

IN WITNESS whereof the parties have executed this document as a Deed the day and year first before written

## SCHEDULE 1

### 1. AFFORDABLE HOUSING

#### Part A - Definitions

1. In this Schedule unless the context otherwise requires the following expressions shall have the following meanings:-

**“Affordable House”** means each individual dwelling comprising the Affordable Housing.

**“Affordable Housing”** means the eight (8) Affordable Houses to be built pursuant to the Application and Planning Permission for persons who cannot afford to buy or rent houses generally available on the open market and being:

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(a) a dwelling for rent at a rent which does not exceed the Social Rent; or

(b) a dwelling for rent at a rent which does not exceed the Affordable Rent

**“Intermediate Rent”** means a weekly rent up to a maximum of 80% of Open Market rents (including service charges where applicable) for an equivalent property of that size and location, as agreed in writing with the Proper Officer. For the avoidance of doubt, affordable rent units are an intermediate tenure equating to 80% Open Market Rent, and any other successor future intermediate tenures will be deemed to be included in this definition.

**“Intermediate Rented Dwelling”** Means Affordable Housing let on an Intermediate Rent

**“Average annual household income”** means the average annual household income for families within Torridge to be notified in writing by the Proper Officer when requested to do so by the Owner and/or (as appropriate) the Applicants.

**“District”** Means the administrative district of the District Council

**“Housing Need”** means a person who does not have available to him or her and could not afford (personally or jointly with other members of his or her household) to acquire or rent a home suitable for his or her needs and the needs of their household at the normal market values prevailing in the district.

**“Local Requirement**

(a) a minimum continuous residence by a prospective owner or occupier of five years in the Parish immediately prior to their first Occupation; or

(b) residence by a prospective owner or occupier for five years in the Parish within the ten years preceding their first Occupation; or

(c) where one or both parents or guardians of a prospective owner or occupier have resided in the Parish for a minimum period of ten years prior to their first Occupation; or

(d) where a prospective owner or occupier has had continuous employment in the Parish for the past five years prior to their first Occupation ; or

(e) a key worker under a scheme approved by the Council

**“Occupation “**

means occupation of a Dwelling or part of a Dwelling for residential purposes and “Occupy” shall be construed similarly

**“Offer Date”**

means the date on which the Owner first makes an offer to sell one or more of the Affordable Houses to a Registered Provider or Registered Providers (as the case may be) or the date on which the Owner offers to sell or grant a tenancy of an Affordable House to a tenant or purchaser, as the context requires.

**“Parish**

Means the parish of Buckland Brewer

**“Proper Officer”**

means the Council’s Head of Strategic Planning and Development Services or in his/her absence such person who is properly designated to undertake his/her duties.

**“Registered Provider”**

means a body which is registered as a provider of social housing under part 2 of the Housing and Regeneration Act 2008 or such other class of body as may be constituted under any legislation replacing that provision.

**“Social Rent”**

means a rent which does not exceed Homes and Community Agency target rents for the area in which the Affordable Housing is located, as specified by the Homes and Communities Agency or other body approved by the Council who set rent levels for Affordable Housing.

- “Social Rented Dwellings”** means Affordable Housing comprising houses to be let at a Social Rent
- “Stand Alone Construction Cost”** means the cost which a Registered Provider would incur to build the Affordable Houses if it let a separate contract to an independent contractor to be ascertained by seeking tenders from three suitable building contractors active in the area.
- “Unrestricted Dwelling”** means those dwellings to be constructed on the Application Land other than the Affordable Houses
- “Unrestricted Value”** means the value that any Affordable House would have if it was not subject to this Deed or any other restriction on the price at which it could be sold or the person who would occupy it.

**Part 1**

**Affordable Dwellings**

1. Unless otherwise agreed in writing between the Owner and the Council the Affordable Dwellings shall mean a scheme for the provision of at least 8 Affordable Houses as follows

No. Bedrooms	Number of units	Size (sq metres)	Tenure
2	3	67m	Social Rent
3	1	82m	Social Rent
2	3	67m	Intermediate Rent
3	1	82m	Intermediate Rent

OR as agreed in writing by the Proper Officer.

