

SCHEDULE 3


Affordable Housing

In this Deed and in this Schedule the following expressions shall apply **IN ADDITION** to the definitions and expressions contained in Clause 1 and in relation to the Rentplus Homes **IN ADDITION** to the definitions and expressions contained in Schedule 8;;

"Additional Affordable Housing Contribution"	means a contribution calculated at 50% of any sum over the Developer's Profit
"Advertising"	means the advertising for disposal or rent of any interest in an Affordable Dwelling on the Council's website in Council marketing media and on the website of Help to Buy and/or Devon Home Choice or any other similar organisation promoting Intermediate Housing
"Affordable Dwelling"	means a Dwelling (whether under construction or completed) which is intended to be or is let or sold as Intermediate Housing let as an Affordable Rented Home or rented as a Rentplus Home or sold as a Shared Ownership Home or other affordable home ownership dwelling to Qualifying Persons in Housing Need and the "Affordable Dwellings" shall be construed accordingly
"Affordable Housing"	means housing which is available to persons who have a Housing Need or are on a low income insufficient to meet their Housing Need in the open market either to rent or purchase
"Affordable Housing Provider"	means a body whose function or aim is to provide and manage Affordable Housing (including Affordable Housing of the type and amount proposed within the Development) including a housing association or associations or housing company or companies or a trust or trusts registered as a registered social landlord (pursuant to the Housing Act 1996) with the Homes and Communities Agency
"Affordable Housing Scheme"	<p>means a scheme for the provision of the Affordable Dwellings to Qualifying Persons in Housing Need which shall include (unless otherwise agreed in writing with the Council):</p> <ul style="list-style-type: none"> ▪ Arrangements for the provision of at least 17% Affordable Dwellings in each Phase of development as described in the Phasing Scheme with all Affordable Dwellings built prior to

	<p>completion of 90% of the Dwellings</p> <ul style="list-style-type: none"> ▪ Location, plot, size and number of bedrooms of the Affordable Dwellings ▪ The tenure of the Affordable Dwellings which shall be <ul style="list-style-type: none"> ▪ 34% Affordable Rented Homes comprising of: 18 x 1 bed 2 person flats @ 47m2 6 x 2 bed 3 person flats @ 61m2 11 x 2 bed 4 person houses @ 80m2 8 x 3 bed 5 person houses @ 90m2 ▪ 34% Shared Ownership Homes comprising of: 29 x 2 bed 4 person houses @ 80m2 14 x 3 bed 5 person houses @ 90m2 ▪ 32% Rentplus Homes comprising of: 12 x 2 bed 3 person flats @ 61m2 20 x 2 bed 4 person houses @ 80m2 10 x 3 bed 5 person houses @ 90m2 <p>unless otherwise agreed with the Council</p> <ul style="list-style-type: none"> ▪ For the purposes of this Schedule the numbers of bedrooms per Affordable Dwelling in each Phase shall be provided in the ratio of: <ul style="list-style-type: none"> ▪ 14% one-bedroom dwelling and ▪ 61% two-bedroom dwellings and ▪ 25% three-bedroom dwellings <p>unless otherwise agreed in writing with the Council</p> <ul style="list-style-type: none"> ▪ The name of the Affordable Housing Provider(s) (if appropriate)
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	<ul style="list-style-type: none"> ▪ Details of the price or rent of the Affordable Dwellings ▪ Arrangements for the transfer of the Affordable Dwellings ▪ Details of the design and quality standards to be applied to the Affordable Dwellings
"Affordable Rent"	means a rent which is at or below 80% local market rent (including service charge) which rent shall not exceed the Local Housing Allowance Rates applicable when the unit is first let and on subsequent lettings which in respect of the Rentplus Homes as commence at the beginning of a Five Year Period (as defined in Schedule 8)
"Affordable Rented Home"	means an Affordable Dwelling let by an Affordable Housing Provider pursuant to prevailing guidance from the Department for Communities and Local Government and/or the Homes and Communities Agency at a rent (including any Service Charge) not to exceed an Affordable Rent

