

Schedule 1

Affordable Housing

1 In this Schedule, the following terms have the following meanings:

- 1.1 **"Accessible and Adaptable Homes Standards"** means the requirements of 'Part M4(2): Category 2 – Accessible and adaptable dwellings' of the Building Regulations 2010
- 1.2 **"Affordable Home Ownership"** means (subject to the provisions of this Deed) units of subsidised housing for sale as defined within the meaning of "Other Affordable Routes to Home Ownership" within the National Planning Policy Framework or any Government Policy Statement or Circular that replaces it
- 1.3 **"Affordable Home Ownership Unit"** means each Dwelling to be disposed of as Affordable Home Ownership
- 1.4 **"Affordable Housing Scheme"** means a scheme setting out the details of the location, size, tenure, property types and mix of the Affordable Dwellings and which term shall include any revisions thereof which may be subsequently agreed in writing by the Owner and the Council
- 1.5 **"Affordable Rent"** means a rent of up to 80% of local market rent to include the service charge (where applicable) and in any event should not exceed the published Local Housing Allowance for the relevant property type and in the relevant market area
- 1.6 **"Affordable Rented Dwellings"** means Affordable Dwellings available to those whose needs are not adequately served by the commercial housing market let at an Affordable Rent and which complies with the definition of affordable rented housing in Annex 2 of the National Planning Policy Framework and "Affordable Rented Dwelling" shall mean any one of them
- 1.7 **"Affordable Shared Ownership Dwellings"** means Affordable Dwellings which are to be let under a Shared Ownership Lease on shared ownership terms and which are to be the equivalent of the Government's Standard New Build HomeBuy Product or any similar or successor product as approved by the Homes England and "Shared Ownership Dwelling" shall mean any one of them
- 1.8 **"Chargee"** means any mortgagee or chargee of the Affordable Dwellings or any administrator (howsoever appointed), fixed share receiver (including any receiver appointed pursuant to the Law of Property Act 1925), administrative receiver or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security (including the successors in title to such mortgagee or chargee or any administrator, receiver or manager)

- 1.9 **"Designated Person"** means a person or household who is registered with Devon Home Choice or Help to Buy South West and is in Housing Need
- 1.10 **"Devon Home Choice"** means a choice based lettings scheme developed and operated in partnership between the Council and the Registered Provider or any successor scheme or arrangement agreed between the Council and the Registered Provider as a replacement for Devon Home Choice
- 1.11 **"District"** means the administrative area of the Council
- 1.12 **"Help to Buy South West"** means the Government appointed local help to buy agency which provides a one stop shop for households seeking all forms of low cost home ownership
- 1.13 **"Homes England"** means Homes England being the national Government agency responsible for (among other things) funding new affordable housing and shall include any successor body or bodies
- 1.14 **"Housing Need"** means being homeless or threatened with homelessness or living in accommodation which in the opinion of the Council is Insecure or unsuitable and being unable to purchase or rent reasonably suitable accommodation in the open market for property in the locality where the Affordable Dwelling is situated taking into account the person's income and capital and other financial circumstances. Accommodation may be unsuitable on the grounds of cost, overcrowding, unfitness or lack of basic amenities or because of a person's infirmity, physical disability, mental disability or specific social or care needs
- 1.15 **"Insecure"** means accommodation which the Designated Person does not have a legal right to occupy in the long term
- 1.16 **"Lettings Notice"** means a notice (the content of which is to be agreed with the Council) which contains details of the property to be let and which shall include unless otherwise agreed with the Council
- a) The name and address of the landlord and the Owner
 - b) The postal address of the property
 - c) The amount of the weekly or monthly rent (not to exceed the Affordable Rent)
 - d) Amount and breakdown of any service charge per week/month/annum
 - e) Details of any additional charges
 - f) Any age or other occupancy restrictions
 - g) Property type

- h) Property size
- i) Heating type
- j) Details of mains services in the property
- k) Availability of parking space/garage
- l) Any disabled adaptations
- m) Provision of any support services

And which is delivered to the Council clearly addressed and marked for the attention of Allocations Manager PROVIDED THAT for the avoidance of doubt an advertisement for the Affordable Rented Dwelling placed on Devon Home Choice and approved by the Council shall be considered a Letting Notice for the purpose of paragraphs 4.3 and 4.4 of Schedule 1

1.17 **"Local Connection"** means any person who has a strong local connection with the District and for the purposes of this Agreement a person shall be taken to have a strong local connection if:

- 1.17.1 they are currently resident in the District; or
- 1.17.2 they are currently employed in the District or;
- 1.17.3 they need to live in the District to take up a written offer of permanent employment; or
- 1.17.4 if they have close family living in the District who have lived in the District for at least five of the last ten years,
- 1.17.5 if they have been resident in the area for at least five of the last ten years

and in the event that an insufficient number of people satisfy the above criteria, the definition shall include persons with a strong local connection to the administrative area of Exeter City Council with prior written approval of the Council

1.18 **"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 of Works and Pensions or such similar framework that may replace it.

