

## **The Obligations**

### **Schedule 1**

#### **Affordable Housing**

##### **Part A - Definitions:**

For the purposes of this Agreement the following expressions shall have the following meanings:

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| <b>"Affordable Dwelling"</b>                  | means a Dwelling which is part of the Affordable Housing within the Development, together with its curtilage and any parking space or garage allocated to it;                                                                                                                                                                 |
| <b>"Affordable Housing"</b>                   | means affordable housing available to specific eligible households whose needs are not met by the market and being permanent dwellings to be let as Rented Units or disposed of as Intermediate Housing Units through an Affordable Housing Provider pursuant to this Agreement;                                              |
| <b>"Affordable Housing Provider" or "AHP"</b> | means a registered provider as defined in the Housing and Regeneration Act 2008 who is registered with Homes England or any other provider of Affordable Housing first approved in writing by the Council;                                                                                                                    |
| <b>"Affordable Rented Housing"</b>            | means Affordable housing for rent as described in paragraph a) to the definition of 'Affordable Housing' in Annex 2 : Glossary to the NPPF where the rent is set in accordance with the Government's rent policy for affordable rent or is at least 20% below local market rents (including service charges where applicable) |
| <b>"Affordable Housing Scheme"</b>            | means a scheme to be submitted in                                                                                                                                                                                                                                                                                             |

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|                                  | <p>writing to and approved by the Council in writing setting out details of the provision of the Affordable Housing Units such scheme to identify the tenure, size, location, layout and specification of each of the Affordable Housing Units and which will specify those of the Affordable Housing Units that shall be let through the Devon Home Choice Register or Help to Buy South West or any such scheme which may subsequently be adopted by the Council and which supersedes the Devon Home Choice Register and where any Intermediate Housing Units are not to be managed by an AHP the arrangements for the transfer of such Intermediate Housing Units to ensure that such provision is affordable for both first and subsequent occupiers, the occupancy criteria to be used for identifying such occupiers and the means by which such occupancy criteria shall be enforced;</p> |
| <b>"Affordable Housing Unit"</b> | <p>means each of those Dwellings to be specified in the Affordable Housing Scheme as Dwellings to be delivered as Affordable Housing;</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>"Designated Person"</b>       | <p>means any person or persons who immediately prior to the occupation of an Intermediate Housing Unit has a Local Connection with the Parish of Lifton in the first instance and then the Administrative Area of the Council and then the County of Devon and the expression "Designated Persons" shall be construed accordingly</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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| <b>"Devon Home Choice"</b>    | means the choice based letting scheme introduced in the County of Devon with a view to allocating those most in need of housing accommodation owned by local authorities and registered providers                                                                                                                                                                                                                                                                                                                   |
| <b>"Help to Buy Agent"</b>    | means Help to Buy South West Limited (Company Number 01683645) whose registered office is at Park House, Church Lane, St. George, Bristol BS5 7AG or such other organisation(s) as may be designated by Homes England as being responsible in relation to the area in which the Site is situated for the marketing of Intermediate Housing Units the assessment of the eligibility of those applying to purchase them, and the direction of appropriate applicants to the local schemes which best meet their needs |
| <b>"Homes England"</b>        | means the successor body to the Homes and Communities Agency created pursuant to the Housing and Regeneration Act 2008 exercising functions in relation to the funding of affordable housing and being the regulator of social housing providers in England and includes any successor body exercising similar functions                                                                                                                                                                                            |
| <b>"Intermediate Housing"</b> | shall have the same definition as that contained within Annex 2 : Glossary to the NPPF and for the avoidance of doubt shall include Shared Ownership Housing Units and Affordable Dwellings as advertised through Help to Buy South West                                                                                                                                                                                                                                                                            |

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| <b>"Intermediate Housing Units"</b> | means those Dwellings to be provided as Intermediate Housing and 'Intermediate Housing Unit' shall be construed accordingly;                                                                                                                                                                                                                                                                                                                                             |
| <b>"Local Allocations Policy"</b>   | means the policy adopted by the Council in December 2017 to ensure locally based allocations for Affordable Housing Units pursuant to section 167(2E) of the Housing Act 1996 together with any revisions thereof;                                                                                                                                                                                                                                                       |
| <b>"Local Connection"</b>           | means a local connection to the parish of Lifton in the first instance and then the Administrative Area of the Council and then the County of Devon having regard to the local connection criteria set out in the Local Allocations Policy applicable at the date when the relevant Affordable Housing Unit(s) are being allocated (or in the event of there being no Local Allocations Policy in force such other criteria as may be agreed by the Council in writing); |
| <b>"NPPF"</b>                       | means the National Planning Policy Framework published in February 2019 or any other document amending or replacing the same;                                                                                                                                                                                                                                                                                                                                            |
| <b>"Open Market Dwelling"</b>       | means a Dwelling comprised in the Development other than an Affordable Housing Unit                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>"Practical Completion"</b>       | means the issue of a certificate of practical completion by the Owner's qualified agent or in the event that the Development is constructed by a party other than the Owner the issue of a                                                                                                                                                                                                                                                                               |

