

Schedule 1
Affordable Housing

Definitions and Interpretation

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

“Advertised” or “Advertising”	means the advertising of an Affordable Dwelling for sale or letting in accordance with the Scheme of Advertising
“Affordable Dwelling”	means each unit of Affordable Rented Housing or Intermediate Affordable Housing or such other form of affordable housing as might be agreed in writing between the parties to be delivered on the Site pursuant to this Agreement and the term “Affordable Dwellings” shall be construed accordingly
“Affordable Housing”	means (subject to the provisions of this Agreement) housing which is defined in the NPPF at Annex 2 or otherwise by the Government as housing which includes social rented, affordable rented and intermediate housing provided to eligible household whose needs are not met by the market including provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision and in relation to which eligibility is determined with regard to local incomes and local house prices
“Affordable Housing Provider” or “AHP”	means a registered social landlord or a local or similar authority or a housing association or similar organisation or a social landlord or such other body or organisation whose main object is the provision of Affordable Housing or such other body as may be agreed in writing between the Owner and the Council.
“Affordable Housing Units Layout and Mix Plan”	means a plan to be submitted by the Owner and approved by the Council which identifies the size, distribution and mix of the Affordable Dwellings which shall be in accordance with the Indicative Affordable Housing Mix unless otherwise agreed in writing with the Council and which term shall include any revisions thereof which may be subsequently agreed in writing by the Owner and the Council
“Affordable Rent”	means a rent which does not exceed 80% of the Open Market Rent (inclusive of any service charges) 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 Homes England
“Affordable Rented Housing”	means Affordable Housing let by an AHP to Households who are eligible for social rented housing at an Affordable Rent
“Allocations Scheme”	means the scheme for allocation and/or advertising of the Affordable Dwellings which in the case of: i) Affordable Rented Housing units shall set out the requirements for notification of vacancies of Dwellings for rent, for advertising them and for determining to whom they

	<p>will be allocated for Occupation, and shall be compatible with the Devon Home Choice Policy (as amended from time to time) or such other local authority and housing association policy which sets out how affordable housing across Devon will be let; and</p> <p>ii) Intermediate Affordable Housing units shall set out the requirements for notification of vacancies of Dwellings for Shared Ownership, for advertising them and for determining to whom they will be leased which may for the avoidance of doubt involve Help to Buy agents appointed by Homes England</p>
“Alternative Affordable Home”	means a unit of Affordable Housing provided either by an AHP or a private developer and in either case located in the County
“County”	means the County of Devon
“Cluster”	means a group of Affordable Dwellings which are located immediately adjacent to one another
“Devon Homechoice”	means the choice based letting scheme introduced in the County of Devon with a view to allocating Affordable Rented Housing owned by local authorities and AHPs to those most in need of accommodation or such successor scheme or arrangement agreed in writing between the Council and the Owner as a replacement for Devon Homechoice
“Discount Market Dwelling”	means an Affordable Dwelling sold at a discount of 25% below Open Market Value provided and occupied pursuant to part 4 of this Schedule
“Dispose” “Disposal”	means a disposal by way of a sale or a lease of over 7 years but does not include the creation of a legal charge
“Estate Agent”	means an independent estate agent who is either a member of the Royal Institute of Chartered Surveyors or the National Association of Estate Agents
“Grant Funding”	means grant funding provided by Homes England or any successor in function thereof
“Help to Buy Agency”	means the Government appointed local help to buy agency (or any successor to that function appointed by the government) which provides a one stop shop for households seeking all forms of low cost home ownership
“Homes England” or “HE”	means the public body that funds new Affordable Housing in England or any successor in function
“Household”	means anyone who may reasonably be expected to reside with the Qualifying Persons(s)
“Housing Need”	<p>means being:</p> <ul style="list-style-type: none"> i) homeless; or ii) threatened with homelessness; or iii) living in accommodation which is Insecure; or iv) living in accommodation which is Unsuitable <p>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</p>