1.19 **"Scheme of Advertising"** means the advertising for sale or letting of any interest in the relevant Affordable Dwellings in accordance with a scheme to be approved in writing by the Council (such approval not to be unreasonably withheld or delayed) which scheme shall include unless otherwise agreed with the Council

a) in the case of Affordable Rented Dwellings and Social Rented Dwellings an advertisement on the website of Devon Home Choice or such other similar website for advertising of Affordable Dwellings as agreed by the Council; or

b) in the case of the Shared Ownership Dwellings and Affordable Home Ownership Units an advertisement on the website of Help to Buy South West

1.20 **"Shared Ownership Lease"** means a long shared ownership lease (as defined in section 622 of the Housing Act 1985 or successor provision) with a Registered Provider substantially in accordance with Homes England (or successor body) Model as at the date of any such lease where the purchaser purchases an initial share of the equity between 25 – 80% and pays rent on the remaining unsold equity provided that such rent per annum shall initially be at a level not exceeding 2.75% of the open market value of the affordable housing providers retained share of the relevant affordable housing unit; and not be at a level which is in conflict with any applicable Homes England restrictions relating to charges payable by the tenant and where additional share of the equity can be purchased

1.21 **"Social Rented Dwellings"** means Affordable Dwellings available to rent on an assured tenancy or assured shorthold tenancy at a Social Rent and the expression Social Rented Dwelling shall be construed accordingly

1.22 **"Social Rent"** means a rent level of not more than the Homes England guideline target rents recommended for the area and the type of accommodation (as may be set from time to time through the National Rent Regime)

1.23 **"Upper Floor Flat"** means any Affordable Dwellings comprised in a flat or apartment other than a ground floor apartment or flat

2 Unless otherwise agreed in writing, the Owner covenants with the Council for itself and its successors in title:-

Provision of the Affordable Housing

2.1 To construct and complete 25% of the Dwellings as Affordable Dwellings of which:

2.1.1 63% shall be provided as Affordable Rented Dwellings; and

2.1.2 7% shall be Social Rented Dwellings; and

2.1.3 30% shall be Shared Ownership Dwellings or such Affordable Home Ownership products as may be first agreed in writing by the Council.

Or such other mix of tenures as may first be agreed in writing by the Council

Where the application of the above percentages would not result in whole

numbers, fractions shall be rounded up PROVIDED THAT the Development shall not be required to deliver more than 25% of the Dwellings as Affordable Dwellings

- 2.2 Not to Commence the Development of a Phase unless and until the Affordable Housing Scheme for that Phase has been submitted to the Council for approval as part of the Reserved Matters Application (or Reserved Matters Applications as the case may be)
- 2.3 Not to construct any of the Affordable Dwellings:
 - 2.3.1 Unless in accordance with the relevant approved Affordable Housing Scheme; and
 - 2.3.2 (save for any Upper Floor Flats) other than to the Accessible and Adaptable Homes Standards
- 2.4 Subject to the provisions of this Deed, not to use the Affordable Dwellings other than for the purpose of providing Affordable Housing in Perpetuity
- 2.5 The Affordable Dwellings shall be provided so as to be tenure blind and in groups of no more than 15 Dwellings and shall (unless otherwise agreed with the Council) be dispersed evenly throughout the Phase 2b Residential Development in accordance with the following mix (unless otherwise agreed with the Council in writing):
 - 2.5.1 24% 1 bedroomed Dwellings
 - 2.5.2 51% 2 bedroomed Dwellings
 - 2.5.3 21% 3 bedroomed Dwellings
 - 2.5.4 4% 4 bedroomed Dwellings

Where the application of the above percentages would not result in whole numbers, fractions shall be rounded up PROVIDED THAT the Development shall not be required to deliver more than 25% of the Dwellings as Affordable Dwellings

