

Management) Regulations 2015

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| "Accessible and Adaptable Dwellings" | means the Dwellings which are to be constructed to the sizes and standards required by Building Regulations Part M4(2) Category 2: accessible and adaptable dwellings |
| "Affordable Dwellings" | means each unit of Affordable Rented Housing and Intermediate Affordable Housing or such other form of Affordable Housing as maybe agreed in writing by the Council from time to time to be delivered on the Site pursuant to this Deed |
| "Affordable Housing" | means subsidised housing for rent or sale as defined in the NPPF Annex 2 provided to eligible households whose needs are not met by the market, with regard to local incomes and local house prices, and subject to provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision |
| "Affordable Housing Units Layout and Mix Plan" | means the plan or plans submitted by the Owners and approved by the Council identifying the type, size and distribution of the Affordable Dwellings |
| "Affordable Rent" | a rent which does not exceed 80% of the Open Market Rent (inclusive of any service charge) for the relevant property type and in any event should not exceed the published Local Housing Allowance for the relevant property type and in the relevant property market area allowing for any modifications to a level of allowance as published from time to time by the Government SAVE THAT the rent charged under all lettings may be increased annually by a proportion equivalent to an increase by the Consumer Price Index plus 1% or any relevant increase determined from time to time by the HCA |
| "Affordable Rented Housing" | means housing for rent let by an AHP comprising a local authority or registered provider of social housing to Qualifying Persons eligible for social rented housing at an Affordable Rent |
| "Allotments" | means a total area of 1 (one) hectare of land within the Site to be made available |

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| | spatial distribution and provision of Open Space across the whole Site |
| "Interest" | means interest at 4% above the base lending rate of the Bank of England from time to time |
| "Intermediate Affordable Housing" | means housing for sale or rent provided at a cost above social rent but below Open Market Rent and which meets the criteria for intermediate housing in the NPPF Annex 2 |
| "LAP" or "LAPs" | means a Local Area of Play to be provided Onsite |
| "LEAP" or "LEAPs" | means a Local Equipped Area of Play to be provided Onsite |
| "Letting Notice" | <p>means a notice which contains details of the property to be let and which shall include unless otherwise with the Council:</p> <ul style="list-style-type: none"> the name and address of the landlord and Owner (if different); the address of the property the weekly or monthly rent; the amount and breakdown of any service charge per week/month/ annum; details of any additional charges; any age or other occupancy restrictions; property type; property size; heating type; details of mains services in the property; availability of parking space/garage; any disability adaptations; any provision of support services; <p>and which is delivered to the Council clearly addressed and marked for the urgent attention of the Housing Manager PROVIDED THAT an Advertisement for the Affordable Dwelling approved by the Council and placed by a registered provider of social housing on Devon Homechoice shall be considered a Letting Notice for the purposes of paragraph 2.2 of Part 2 to Schedule 2</p> |
| "Local Connection" | <p>means having on the date of Advertising at least one of the following a connections with the Primary Area, the Secondary Area, Tertiary Area or the County as appropriate:</p> <ul style="list-style-type: none"> being permanently resident therein; or being formerly permanently resident |

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| | <p>therein for a continuous period of five (5) years; or</p> <p>having his or her place of permanent work (normally regarded as sixteen (16) hours or more a week excluding seasonal employment) therein immediately prior to advertising; or</p> <p>having a connection through a close family member (normally mother, father, brother, sister, son or daughter) where the family member is currently resident therein and has been so for a continuous period of at least five (5) years; or</p> <p>being in such other special circumstances which the Council considers requires the applicant to reside therein as appropriate and which is consistent with the Devon Homechoice or Help to Buy South West (as appropriate)</p> |
| "Local Housing Allowance" | means the flat rate rental allowance providing financial assistance towards the housing costs of low income households for different rental market areas and property types set out and reviewed by the Valuation Office Agency under a framework introduced by the Department for Work and Pensions and any periodic modifications to that level of allowance, or such similar framework that may replace it |
| "Management Company" | means a body with a registered office in England or Wales that is nominated or established by the Owners for the acquisition and long term management and maintenance of the Open Space in accordance with the provisions of Schedule 4 such body to be approved by the Council (such approval not to be unreasonably withheld or delayed) |
| "Manager for Housing" | means the Council's manager for the time being of Affordable Housing |
| "Market Value" | means the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction after proper marketing and where the parties had each acted knowledgeably prudently and without compulsion |
| "Marketed Appropriately" | means marketing the Self Build and |