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|                                        | certificate of practical completion by that other party's qualified agent;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>"Protected Tenant"</b>              | <p>means any tenant who:</p> <ol style="list-style-type: none"> <li>1. has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of an Affordable Housing Unit, or</li> <li>2. has exercised any statutory right to buy (or equivalent contractual right) in respect of an Affordable Housing Unit, or</li> <li>3. was granted a Shared Ownership Lease (or similar arrangement where a share of an Affordable Housing Unit is owned by the tenant and a share is owned by the Affordable Housing Provider) by the Affordable Housing Provider in respect of an Affordable Housing Unit and has subsequently purchased all the remaining shares from the Affordable Housing Provider so that the tenant owns the entire Affordable Housing Unit</li> </ol> |
| <b>"Rented Units"</b>                  | means units of Affordable Rented Housing and/or Social Rented Housing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>"Shared Ownership Housing Unit"</b> | means an Affordable Housing Unit which is disposed of pursuant to a Shared Ownership Lease and 'Shared Ownership Housing Units' shall be                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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|                                 | construed accordingly                                                                                                                                                                                                                      |
| <b>"Shared Ownership Lease"</b> | means an Affordable Housing Unit in which the occupier owns a percentage of the freehold and the remainder is owned by an AHP but with the right of the occupier to purchase further percentages of the Affordable Housing Unit up to 100% |
| <b>"Social Rented Housing"</b>  | means Affordable housing for rent as described in paragraph a) to the definition of 'Affordable Housing' in Annex 2 : Glossary to the NPPF where the rent is set in accordance with the Government's rent policy for social rent           |

## **Part B - Affordable Housing Obligations**

### **AFFORDABLE HOUSING**

#### **1. The Owners hereby covenant to the Council:**

- 1.1 30% of the Dwellings shall be provided as Affordable Housing Units of which 65% shall be Rented Units and the remainder shall be Intermediate Housing Units and where the number of Dwellings to be provided as Affordable Housing Units Rented Units or Intermediate Housing Units is not a whole number the number shall be increased to the nearest whole number where the amount by which number exceeds the whole number is greater than 0.5 and for the avoidance of doubt a number which exceeds a whole number by 0.5 or less will be rounded down
- 1.2 Not to commence the Development unless and until the Affordable Housing Scheme has first been submitted to and approved in writing by the Council.
- 1.3 To construct and provide the Affordable Housing Units in accordance with the approved Affordable Housing Scheme and any other standards which supersede it
- 1.4 The Owners shall:
  - 1.4.1 give not less than 8 (eight) weeks' notice in writing to the Council of

the date on which each Rented Units will be available for first Occupation;  
and

1.4.2 give not less than 3 (three) months' notice in writing to the Council of the date on which each Intermediate Housing Units will be available for first Occupation.

1.5 Not to cause or permit the Occupation of the Affordable Housing Units other than as Rented Units as set out in the Affordable Housing Scheme and Intermediate Housing Units shall only be occupied by Designated Persons who cannot afford to rent or buy housing generally available on the open market immediately prior to Occupation save that this obligation shall not be binding on:

1.5.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and charges;

1.5.2 any mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation shall have first complied with the provisions of paragraph 1.8 of Schedule 1 set out in this Agreement.

1.6 Unless otherwise agreed in writing with the Council, no more than 50% of the Open Market Dwellings shall be Occupied until 75% of the Affordable Housing Units have been constructed to Practical Completion and are ready for Occupation and have been transferred to the AHP or in the case of Intermediate Housing Units that are not to be managed by an AHP the Council has been provided with evidence that those Intermediate Housing Units have been transferred to an Occupier in accordance with the Affordable Housing Scheme approved pursuant to paragraph 1.2 above and no more than 75% of the Open Market Dwellings shall be Occupied until 100% of the Affordable Housing Units have been constructed to Practical Completion and are ready for Occupation and have been transferred to the AHP or in the case of Intermediate Housing Units that are not to be managed by an AHP the Council has been provided with evidence that those Intermediate Housing Units have been transferred to an Occupier in accordance with the Affordable Housing Scheme approved pursuant to paragraph 1.2 above.

- 1.7 Prior to the first Occupation of any Dwelling the Owner shall notify the Council of the name of the AHP(s) to whom the Affordable Housing Units and the Intermediate Housing Units shall be transferred.

#### **Chargee's Duty**

- 1.8 The affordable housing provisions set out in this Part of Schedule 1 shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a receiver)) of the whole or any part of the Affordable Housing Unit and/or Intermediate Housing Unit or any persons or bodies deriving title through such mortgagee or chargee or receiver PROVIDED THAT:
- 1.8.1 such mortgagee or chargee or receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Unit and/or Intermediate Housing Unit and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Unit and/or Intermediate Housing Unit to another AHP or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
- 1.8.2 if such disposal has not completed within the three-month period, the mortgagee, chargee or receiver shall be entitled to dispose of the Affordable Housing Unit and/or Intermediate Housing Unit free from the affordable housing provisions in this Part of Schedule 1 which provisions shall determine absolutely.

#### **Nominations: Intermediate Housing Units**

- 1.9 Where an AHP becomes an Owner by virtue of an transfer of an Affordable Dwelling or the Site thereof then the AHP insofar as it is lawfully able to do so shall ensure that the Intermediate Housing Units are disposed of only to persons who:
- 1.9.1 are Designated Persons; and

1.9.2 have been chosen from the list of eligible applicants which the AHP shall request from the Help to Buy Agent provided that if there shall not be sufficient suitable applicants on such list or if any suitable applicants fail to proceed with the purchase within 3 (three) months of being made an offer by the AHP then the AHP shall be entitled to dispose of the Intermediate Housing Unit to a person of its own choosing who is unable to afford the purchase of suitable accommodation on the open market PROVIDED THAT the AHP shall use reasonable endeavours to dispose of the Intermediate Housing Unit to persons from such list of eligible applicants.