Restriction on Occupation of Open Market Dwellings

- 2.6 The Owner shall transfer the freehold estates of the completed Affordable Dwellings to a Registered Provider in accordance with paragraph 2.7 below.
- 2.7 The Owner shall not cause or permit the First Occupation of:
 - 2.7.1 more than 50% of the Open Market Dwellings comprised in a Phase until the Owner has transferred 50% of the Affordable Dwellings comprised in the relevant Phase to a Registered Provider;
 - 2.7.2 more than 70% of the Open Market Dwellings comprised in a Phase

until the Owner has transferred 100% of the Affordable Dwellings of the relevant Phase to a Registered Provider

- 2.8 The transfer of the Affordable Dwellings to the Affordable Housing Provider shall be in such form as the Owner shall reasonably require to ensure that the Affordable Dwellings are subject to substantially the same rights and easements and covenants (both restrictive and positive) as are to be granted and reserved in sales of the Open Market Dwellings
- 2.9 The Owner shall provide the Council with at least one month's prior written notice of the anticipated date on which the Affordable Dwellings shall be available for Occupation on each Phase of the Phase 2b Residential Development.

3 Restrictions on Occupation of Affordable Dwellings

- 3.1 Subject to paragraph 6 of this Schedule the Owner shall not at any time permit the Affordable Dwellings to be occupied other than as Affordable Housing by a Designated Person (and their dependents) who has a Local Connection

4 Affordable Rented Dwellings and Social Rented dwellings

Subject to paragraph 6 of this Schedule:

- 4.1 Not to permit or otherwise allow any of the Affordable Rented Dwellings and/or Social Rented Dwellings to be let other than:
 - 4.1.1 To a Designated Person
 - 4.1.2 At a sum not exceeding the Affordable Rent or Social Rent whichever is applicable
 - 4.1.3 To persons selected in accordance with the principles of the Devon Home Choice policy for priority needs whether or not the Registered Provider is a member of the Devon Home Choice scheme
- 4.2 Not to permit or otherwise allow any of the Affordable Rented Dwellings or Social Rented Dwellings to be let on initial or subsequent letting prior to the submission to and approval by the Council of a Scheme of Advertising for the relevant Affordable Rented Dwellings and/or Social Rented Dwellings PROVIDED THAT in the event that the Council has not rejected or approved the Scheme of Advertising within 10 Working Days of the date of submission, the Scheme of Advertising shall be deemed to have been approved
- 4.3 To serve upon the Council a Letting Notice each time an Affordable Rented Dwelling or Social Rented Dwelling becomes available for letting
- 4.4 To advertise the relevant Affordable Rented Dwelling or Social Rented Dwelling in accordance with the approved Scheme of Advertising immediately following the approval of the Scheme of Advertising or the service of a Letting Notice

(whichever is later)

- 4.5 Not to grant a tenancy of the relevant Affordable Rented Dwelling or Social Rented Dwelling until the Owner has submitted written verification to the Council that the prospective tenant satisfies the obligations contained in this Deed and the Council has given its approval that the prospective tenant would satisfy the obligations contained in the Deed (such approval not to be unreasonably withheld) and if the Council has not approved or rejected the written verification within 10 Working Days of receipt of written verification from the Registered Provider then approval will be deemed to have been given PROVIDED THAT such written verification is served upon the Council clearly addressed and marked for the urgent attention of the Allocations Manager
- 4.6 The Registered Provider shall if so required by the Council provide to the Council (together with the written verification detailed in paragraph 4.5 above) all necessary documentation as stipulated in Appendix as evidence that the prospective tenant satisfies the obligations contained in this Deed.

5 Affordable Home Ownership

Subject to paragraph 6 of this Schedule

- 5.1 Not to cause or permit any of the Affordable Home Ownership Units to be sold or let other than :
- 5.1.1 by way of a Shared Ownership Lease; or
 - 5.1.2 by way of another Affordable Home Ownership product which shall be agreed in writing with the Council and
 - 5.1.3 to a Designated Person who is either releasing an Affordable Dwelling elsewhere in the District or is in Housing Need
- 5.2 Not to permit or otherwise allow any of the Affordable Home Ownership Units to be sold or let on initial or subsequent sale or letting prior to:
- 5.2.1 the submission to and subsequent approval by the Council of a Scheme of Advertising for the Affordable Home Ownership Units PROVIDED THAT in the event that the Council has not rejected or approved the Scheme of Advertising within 10 Working Days of the date of submission, the Scheme of Advertising shall be deemed to have been approved; and
 - 5.2.2 advertising the relevant Affordable Home Ownership Units in accordance with the approved Scheme of Advertising
- 5.3 In the event that the Owner is unable to sell an Affordable Home Ownership Unit in accordance with paragraph 5.1.3 above within a period of 60 Working Days of first advertising the relevant Affordable Home Ownership Unit may be: