

disposal of individual Dwellings or the disposal of any part(s) of the Site to a statutory undertaker or service company for the purposes of providing Services to/from the Site

PART 2

Affordable Housing

The following definitions shall apply in this Schedule 1:

1. Definitions

Advertising	means the advertising for sale or letting of any interest in the relevant Shared Ownership Dwelling/ Discounted Market Sales Housing Units in accordance with a scheme to be approved by the Council which scheme shall include (unless otherwise agreed with the Council) an advertisement on the website of Help to Buy South or any other similar organisation promoting Shared Ownership Housing Discounted Market Sales Housing Units and such other advertising such as through local estate agents and social media channels as shall be agreed in writing by the Council.
Adjoining Parishes	means the Civil Parishes of Ashreigney, Dolton and Dowland
Affordable Dwellings	means 23 of the Dwellings to be provided on the Site as Affordable Housing and reference to "Affordable Dwelling" shall mean any one of them.
Affordable Housing	means Social Rented Housing or Intermediate Housing provided to eligible households whose needs are not met by the market, where eligibility is determined with regard to local incomes and local house prices and which remains at an affordable price for future eligible households and as defined in Annex 2 of the NPPF.
Affordable Housing Plan	means the plan showing the Affordable Housing Scheme appended to this Deed with drawing ref. no. P2064 08 Rev B.
Affordable Housing Scheme	means a scheme for the provision of the Affordable Housing of the Development as shown on the Affordable Housing Plan which includes arrangements for the provision of the Affordable Dwellings and transfer of the Affordable Dwellings to a Registered Provider.
Affordable Rent	means a rent capped at the Local Housing Allowance rates (applicable to the Dwelling's postcode and house size) unless it is demonstrated to the Proper Officer that 80% of the Open Market Rent of the property is lower
Affordable Rent Dwellings	means an Affordable Dwelling to be let in accordance with this Schedule at a rent not exceeding the Affordable Rent
Devon Home Choice	means the method or body agreed by the Council in accordance with Department for Communities and Local Government guidance: - "Allocation of Accommodation: Choice Based Letting" (August 2008) for the allocation of Affordable Housing in the District.

“Discounted Market Sales Housing”	means Affordable Housing for sale as described in paragraph c) to the definition of “Affordable housing” in Annex 2 to the NPPF.
“Discounted Market Sales Housing Units”	means the Dwellings to be provided for Discounted Market Sales Housing and “Discounted Market Sales Housing Unit” shall be construed accordingly.
District	means the administrative area of Torridge District Council.
Help to Buy South	means the method or body agreed by the Council for the nomination of Shared Ownership Housing available to buy in the District or such successor body or organisation responsible for the nomination of Shared Ownership Housing available to buy in the District.
Homes England or HE	means the agency so named and established under the Housing and Regeneration Act 2008 for the purpose of procuring and regulating the provision of Affordable Housing and any body that replaces it for the purpose of those functions.
Housing Need	means a person who does not have available to him and could not afford (personally or jointly with other members of his household) to acquire or rent a home suitable for his needs and the needs of their household at the normal market values prevailing in the District.
Intermediate Housing	means Affordable Housing made available for sale or rent as Shared Ownership Dwellings, Discount Open Market Sale Dwellings, Intermediate Rent Dwellings or Affordable Rent Dwellings
Intermediate Rent	means a rent capped at the Local Housing Allowance rates (applicable to the Dwelling’s postcode and house size) unless it is demonstrated to the Proper Officer that 80% of the Open Market Rent of the property is lower
Intermediate Rent Dwellings	means an Affordable Dwelling to be let in accordance with this Schedule at a rent not exceeding the Intermediate Rent
Local Connection	<p>means a local connection calculated from the Start Date (defined in Part VII of the Housing Act 1996) with the Parish (or the Qualifying Area as appropriate) as follows:</p> <ul style="list-style-type: none"> • being permanently resident therein for six of the last twelve months, or three out of the last five years; or • in permanent full-time or part-time (minimum 16 hour contract per week) work therein for 6 months. This may include the need to move to the District in connection with permanent employment (minimum 16 hour contract per week) where commuting from the person’s existing home is accepted by the Council as unreasonable. In all cases there should be no break in the period of employment for more than 3 months over the relevant period; or • have family connections in the District. Reflecting the Local Government Association guidelines this is normally defined as the applicant, or a member of their household has parents, adult

children or brothers or sisters who have been resident in the District for at least the last 5 years; or

- having immediate relatives (i.e. parents, non-dependent children, brother or sister) who have lived therein for at least 5 years and with whom there has been shown to have been frequent contact, commitment or dependency; or
- other categories or relationships may be considered by the Council including foster relationships where clear evidence of frequent contact, commitment dependency is shown; or
- other special circumstances which create a link to the District (not including residence in a hospital armed forces accommodation holiday let or person or rehabilitation facility) and having been first verified in writing by the Council as having such special circumstances and this may include the need to reside medical support or (with the approval of the Council) some other form of special support.