	<p>means a connection with Tavistock or the Borough (as appropriate) and demonstrated by a person or a member of their Household to the reasonable satisfaction of the Council as follows:</p> <ul style="list-style-type: none"> • The person has lived in the parish/town ^{Borough} for 3 out of the 5 years preceding the allocation • The person has immediately prior to the allocation lived in the parish/town ^{Borough} for 6 out of 12 months preceding the allocation • Immediate family have lived in the parish/town ^{Borough} themselves for 5 years preceding the allocation. For the avoidance of doubt The Local Government Association guidelines define immediate family as parents, siblings and non-dependent children • The person has permanent employment in the parish/town ^{Borough} with a minimum contract of 16 hours per week which has been continued for the 6 months preceding the allocation without a break in employment of more than 3 months such employment to include self-employment such employment not to include employment of a casual nature • Any periods of ordinary residence of the person in the parish/town ^{Borough}.
"Chargee"	means any mortgagee or chargee of the Affordable Dwellings (or any Affordable Dwelling or any part thereof as may be affected) (hereinafter referred to as "the Affordable Dwelling(s)" (or any receiver (including

	any administrator appointed under the Law of Property Act 1925 or administrative receiver) or other person appointed under any security documentation to enable such mortgagee or charge to realise its security (each hereinafter referred to as a "Receiver")
"Chargee's Duty"	means the tasks and duties set out in Paragraph 16 of this Schedule
"Developer's Profit"	means a developer's profit of not less than 20% of the Gross Development Value taking account of all receipts
"Exempt Person"	<p>means any person who:</p> <ul style="list-style-type: none"> • 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 a particular Affordable Dwelling or • has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Dwelling or • has been granted a Shared Ownership Lease by an Affordable Housing Provider in respect of a particular Affordable Dwelling and the person has subsequently purchased one hundred percent (100%) of the equity in the said Affordable Dwelling on final staircasing <p>and in each case such person successors in title and assigns</p>
"Existing Viability Appraisal"	means the viability appraisal annexed to this Agreement at Appendix 3
"Gross Development Value"	means the gross development value of the Development as assessed by the Applicant using a Red Book Valuation
"Homes and Communities Agency"	means the body of that name or the body for the time being having or being responsible for providing financial assistance to bodies including Affordable Housing Providers under the Housing and Regeneration Act 2008
"Household"	means anyone who may reasonably be expected to reside with the Qualifying Person
"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/or 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 lack of basic amenities or because of a person's infirmity physical or mental disability or specific social or care needs
"Housing Standards"	<p>means homes built to the standards relating to but not limited to space, design, quality and sustainability approved in writing by the Council (such approval not to be unreasonably withheld or delayed) and for schemes provided with subsidy to the Homes and Communities Agency's "Design and Quality Standards" in force at the Commencement of Development including the need to achieve:</p> <ul style="list-style-type: none"> ▪ The minimum Housing Quality Indicator (HQI) scores specified by the Homes and Communities Agency for the relevant tenure ▪ A minimum specified score against the Building for Life criteria
"Intermediate Housing"	shall have the same definition as that contained within Annex 2 of the National Planning Policy Framework published in March 2012