Schedule 2
Affordable Housing and Custom Build Dwellings

Part 1 - Transfer of the Affordable Dwellings

- 1 The Owners hereby covenant with the Council as follows:
 - 1.1 In accordance with the resolution of the Council's Planning Committee the residential element of the Development (taken as a whole) shall (unless agreed otherwise in writing with the Council acting by the Manager for Development Management) deliver (subject to the operation of Schedule 3) 10% of the Dwellings as Affordable Dwellings.
 - 1.2 One (1) of the Affordable Dwellings to be provided within the first Phase of Dwellings shall be provided as Accessible and Adaptable Dwellings and a maximum of 5% of the Affordable Dwellings to be provided within each remaining Phase shall be constructed as either Accessible and Adaptable Dwellings or Wheelchair User Dwellings PROVIDED FURTHER that where an Affordable Dwelling is required by the Council to be either an Accessible and Adaptable Dwelling or a Wheelchair User Dwelling then the number of Affordable Dwellings to be provided shall be reduced by an amount commensurate with the additional cost of providing such dwellings, the cost to be determined through the Affordable Housing Review Mechanism.
 - 1.3 Where the total number of Affordable Dwellings to be provided within a Phase includes part of a whole number then the number of Affordable Dwellings within a Phase shall be rounded up where the part of the whole number is 0.5 or more and shall be rounded down where the part of the whole number is less than 0.5.
 - 1.4 The Owners shall not Commence any Phase of Dwellings until they have submitted to the Council for approval the Affordable Housing Units Layout and Mix Plan for that Phase which shall demonstrate a representative mix of Affordable Dwellings for that Phase and cumulatively for the overall Development as set out in paragraphs 1.1, 1.2 and 1.6 of this Part 1 unless in the Council's opinion housing need justifies an alternative mix.
 - 1.5 The Affordable Dwellings shall be provided for that Phase in accordance with the approved Affordable Housing Units Layout and Mix Plan and in accordance with housing standards to be agreed in writing with the Council prior to the Commencement of each Phase.
 - 1.6 The residential element of the Development (taken as a whole) shall (unless agreed otherwise in writing with the Council acting by the Manager for Development Management) provide (subject to the operation of Schedule 3) 25% of the Affordable Dwellings as Affordable Rented Housing and 75% of the Affordable Dwellings as Intermediate Affordable Housing.
 - 1.7 Where the total number of Affordable Dwellings to be provided as Affordable Rented Housing and/or Intermediate Affordable Housing (as the case may be) within a Phase includes part of a whole number then the number of Affordable Dwellings to be provided as Affordable Rented Housing and/or Intermediate Affordable Housing (as the case may be) shall be rounded up where the part of the whole number is 0.5 or more and shall be rounded down where the part of the whole number is less than 0.5

- 1.8 Not to Occupy more than 50% of the Open Market Dwellings within any Phase without the prior completion of a transfer of 50% of the Affordable Dwellings in that Phase to an AHP in accordance with the transfer terms set out in paragraph 1.10 of this Schedule 2 Part 1 below and such Affordable Dwellings being ready for Occupation.
- 1.9 Not to Occupy more than 80% of the Open Market Dwellings within any Phase without the prior completion of a transfer of 100% of the Affordable Dwellings for that phase to an AHP in accordance with the transfer terms set out in paragraph 1.10 of this Schedule 2 Part 1 below and such Affordable Dwellings being ready for Occupation.
- 1.10 The transfer of Affordable Dwellings to an AHP shall be free from encumbrances save for encumbrances existing at the date of this Deed (with the exception of a financial charge) and subject to such terms as may be agreed between the Owner and the AHP with the intention that the Affordable Dwellings within a Phase shall at all times (subject to the exemptions and releases in Schedule 2 Part 4 below) be Occupied and managed as Affordable Housing in accordance with this Deed.
- 1.11 Subject to prior compliance with the requirements of paragraph 1.4 above and the disqualifying condition in 1.12 below the Council and the Owners agree that the following cascade mechanism shall apply to any offer to transfer Affordable Dwellings to an AHP:
- (a) if the offer to transfer the Affordable Dwellings to the first AHP ("**the First Offer**") has not been accepted within 4 weeks of the date of the said offer (or if having been accepted a transfer of the relevant Affordable Housing Units is not completed within 6 months of the acceptance of the said offer) then:
 - (i) to the extent legally permissible the Owners shall notify the Council of the first AHP's reasons for failing to accept the First Offer or failing to complete a transfer;
 - (ii) if the first AHP's reasons relate to the house types or tenures of the Affordable Dwellings under the Affordable Housing Units Layout and Mix Plan approved by the Council under paragraph 1.4 above then the Owners shall be entitled to submit a revised Affordable Housing Units Layout and Mix Plan to the Council for approval (such approval not to be unreasonably withheld or delayed); and
 - (iii) the Owners shall be entitled to make an offer comprising either (or both as alternative acceptable plans) the same mix of house type and tenures as originally approved under paragraph 1.4 above or a new mix of house types and tenures approved under paragraph 1.11(a)(ii) above to a second AHP and/or the first AHP ("**the Second Offer**");
 - (b) if the Second Offer has not been accepted within 4 weeks of the date of the Second Offer (or if having been accepted a transfer of the relevant Affordable Housing Units is not completed within 6 months of the date of acceptance of the Second Offer) then the Owners shall be entitled to make a third offer comprising of the Affordable Housing house type and tenures