Local Housing Allowance	means the rents applicable to EX19 8HP by the Valuation Office Agency of H.M. Revenue and Customs (or any successor body responsible for setting the applicable rate)
Mortgagee	means 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 Dwellings
Open Market	means an open market for the sale or rent of real property assuming willing sellers and buyers and assuming that none of the obligations or restrictions contained in this Deed applies
Open Market Dwelling	means a Dwelling which is not an Affordable Dwelling
Open Market Rent	means rent at a level which is set by the Open Market and is not subject to any of the restrictions which are contained in this Deed
Open Market Value	means the price which 100% of the freehold interest in a Dwelling would fetch if sold on the open market by a willing vendor to a willing purchaser and disregarding the obligations contained in this Deed which price is to be determined in the event of disagreement by a member or fellow of the Royal Institution of Chartered Surveyors at the cost of the Owner.
Parish	Means the Civil Parish of Winkleigh
Protected Tenant	means any tenant who: <ul style="list-style-type: none"> (a) 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

	<p>(b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Dwelling; or</p> <p>(c) is a tenant lessee owner or occupier of a Staircased Dwelling.</p>
Qualifying Area	means the Parish, Adjoining Parishes and the District as appropriate
“Restricted Price”	means a price calculated in accordance with paragraph 2.14 of this Schedule 1 in respect of Discounted Market Sales Housing.
Registered Provider or RP	means a body which is registered with HE as a provider of social housing under Part 2 of the Housing and Regeneration Act 2008 or such other class or body as may be constituted under any legislation replacing that provision.
Sale Notice	means a notice which contains details of the Affordable Dwellings to be sold in the form set out and completed in accordance with Annex A to this Deed and which is delivered to the Council and clearly marked for the urgent attention of the Council’s Strategic Enabling Officer.
Shared Ownership Dwelling	means an Affordable Dwelling sold on the basis of a Shared Ownership Lease and the rent under such lease may be increased by no more than the Consumer Price Index (All Items) plus 0.5% or other such amount as prescribed by Homes England.
Shared Ownership Housing	means Affordable Housing where a person can buy a share in the property and the remaining share is held by a provider of Affordable Housing under a lease based on the appropriate form of shared ownership as published by HE.
Shared Ownership Lease	means a Shared Ownership lease in the form as published by Homes England as amended to comply with this Deed or as approved by the Proper Officer (District Council)
Social Rent	means a rent which does not exceed HE target rents for the area in which the Site is located as specified by the HE or other successor or replacement body which sets rent levels for Affordable Housing.
Social Rented Dwelling	means an Affordable Dwelling(s) let at a Social Rent.
Staircased Dwelling	means an Affordable Dwelling which is a Shared Ownership Dwelling for which the tenant has purchased one hundred per cent (100%) of the leasehold or freehold equity as the context requires under the terms of the tenant’s Shared Ownership Lease.
Staircasing and Staircase	means the exercise by a tenant of a Shared Ownership Dwelling of the right to increase his or her share of the equity in the Affordable Dwelling.
Staircasing Payment	means a payment made by the tenant under a Shared Ownership Lease to the Landlord for the purchase of an additional share of the equity in the Shared Ownership Dwelling.
Start Date	means the date immediately preceding the date on which the Affordable Housing Dwelling is Occupied by a person in Housing Need.

Subsidy	means social housing grant or similar provided by the Council and/or HE or such other body as may succeed it.
Valuer	a professionally qualified valuer who is a member of the Royal Institution of Chartered Surveyors or equivalent.

2. AFFORDABLE HOUSING

The Owner covenants with the Council as follows:

Affordable Housing Scheme

2.1. To provide 23 of the total number of Dwellings to be constructed on the Site as Affordable Dwellings, the tenure of which shall be 17 for Social Rent and 6 for Shared Ownership Housing in accordance with the following (unless otherwise agreed in writing by the Council):

Social Rent

Number of Bedrooms	Number of Units	Minimum size
1 bedroom 2 person Flat Ground Floor	2	538 sq ft
1 bedroom 2 person Flat First Floor	2	624 sq ft
1 bedroom 2 person House	4	625 sq ft
2 bedroom 4 person house	5	851 sq ft
3 bedroom 6 person house	3	1098 sq ft
4 Bedroom 8 person house	1	1334 sq ft

Intermediate Housing

Number of Bedrooms	Number of Units	Minimum size
2 bedroom 4 person house	4	851 sq ft
3 bedroom 6 person house	2	1098 sqft

and to be constructed in accordance with the Affordable Housing Scheme to be submitted and approved by the Council pursuant to paragraph 2.2.

