1.2.13 periodic re-staining of external woodwork;
- 1.2.14 annual servicing by NIBE of the heating and hot water systems

1.3 In respect of the shared ownership properties, the shared owner is responsible for the maintenance of the property except BNCPT will co-ordinate the following and the shared owner will compensate BNCPT for such as part of their service charges:

- 1.3.1 maintain all communal areas including grounds maintenance if required; paths and access routes including the unadopted road and parking area
- 1.3.2 foot bridge;
- 1.3.3 cleaning of the rain-water harvesting filter;
- 1.3.4 cleaning of the roof gutters;
- 1.3.5 periodic re-staining of external woodwork;
- 1.3.6 annual servicing by NIBE of the heating and hot water systems

SCHEDULE 3

Form of Occupancy Agreement – Tenancy Agreement

SCHEDULE 4

Form of Occupancy Agreement – The Lease

SCHEDULE 5

The Agent's Fees

1. The cost of the management services provided in Schedule 1 & 2 is 8 % of the gross rent collected on all dwellings, plus an additional management fee of £100.00 per annum for each shared owner dwelling throughout the term of the contract.
2. The services provided in Schedule 1 Section 1 are subject to a 15% administration charge.

The cost of any repairs undertaken to each tenanted dwelling shall be deducted from the rent collections in the quarter following completion of the works, or shortly thereafter, without consultation with BNCPT if the cost of the works is less than £250 per dwelling.

SIGNED by:



For and on behalf of the Buckland Newton Community Property Trust

In the presence of

: ANDREW STONE

Position held for Buckland Newton Community Property Trust:

CHAIRMAN

Witness

: Andrew Stone

Address

: LITTLE GUNVILLE  
BUCKLAND NEWTON  
DT2 7DW.

SIGNED by a Duly Authorised

Officer of the Magna Housing Association:



In the presence of

Careen Welsh

Witness

: Careen Welsh

Address

: magna Housing Association  
Hollands House  
Poundbury Road  
Dorchester Dorset  
11 DT1 1SA.