approved under paragraph 1.4 and/or paragraph 1.11(a)(ii) above ("**the Third Offer**");

- (c) if the Third Offer has not been accepted within 4 weeks of the date of the Third Offer (or if having been accepted the transfer of the relevant Affordable Housing Units is not completed within 6 months of the date of acceptance of the offer) then the Owners shall (subject to paragraph 1.13 below) be entitled to sell any unsold Affordable Housing Units in that Phase on the open market and those units will then be free of any of the restrictions in this Schedule but the Owners shall remain liable for the contribution in paragraph 1.13 below;
 - (d) The Owners shall not sell any unsold Affordable Housing Units on the open market in accordance with paragraph 1.11(c) above without the approval of the Council such approval not to be unreasonably withheld or delayed PROVIDED THAT if approval is not received within 28 Working Days of request such request having been acknowledged in writing by the Council then it shall be deemed approved
- 1.12 The cascade provisions in paragraph 1.11 above do not apply if an AHP fails to accept an offer or complete a transfer of the relevant Affordable Housing Units on account of a dispute between the Owners and an AHP about the level of service charge to be paid in respect of the Affordable Housing Units.
- 1.13 In the event the Owners sell any unsold Affordable Housing units on the open market in accordance with paragraphs 1.11(c) above the Owners shall pay to the Council a contribution calculated in accordance with Policy WE2 governing offsite affordable housing contributions (or such other similar policy as may be in force at the relevant time) and of a value commensurate with the number of Affordable Housing units which are being sold on the open market in accordance with paragraphs 1.11(c) towards increasing the supply of affordable housing in the District.

Part 2 - Affordable Rented Dwellings

- 2 The Owners hereby covenants with the Council as follows:
- 2.1 Not to permit or otherwise allow any of the Affordable Rented Dwellings to be let other than:
- (a) to a Qualifying Person who is either releasing an Alternative Affordable Home or is in Housing Need;
 - (b) at a sum not exceeding the Affordable Rent; and
 - (c) to persons selected in accordance with the principles of Devon Homechoice whether or not the AHP is a member of the Devon Homechoice
- 2.2 Each time an Affordable Rented Dwelling becomes available for letting:
- (a) to serve on the Council a Letting Notice;
 - (b) to submit to and secure the Council's prior approval of a Scheme of Advertising in respect of the relevant Affordable Rented Dwelling(s); and

- (c) to advertise the relevant Affordable Rented Dwelling(s) in accordance with the Scheme of Advertising approved by the Council
- 2.3 Not to grant a tenancy of the relevant Affordable Rented Dwelling until submission to the Council of written verification (marked for the urgent attention of the Manager of Housing) that the prospective tenant satisfies the obligations in this Schedule 2 Part 2 and the Council has given its approval that the prospective tenant would satisfy the said obligations (such approval not to be unreasonably withheld and if no response is given by the Council within 14 days of receipt of written verification then approval will be deemed to have been given)
- 2.4 If so required by the Council, to provide to the Council (in addition to the written verification detailed in paragraph 2.3 of this Schedule 2 Part 2 above) all necessary documentation as stipulated in Annex 1 as evidence that the prospective tenant satisfies the obligations contained in this Schedule 2 Part 2