- 2.2. Prior to the Commencement of Development to submit the Affordable Housing Scheme to the Council and not to Commence Development until the Affordable Housing Scheme has been approved by the Council.
- 2.3. Subject to the provisions of this Deed the Affordable Dwellings shall not be used for any purpose other than for the provision of the Affordable Housing as set out in this Deed and the Affordable Housing Scheme.

Construction of the Affordable Dwellings.

- 2.4. Not to cause or permit first Occupation of more than 25% of the Open Market Dwellings until such time as the construction of 50% of the Affordable Dwellings has been completed and the Affordable Dwellings are ready for Occupation and have been transferred in accordance with the approved Affordable Housing Scheme.
- 2.5. Not to cause or permit first Occupation of more than 50% of the Open Market Dwellings until such time as the construction of 75% of the Affordable Dwellings have been completed and the Affordable Dwellings are ready for Occupation and have been transferred in accordance with the approved Affordable Housing Scheme.
- 2.6. Not to cause or permit first Occupation of more than 75% of the Open Market until such time as the construction of 100% of the Affordable Dwellings have been completed and the Affordable Dwellings are ready for Occupation and have been transferred in accordance with the approved Affordable Housing Scheme.
- 2.7. The Affordable Dwellings shall be constructed in accordance with the agreed Affordable Housing Scheme and using the same materials as the Open Market Dwellings, so as to be externally indistinguishable from the Open Market Dwellings.
- 2.8. If the Affordable Housing Scheme identifies that the Affordable Dwellings will be transferred to a Registered Provider the transfer of the Affordable Dwellings shall be on the following terms:-
 - 2.8.1. the transfer shall be of the unencumbered freehold of the Affordable Dwellings and their curtilages (save for any encumbrances (not being financial charges existing prior to the date of this Deed)) with full title guarantee and vacant possession;
 - 2.8.2. the transfer shall grant all rights and easements (if any) as are required to give pedestrian and vehicular access between the Affordable Dwellings and the public highway and as are required to connect all sewers, drains pipes cables and all other conducting media serving the Affordable Dwellings to the relevant networks.

Marketing, Allocation and Occupation of Affordable Dwellings

- 2.9. Not to permit allow or cause the Affordable Dwellings to be Occupied by a person unless that person:
 - (a) is a person in Housing Need who has a Local Connection at the time of his first Occupation of the Affordable Dwelling; or
 - (b) is a member of the household of and living with a person in Housing Need at the time of his first Occupation of the Affordable Dwelling; and
 - (c) (in either case) occupies the Affordable Dwelling as his or her sole or main residence.
- 2.10. No person shall let any Social Rented Dwellings for a rent which exceeds the Social Rent.
- 2.11. No person shall let any Affordable Rented Dwelling at a rent which exceeds the Affordable Rent

2.12. No Person shall let any Intermediate Rented Dwelling at a rent which exceeds the Intermediate Rent

Shared Ownership Housing

2.13. Where an Affordable Dwelling is shown within the approved Affordable Housing Scheme as intended to be disposed of as a Shared Ownership Dwelling:

2.13.1. the Shared Ownership Dwelling shall only be disposed of by way of a Shared Ownership Lease;

2.13.2. the minimum initial share of the equity in the Shared Ownership Dwelling that a purchaser may purchase shall be restricted to 25-75% of the equity as per the Shared Ownership Lease or such lower initial share as may be permitted under guidance issued by HE;

2.13.3. the rent payable shall not exceed two decimal point seven five per cent (2.75%) of the Open market value of the equity retained by the landlord.