"Letting Notice"	<p>means a written notice which contains details of the property to be let and which shall include (unless otherwise agreed in writing with the Council):</p> <ul style="list-style-type: none"> • Charges • Any age or other the name and address of the landlord • Address of the property • Weekly or monthly rent • Amount and breakdown of any service charge per week month or annum • Details of any additional occupancy restrictions • Property type • Property size • Heating type • Details of mains services in the property • Availability of parking space/garage • Any disabled adaptations
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	<ul style="list-style-type: none"> • Provision of any support services <p>and which is delivered to the Council, addressed and marked for the urgent attention of the Head of Housing Services</p>
"Open Market Value"	means the price which the freehold interest in an Affordable Dwelling affected would be expected to achieve if sold on the open market by a willing vendor and disregarding the obligations and restrictions contained in this Deed
"Qualifying Person(s)"	means person(s) who (unless otherwise agreed in writing with the Council) has/have an Area Local Connection as per the adopted Allocations Policy PROVIDED THAT the Council reserves the right not to allow the sale or letting of an Affordable Dwelling to a Qualifying Person should the sale or letting result in an under occupancy of the Affordable Dwelling by more than 1 bedroom OR result in a Dwelling which has been constructed or adapted to meet the needs of a disabled person being occupied by persons without disabilities unless no appropriate Qualifying Person becomes available within 2 months of Advertising the Affordable Dwelling.
"Red Book Valuation"	means a valuation undertaken pursuant to the guidance contained in the latest version of the Valuation Standards published the Royal Institution of Chartered Surveyors at the date of the valuation
"Rentplus Buyer"	means a Subsidiary Rentplus Company (or such other company or body to which the Council has given its prior written approval) PROVIDED THAT the Rentplus Buyer will either, (a) have entered into Rentplus Leases, or (b) will be legally bound to enter into Rentplus Leases, or (c) have taken a transfer of the Affordable Rentplus Dwellings subject to the Rentplus Leases and Rentplus Buyer includes a reference to the person entitled for the time being to the immediate reversion of the Lease or Leases;
"Rentplus Homes"	means each of the Affordable Dwellings to be managed, occupied and sold in accordance with the approved Rentplus Scheme
"Rentplus Scheme"	means a detailed scheme setting out the way in which the Rentplus Homes shall be allocated, occupied, managed and eventually sold by the Affordable Housing Provider as is described and set out in Schedule 8
"Rentplus – UK"	means Rentplus-UK Limited a private limited company registered in

		England and Wales with company number 08551599 whose registered office is at Floor 2 Studio 5-11, 5 Millbay Road Plymouth Devon PL1 3LF being the entity which has developed the Rentplus Scheme for Affordable Housing as described in Schedule 8 of this Agreement
"Sale Agreement"		means an agreement for the sale and purchase (or agreement for long leases as the case may be) of the Rentplus Homes) together with any parking spaces to be entered into by a Rentplus Buyer completion of which Sale Agreement is to be on or within 30 Working Days of Practical Completion of the Rentplus Homes;
"Service Charge"		means a sum that covers the contributions required from time to time for those services and facilities which are of a nature and to a standard reasonably required in connection with the Affordable Dwelling such as maintaining repairing and keeping secure the relevant Affordable Dwelling and its common parts the cleaning and lighting of common parts and the maintenance of any communal gardens or landscaping areas that directly benefit the Affordable Dwelling"
"Shared Ownership Homes"		means Affordable Dwellings which are owned and managed by or in partnership with an Affordable Housing Provider and sold subject to a Shared Ownership Lease and a "Shared Ownership Home" shall mean any of the said Affordable Dwellings
"Shared Ownership Lease"		<p>means a lease substantially in the form approved or published by the Homes and Communities Agency whereby the tenant having paid a premium calculated by reference to a maximum of 75% of the Open Market Value of the particular unit pays a rent in respect of the remaining equity held by the landlord plus (if appropriate) a Service Charge and whereby the tenant (after a period of 12 months has expired from the date of entering into the lease) may in successive tranches purchase a proportion of the remaining equity held by the landlord PROVIDED THAT such rent per annum shall:</p> <ul style="list-style-type: none"> ▪ Initially be at a level not exceeding 2.75% of the full Open Market Value of the Affordable Housing Provider's retained share of the relevant Affordable Dwelling and ▪ Not be at a level which is in conflict with any applicable Homes and Communities Agency restrictions relating to charges payable by the tenant
"Subsidiary Company"	Rentplus	means a subsidiary company of Rentplus-UK as defined in Section 1159 of the Companies Act 2006

"Viable"	means commercially viable as assessed in accordance with Schedule 2 and commensurate phrases including "Viability" and "Viably" and "Unviable" shall be construed accordingly
"New Viability Appraisal"	means an assessment by the Owners (at their sole expense) to determine the number of Affordable Dwellings that could be Viably delivered within the Development using the principles contained within the Existing Viability Appraisal or such other model as may agreed in writing between all the parties which appraisal shall take into account all actual costs and revenues of the Development to the date of the appraisal and all projected costs and revenues of the Development (projected to completion) whilst providing for the Developer's Profit