**Part 2**  
**Provision of Affordable Housing**

**Provision of the Affordable Housing**

The Owner undertakes that: -

1. The Owner shall provide the dwellings set out in Part 1 of this Schedule as Affordable Dwellings and in accordance with paragraph 5 below.
2. The Owner shall use all reasonable endeavours to enter into a contract for the sale of the Affordable Dwellings to a Registered Provider.
3. If the Owner having used all reasonable endeavours to negotiate with a Registered Provider has not exchanged contracts for the purchase of the Affordable Housing within 26 weeks of the later of (i) the Commencement of the Development and (ii) the Offer Date the Owner may request the Council to nominate an alternative Registered Provider and the Owner shall use all reasonable endeavours to enter into a contract for the sale of the Affordable Dwellings to the Nominated Registered Provider at a price as agreed between the Owner and the Nominated Registered Provider and approved by the Council.
4. If a Registered Provider is unable to purchase Affordable Dwellings within the period of 26 weeks through lack of funding it may require the Owner to dispose of plots of land to the Registered Provider for the consideration of £1 instead of the same number of Affordable Dwellings so long as the Owner also makes a payment for construction of the dwellings to the Registered Provider such payment to be equivalent to the Stand Alone Construction Cost
5. Prior to the occupation of the 28<sup>th</sup> Unrestricted Dwelling the Owner undertakes to make four of the Affordable Dwellings available ready for occupation to the reasonable satisfaction of a Registered Provider and to make the remaining four Affordable Dwellings available ready for occupation to the satisfaction of a Registered Provider before the occupation of 80% of the Unrestricted Dwellings to be constructed as part of the Development.

6. If within 10 months of the Commencement of the Development the Owner has not exchanged contracts to sell the Affordable Dwellings to a Registered Provider the Owner may give written notice to the Council that it intends to provide the Affordable Dwellings for Rent by a private landlord and on the giving of such a notice paragraphs 8 and 9 shall apply.
7. The Council and the Owner agree that all nominations of proposed occupiers of Affordable Housing shall be made in accordance with Choice Based Lettings for the duration of the existence of Choice Based Lettings, in accordance with Communities and Local Government Guidance; Allocation of Accommodation: Choice Based Lettings, August 2008, and all subsequent guidance, and any subsequent replacement scheme that may be introduced and agreed to by the Council and the Owner. In the event that Choice Based Lettings and all subsequent replacement schemes cease to operate the Council shall have 100% nomination rights
8. Affordable Housing for Rent provided by a Private Landlord
  2. If the Owner gives notice under paragraph 6 above the Owner
    - 8.1. undertakes to provide the Affordable Dwellings defined in Part 1 of this Schedule as Social Rented Dwellings to let at a rent not exceeding a Social Rent,
    - 8.2. undertakes to provide the Affordable Dwellings defined in Part 1 of this Schedule as Intermediate Rented Dwellings to let at a rent not exceeding an Intermediate Rent
    - 8.3. No more than 28 Unrestricted Dwellings shall be occupied prior to the satisfaction of the criteria in sub-paragraphs 8.1 or 8.2
    - 8.4. The notice served under paragraph 6 shall include the Owner's proposals for:-
      - 8.4.1. the form of tenancy for such lettings and
      - 8.4.2. procedures for renting by first and future tenants and how the Council may nominate tenants from the Council's lists on future lettings
    - 8.5. The Proper Officer may approve the proposals submitted under paragraph 8.4 or may seek to agree amendments to them and if agreement cannot be reached either party may refer the matter under the dispute procedure.

8.6. The provisions of paragraph 9 (as appropriate) shall apply to Affordable Dwellings provided under this clause.

## 9. Management of the Affordable Housing

The Owner undertakes that all Affordable Houses to be constructed on this site shall be managed in accordance with the terms of this clause:-

9.1.1 No person shall let an Intermediate Rented Dwelling for a rent which exceeds an Intermediate Rent

9.1.2 No person shall let a Social Rented Dwelling for a rent which exceeds a Social Rent

9.2 No person shall Occupy an Affordable Dwelling unless that person:-

9.2.1 was a person in Housing Need and had a Local Requirement at the time of his or her first occupation of the Affordable Dwelling or

9.2.2 is a member of the household of and living with a person who was in Housing Need and had a Local Requirement at the time of his or her first Occupation of the Affordable Dwelling and (in either case)

9.2.3 occupies an Affordable House as his or her sole or main residence

but nothing in this clause shall require any person who satisfied such a requirement when they first occupied an Affordable Dwelling to vacate the dwelling if they cease to qualify under this paragraph 9.2 by virtue of the death, hospitalisation or breakdown of a relationship with the person who qualified under this paragraph 9.2

9.3 If no prospective occupier meeting the Local Requirement wishes to Occupy an Affordable Dwelling within a period of one month from the date that the Affordable Dwelling becomes available for Occupation, the Council may permit Occupation by a person in Housing Need with a Local Requirement from any directly adjacent parish to the Parish. If after a period of a further 1 month from the date the Affordable Dwelling becomes available for Occupation no prospective occupier in Housing Need with a Local Requirement from an adjacent parish to the Parish wishes to occupy an Affordable Dwelling, then an Occupier in Housing Need with a Local Requirement from any parish within the District of Torrington shall be permitted PROVIDED THAT during the said periods the Affordable Dwelling shall have been continually marketed within the Parish or adjacent parish as appropriate.

\* Bulkworthy, Newton St Petrock, Shebbear; Langtree, Firtelstock  
Montleigh, Littleham, Parkham, East Patford. 20<sup>th</sup> May. Next  
cascade.