Discounted Open Market Housing

2.14. On the sale of a Discounted Market Sales Housing to any person prior to its first Occupation and any subsequent sale in accordance with this Deed, the Restricted Price payable shall be as follows:-=

Property Size	Discount from Open Market Value
1 bed	50%
2 bed	54%
3 bed	66%
4 bed	64%

2.15. In accordance with the provisions in this paragraph 2.15 and the provisions of Schedule 1 the Owner shall:

2.15.1. in the case of initial sales:

2.15.1.1. prior to service of a Sale Notice submit a scheme for the Advertising of the Discounted Market Sales Housing for approval by the Council; and

2.15.1.2. on receipt of a written approval of the Council for a scheme of Advertising serve a Sale Notice upon the Council each time one or more of the Discounted Market Sales Housing Unit(s) are released for sale but in any event not less than 2 (two) months before the expected completion date of the relevant Discounted Market Sales Housing Unit(s); and

2.15.1.3. upon submission of a Sale Notice carry out the Advertising of the Discounted Market Sales Housing Unit(s) in accordance with the agreed scheme

2.15.2. in the case of subsequent sales:

- 2.15.2.1. serve a Sale Notice on the Council each time the Owner intends to sell a Discounted Market Sales Housing Unit; and
- 2.15.2.2. submit a scheme for the Advertising of the Discounted Market Sales Housing Unit(s) for approval by the Council prior to service of the Sale Notice; and
- 2.15.2.3. on receipt of a written approval of the Council for a scheme of Advertising carry out the Advertising of the Discounted Market Sales Housing Unit(s) in accordance with the agreed scheme immediately following the submission of the Sale Notice
- 2.15.3. in the case of initial sales and subsequent sales of any Discounted Market Sales Housing Units serve upon the Council clearly addressed and marked for the urgent attention of the Planning and Economy Manager EITHER a certificate from a Valuer OR 3 (three) valuations from local estate agents dated no earlier than 3 (three) months before the commencement of marketing for the sale of the relevant Discounted Market Sales Housing Unit(s) setting out the Open Market Value of the dwelling such certificate to be served on the Council before or together with the Sale Notice.
- 2.15.4. The Council shall either approve the assessment submitted to it in accordance with sub-paragraph 2.15.3 above (such approval not to be unreasonably withheld or delayed) or provide an alternative assessment of the Open Market Value to be agreed between the parties.
- 2.15.5. If agreement between the Council and the Owner is not reached under sub- paragraph 2.15.4 above within 4 (four) weeks of the Council's receipt of the assessment then the matter shall be referred to an appropriate Expert in accordance with the provisions of clause 11 of this Unilateral Undertaking.
- 2.15.6. Having obtained the Council's agreement of the Open Market Value (the Agreed Valuation) pursuant to sub-paragraph 2.15.4 above or having received the binding decision of the Expert in accordance with sub-paragraph 2.14.5 above in order to establish the Open Market Value, the Owner shall give the Council written notice of:
 - 2.15.6.1. the date upon which he has arranged for the Discounted Market Sales Housing Unit to be advertised for sale;
 - 2.15.6.2. the name and address of the agent who will market the premises and shall invite the Council to nominate persons to purchase the Discounted Market Sales Housing Unit in accordance with the provisions of this Schedule 1;
 - 2.15.6.3. If exchange of contracts for the sale of the Discounted Market Sales Housing Unit has not occurred within 6 (six) months of the date of the Agreed Valuation, then the Owner shall submit a new valuation, repeating the steps set out in sub-paragraph 2.15 above and any future sale shall only proceed in accordance with the new Agreed Valuation, which in turn shall only be valid for a period of 6 (six) months from the date of the agreement of the new valuation.

PROVIDED THAT the Owner shall not exchange contracts for the sale of the relevant Discounted Market Sales Housing Unit until the Council has given its approval that the prospective purchaser satisfies the obligations contained in this Schedule 1 and if no response is given by the Council within 21 (twenty one) days of receipt of written verification from the Owner that the prospective purchaser

satisfies the obligations contained in this Schedule 1 (such written verification to be served upon the Council clearly addressed and marked for the urgent attention of the Strategic Enabling Officer) then approval will be deemed to have been given and

PROVIDED FURTHER THAT the Owner shall if so required by the Council provide to the Council (together with the written verification detailed above) all necessary documentation as stipulated in Annex B as evidence that the prospective purchaser satisfies the obligations contained in this Schedule 1.

- 2.16. Unless otherwise agreed in writing by the Council to manage the Affordable Dwellings to be constructed as part of the Development in accordance with the terms of this paragraph 2.17.
- 2.17. The owners of Discounted Open Market Housing shall be nominated in accordance with Help to Buy South and any subsequent replacement scheme that may be introduced and agreed to by the Council.

Marketing – Social Rented Housing

- 2.18. If within a period of 2 (two) weeks for initial lettings and 1 (one) week for subsequent lettings from the date that the Affordable Dwelling becomes available for Occupation no prospective occupier in Housing Need and with a Local Connection to the District wishes to Occupy the Affordable Dwelling then Occupation is permitted by a person in Housing Need and with a Local Connection as applied to the County.