COVENANTS

The Owners covenant as follows:

1. Not to permit or otherwise allow the Commencement of Development until the Affordable Housing Scheme including the location of those Affordable Dwellings to be delivered under the Rentplus Scheme has been submitted to and approved by the Council in writing (such approval not to be unreasonably withheld or delayed by the Council) and thereafter to comply with the terms of such approved Affordable Housing Scheme and the Rentplus Scheme PROVIDED THAT the Affordable Housing Scheme may reserve details of plots and design of the Affordable Dwellings to be provided in the second and subsequent Phases of the Development and FURTHER PROVIDED THAT the number of Affordable Dwellings may be provided in percentages
2. To provide the Affordable Dwellings in accordance with the Affordable Housing Scheme and the Rentplus Scheme
3. All Affordable Dwellings shall be sold or let to Qualifying Persons PROVIDED THAT the Council reserves the right not to allow the sale or letting of an Affordable Dwelling to a Qualifying Person should the sale or letting result in an under occupancy of the Affordable Dwelling by more than 1 bedroom OR result in a Dwelling which has been constructed or adapted to meet the needs of a disabled person being occupied by persons without disabilities unless no appropriate Qualifying Person becomes available within 2 months of Advertising the Affordable Dwelling
4. The Affordable Dwellings shall be built to the Housing Standards
5. The Affordable Dwellings shall not be built in groups or clusters greater than 12 in number without the written consent of the Council
6. To serve upon the Council a Letting Notice each time an Affordable Rented Home becomes available for letting

7. The external materials colour of the Affordable Dwellings shall be the same as and the elevations shall be compatible with the Market Dwellings
8. Within 6 months of the Commencement of Development, to either (a) exchange a contract for the transfer of the land upon which the Rentplus Homes are to be constructed, or are under construction with a Rentplus Buyer (provided a Rentplus Buyer has also entered into a build or development agreement for the completion of the construction of the Rentplus Homes), or (b) exchange a Sale Agreement with a Rentplus Buyer;
9. Subject to the other provisions of this Deed not to cause or permit the Affordable Dwellings to be used or occupied otherwise than as Affordable Housing unless otherwise agreed by the Council in writing in accordance with the approved Affordable Housing Scheme and the Rentplus Scheme to persons in need with an Area Local Connection and to ensure that the Affordable Housing (save for the Rentplus Home) remain used as such in perpetuity so far as this is legally possible.
10. Subject to the other provisions of this Deed not to cause or permit those Affordable Dwellings that are Rentplus Homes to be used or occupied otherwise than as described in the Rentplus Scheme unless otherwise agreed by the Council in writing.

EXEMPTIONS

11. This Schedule 3 and Schedule 8 of this Deed shall not be binding on:
 - 11.1 An Exempt Person or any mortgagee of an Exempt Person or any person deriving title from the Exempt Person;
 - 11.2 Any Chargee or Receiver provided that the Chargee shall have first complied with the Chargee's Duty;
 - 11.3 Any purchaser from the Chargee subject to the Chargee having complied with the Chargee's Duty; and
 - 11.4 Any purchaser purchasing a Rentplus Home in accordance with the provisions of Schedule 8
12. Only the obligations contained in the this Schedule 3 to this Deed shall apply to or be enforceable against any Affordable Housing Provider or its tenants or any mortgagees or Chargee with a legal interest in the Affordable Dwellings or any person deriving title from any of them PROVIDED THAT if the Affordable Housing Provider disposes of its leasehold including the Affordable Dwellings (other than disposal of individual Affordable Dwellings to sole or joint occupiers) by way of a lease to and leaseback from a financial provider the financial provider shall not be bound by the terms of this Deed
13. No Affordable Housing Provider (which for the avoidance of doubt includes an Affordable Housing Provider's Chargee (including any administrative receiver appointed by such mortgagee or chargee pursuant to the Law of Property Act 1925 or otherwise) shall be bound by the terms of this Deed except for this Schedule which contains provisions regarding Affordable Housing and the Council and the County Council hereby confirm that they will not

enforce any of the terms of the Deed except this Schedule against any Affordable Housing Provider or its Chargee