Part 3 - Intermediate Affordable Housing

- 3 The Owners hereby covenant with the Council as follows:
 - 3.1 Unless an alternative type of Intermediate Affordable Housing tenure (other than a Shared Ownership Unit) is approved by the Council when approving the Affordable Housing Units Layout and Mix Plan in accordance with paragraph 1.4 of Part 1 of Schedule 2, not to permit or otherwise allow any of the units of Intermediate Affordable Housing to be disposed other than:
 - (a) in accordance with the terms of the Shared Ownership Lease; and
 - (b) to a Qualifying Person who is either releasing an Alternative Affordable Home or is in Housing Need
 - 3.2 To submit to and secure the Council's prior approval of a Scheme of Advertising in respect of the relevant Intermediate Affordable Housing unit(s) and to Advertise the Intermediate Affordable Housing unit(s) in accordance with the approved Scheme of Advertising
 - 3.3 Save in respect of initial sales following construction of the Intermediate Affordable Housing unit(s) in the event the Owner is unable to sell the Intermediate Affordable Housing unit(s) in accordance with paragraphs 3.1 and 3.2 of this Part 3 Schedule 2 above within a period of 90 days of Advertising the Intermediate Affordable Housing unit may be sold to any willing purchaser (but subject to paragraph 3.1(a) above) and such person shall again remain bound by the terms of this Deed
 - 3.4 Not to exchange or complete contracts for the sale of any interest in an Intermediate Affordable Housing unit until the Owner has submitted written verification to the Council (marked for the urgent attention of the Manager for Housing) that the prospective purchaser satisfies the obligation in this Schedule 2 Part 3 and the Council has given its approval that the prospective purchaser would satisfy the said obligations (such approval not to be unreasonably withheld and if no response is given by the Council within 14 days of receipt of written verification then approval will be deemed to have been given)
 - 3.5 If so required by the Council, to provide to the Council (together with the written verification detailed in paragraph 3.4 of this Schedule 2 Part 3) all necessary

documentation as stipulated in Annex 1 as evidence that the prospective purchaser satisfies the obligations in this Schedule 2 Part 3

Part 4 – Exemptions

- 4 The obligations restrictions and undertakings in this Schedule 2 shall not apply:
- 4.1 to any tenant who has exercised any statutory or equivalent contractual or voluntary right to acquire buy or acquire their dwelling (or any interest in it) nor to any person deriving title through or under such tenant; nor
- 4.2 to any person who has exercised their right under a Shared Ownership Lease to staircase up to 100% of the leasehold or freehold equity in the relevant Intermediate Affordable Dwelling nor to any person deriving title through or under such leaseholder
- 4.3 The obligations restrictions and undertakings in this Schedule 2 shall not be binding on a Chargee PROVIDED THAT:
- (a) the Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Dwelling(s) (the "Chargee's Notice");
 - (b) the Chargee shall have used reasonable endeavours over a period of three months from the date of the Chargee's Notice to complete a disposal of the Affordable dwelling(s) 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
 - (c) if such disposal has not completed within the three month period stipulated in sub-paragraph 4.3(b) above, the Chargee shall be entitled to dispose of the Affordable dwelling(s) free from the obligations restrictions and undertakings in this Schedule 2 which provisions shall (in respect of the released Affordable Dwelling(s)) determine absolutely.
- 4.4 Any Grant Funding element of any capital receipt generated by the exercise of a right referred to in Part 4 paragraph 4.3(b) above shall be recycled in accordance with the HCA guidance in force at the time and the AHP shall furnish the Council with such evidence as the Council shall reasonably require to show how the receipt has been spent

**Annex 1
to Schedule 2
(Evidence of Eligibility of Qualifying Persons)**

Pursuant to paragraphs 2.4 of Part 2 and paragraphs 3.5 of Part 3 of this Schedule 2 the Owners are required to verify to the Council that the prospective tenant or purchaser meets the terms set out in Schedule 2 to this Deed by obtaining appropriate documentation from section A and B and C below or such other evidence or confirmation as the Council shall deem necessary or sufficient and if required by the Council or its agent provide copies of such evidence to the Council

SECTION A: Proof of identity (of prospective purchaser or tenant and where applicable close family member)

- A current and valid passport
- UK residence permit
- A valid UK driving licence
- National Insurance number card
- Marriage certificate
- Medical card
- Letters about asylum from the Home Office

SECTION B: Local Connection

- Residency – sufficient evidence to cover the relevant Local Connection period for prospective purchaser/tenant/close family member as appropriate
- Utility bills (gas electric phone etc)
- Council tax bills
- Bank/Building Society account/credit card statements
- State benefit books or receipts showing rent paid
- Payslips showing home address and employer's address
- Written certification from either a Solicitor / Social Worker / Probation Officer / Inland Revenue Officer / Police Officer / Teacher or Doctor
- Employer's letter confirming length and terms of employment (including hours worked if applicable)

SECTION C: Housing Need

- Tenancy or licence deed
- Rent book showing name and address of applicant

- Where applicable letter from friend or family member confirming residence at their address
- P60 annual statement of earnings for the most recent complete tax year
- Payslips covering last 3 months
- For self-employed persons a set of accounts no older than 12 months
- Bank/Building Society account or other statements showing savings/capital
- Evidence of any other income including state benefits