PROVIDED THAT throughout the periods specified in this paragraph the Affordable Dwelling shall have been continuously marketed within the District and County and the Affordable Dwelling will be allocated in terms of priority to the District first and the County second.

Marketing – Shared Ownership Housing

- 2.19. If within a period of 12 (twelve) weeks for initial sales and 12 (twelve) weeks for subsequent sales from the date that the Affordable Dwelling becomes available for Occupation no prospective occupier in Housing Need and with a Local Connection to the District wishes to Occupy or purchase the Affordable Dwelling then Occupation or purchase is permitted by a person in Housing Need and with a Local Connection as applied to the Adjoining Parishes .
- 2.20. If after a period of 4 (four) weeks from the end of the period referred to in paragraph 2.19 above no prospective purchaser with a Local Connection to the Adjoining Parishes has come forward then a prospective purchaser in Housing Need with a Local Connection to the County may be considered PROVIDED THAT priority will be given to those in Housing Need with a Local Connection to the District.

PROVIDED THAT throughout the periods specified in paragraphs 2.19 and 2.20 the Affordable Dwelling shall have been continuously marketed within the District and County and the Affordable Dwelling will be allocated in terms of priority to the District first and the County second.

- 2.21. Not to Occupy or permit the Occupation of the Affordable Dwelling before written material has been delivered to the Council's Strategic Enabling Officer evidencing the compliance of such Occupation of the Affordable Dwelling with such of the eligibility requirements as set out in this Schedule 1 as may be applicable.
- 2.22. Where the owner of the Affordable Dwelling is a Registered Provider the Affordable Dwelling may also be Occupied in accordance with any nomination and management scheme in effect between the Council and that Registered Provider.
- 2.23. Any transfer for the sale or lease of the Affordable Dwellings should include such covenants and restrictions so as to ensure the future compliance with the planning obligations in this Schedule 1

subject to the exclusions contained in this Schedule and subject also to any subsequent amendment or variation to this Agreement as agreed with the Council to ensure that the Affordable Housing remains as such in perpetuity.

Marketing - Discounted Open Market Housing

- 2.24. If within a period of 12 (twelve) weeks for initial sales and 12 (twelve) weeks for subsequent sales from the date that the Affordable Dwelling becomes available for Occupation no prospective occupier in Housing Need and with a Local Connection to the Parish wishes to Occupy or purchase the Affordable Dwelling then after a further 12 weeks advertising Occupation or purchase is permitted by a person in Housing Need and with a Local Connection as applied to the Adjoining Parishes.
- 2.25. If after a period of 4 (four) weeks from the end of the period referred to in 2.24 no prospective purchaser with a Local Connection to the Adjoining Parishes has come forward then after a further 12 weeks advertising a prospective purchaser in Housing Need with a Local Connection to the District may be considered. PROVIDED THAT priority will be given to those in Housing Need with a Local Connection to the Parishes, Adjoining Parishes and District in that order.

PROVIDED THAT throughout the periods specified in this paragraph the Affordable Dwelling shall have been continuously marketed within the District.

- 2.26. Not to Occupy or permit the Occupation of the Affordable Dwelling before written material has been delivered to the Council's Strategic Enabling Officer evidencing the compliance of such Occupation of the Affordable Dwelling with such of the eligibility requirements as set out in this Schedule 1 as may be applicable.
- 2.27. Any transfer for the sale or lease of the Affordable Dwellings should include such covenants and restrictions so as to ensure the future compliance with the planning obligations in this Schedule 1 subject to the exclusions contained in this Schedule and subject also to any subsequent amendment or variation to this Agreement as agreed with the Council to ensure that the Affordable Housing remains as such in perpetuity.

Mortgagee Exclusion

- 2.28. Notwithstanding the other provisions of this Deed, the covenants, restrictions and obligations contained in this Schedule 1 shall not be binding on a Mortgagee or any purchaser from or successor in title to such Mortgagee or any other Mortgagee of any Affordable Dwelling(s) or part thereof or any purchaser from or successor in title to such Mortgagee PROVIDED THAT:
 - 2.28.1. the Mortgagee shall prior to seeking to dispose of the Affordable Dwellings (or any part thereof) pursuant to any default under terms of the relevant security documentation first give written notice to the Council of its intention to dispose of the Affordable Dwellings (or any part thereof) and shall have used reasonable endeavours over a period of 3 (three) months from the date of the written notice to complete a disposal of the Affordable Dwellings (or any part thereof) to another Registered Provider 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
 - 2.28.2. if such disposal has not completed with the 3 (three) month period, the Mortgagee shall be entitled to dispose of the Affordable Dwellings free from the affordable housing provisions in this Deed which provisions shall determine absolutely.