14. No Rentplus Buyer (which for the avoidance of doubt includes a Rentplus Buyer's Chargee and or Receiver or administrator shall be bound by the terms of this Deed except for Schedule 8 of this Deed which contains provisions regarding the operation of the Rentplus Scheme and the Council and the County Council hereby confirm that they will not enforce any of the terms of the Deed except Schedule 8 against any Rentplus Buyer or its Chargee or its Receiver save in respect of the Chargee's Duty
15. Subject to the Buyer giving no less than 7 Working Days' written notice to the Council of the proposed date of the sale of a, or any, Rentplus Home pursuant to Schedule 8 of this Deed and the Rentplus Scheme the Council shall within 14 Working Days s of the receipt of the said written notice provide a written confirmation to the Rentplus Buyer that the provisions of Clause 10.4 applies.



16. **THE CHARGEES DUTY**

The Chargee shall prior to seeking to dispose of the Affordable Dwellings pursuant to any default under the terms of its mortgage or charge shall give prior written notice to the Council of its intention to dispose; and

- 16.1 In the event that the Council responds within 1 month from the receipt of the written notice in Paragraph 16 of this Schedule indicating that arrangements for the transfer of the Affordable Dwellings can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its reasonable endeavours to complete such transfer; and
- 16.2 if the Council does not serve its response to the notice served under Paragraph 16 of this Schedule within 1 month then the Chargee shall be entitled to dispose of the Affordable Dwellings affected by the notice above free of the restrictions set out in this Schedule which shall determine absolutely; and
- 16.3 If the Council or any other person cannot within 2 months of the date of service of its response under Paragraph 16.1 of this Schedule complete such transfer then the Chargee shall be entitled to dispose the Affordable Dwellings affected by the notice free of the restrictions set out in this Schedule which shall determine absolutely

PROVIDED THAT at all times the rights and obligations in this Clause shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of monies outstanding under the charge or mortgage and provided also that the Chargee shall not be required to dispose of the Affordable Dwellings for a consideration that is less than the amount due under and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest, costs and expenses in connection with the mortgage or charge (or part of the land subject to the legal charge)

17. **VIABILITY**

- 17.1 Prior to the Commencement of Development of the third and fourth Phases the Owners shall commission a New Viability Appraisal using the same variables as those used in the Existing Viability Appraisal to determine whether the Development proposed in the third and fourth Phases is Viable
- 17.2 The Owners shall serve a copy of the New Viability Appraisal (together with evidence of the actual costs and receipts to date and details of the method of calculation of the projected costs and receipts) on the Council at any time prior to (but no more than 12 months before) the anticipated Commencement of Development of the relevant Phase
- 17.3 The Council shall have a period of 30 Working Days from the date of service to respond to the New Viability Appraisal and to confirm whether the results of the New Viability Appraisal are agreed or disputed by the Council
- 17.4 If the Council:
- 17.4.1 Agrees the results of the New Viability Appraisal; or
- 17.4.2 Does not respond to the New Viability Appraisal within 30 Working Days
- the New Viability Appraisal SHALL BE DEEMED to have been agreed
- 17.5 If within 30 Working Days from the service of the New Viability Appraisal the Council serves written notice on the Owner that the New Viability Appraisal is disputed the parties shall attempt to agree the identity of the Expert
- 17.6 Save for where there has been fraud or a manifest error the New Viability Appraisal approved by the Expert shall be the agreed Viability Assessment
- 17.7 In the event that the agreed New Viability Appraisal identifies that there is a Developer's Profit in excess of 20% then the Owners shall pay to the Council the Additional Affordable Housing Contribution PROVIDED THAT the Council is able to demonstrate that there is a need for Affordable Housing within the Borough
- 17.8 In the event that the agreed New Viability Appraisal identifies that the Developer's Profit will be less than 20% the type of Obligations required to be provided in relation to Phases 3 or 4 respectively shall be reduced to the level deemed Viable by the New Viability Appraisal to enable the Developer's Profit to be achieved

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