“Indicative Affordable Housing Mix”	means a mix which broadly reflects the identified housing need in the Council’s administrative area as at the date of the submission of an application for Reserved Matters Approval
“Intermediate Affordable Housing”	means Discount Market Dwellings and/or Shared Ownership Dwellings and/or such other similar tenures of Affordable Housing which may be agreed in writing between the Owner and the Council
“Intermixed”	means the intermixing of Affordable Dwellings and Open Market Dwellings within the Site to avoid concentrations of Affordable Dwellings in any part of the Site as required by Policy WE4 of the Local Plan
“Insecure”	means accommodation which the Qualifying Person does not have a legal right to occupy in the long term
“Letting Notice”	means a notice which contains details of the Affordable Dwelling to be let and which shall include unless otherwise agreed with the Council: (a) the name and address of the landlord and/or the Owner (b) address of the Dwelling (c) weekly or monthly 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 urgent attention of the Manager for Housing PROVIDED THAT for the avoidance of doubt an advertisement for the Affordable Dwelling placed on Devon Homechoice shall be considered to be a Letting Notice for the purposes of this Schedule
“Local Connection”	means a connection with the Primary Area, the Secondary Area, the Council’s administrative area or the County as appropriate and demonstrated by that person or a member of their Household to the reasonable satisfaction of the Council as follows: (a) being permanently resident therein six (6) months prior to the Affordable Dwelling being Advertised and that residence is of their own choice; or (b) being formerly permanently resident therein for a continuous period of five (5) years; or (c) having his or her place of permanent work (normally regarded as 16 hours or more a week and not including seasonal employment) therein immediately prior to the Affordable Dwelling being Advertised; or (d) having a connection though 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 immediately prior to the Affordable Dwelling being Advertised; or

	(e) 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 policy as amended from time to time
“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 or such similar framework that may replace it
“Local Plan”	means the Teignbridge Local Plan 2013 – 2033 adopted 6 May 2014
“Manager for Housing”	means the Council’s Manager for the time being of Affordable Housing
“Open Market Value”	means the price which 100% of the freehold or long leasehold interest in the relevant Affordable Dwelling would fetch if sold on the open market by a willing vendor and disregarding the obligations and restrictions contained in this Deed as evidenced by 2 (two) market valuations prepared by Estate Agents
“Primary Area”	means the parish of Hennock
“Qualifying Person”	means a Qualifying Person (Affordable Rented Housing) or a Qualifying Person (Intermediate Housing)
“Qualifying Person (Affordable Rented Housing)”	means person(s) who (unless otherwise agreed in writing with the Council) has/have on the date of Advertising by the Owner of the relevant Affordable Dwelling a Local Connection with: <ul style="list-style-type: none"> (a) the Primary Area; or (b) if an insufficient number of people satisfying the requirement of (a) above has been identified by the Owner in consultation with the Council a person who has a Local Connection with the Primary Area or the Secondary Area; or (c) if an insufficient number of people satisfying the requirement of (a) or (b) above has been identified by the Owner in consultation with the Council a person who has a Local Connection with the Primary Area or the Secondary Area or the administrative area of the Council (d) if an insufficient number of people satisfying the requirements of (a), (b) or (c) above has been identified by the Owner in consultation with the Council a person who has a connection with the Primary Area or the Secondary Area or the administrative area of the Council or the County of Devon
“Qualifying Person (Intermediate Housing)”	means person(s) who (unless otherwise agreed in writing with the Council) has/have on the date of Advertising by the Owner of the relevant Affordable Dwelling a Local Connection with: <ul style="list-style-type: none"> (a) the Primary Area; or (b) if an insufficient number of people satisfying the requirement of (a) above has been identified by the Owner in consultation with the Council within a period of 28 (twenty eight) days of Advertising

	<p>the relevant Affordable Dwelling in the case of first lets or 14 (fourteen) days of Advertising for subsequent lettings a person who has a Local Connection with the Primary Area or the Secondary Area; or</p> <p>(c) if an insufficient number of people satisfying the requirements of (a) or (b) above has been identified by the Owner in consultation with the Council within a period of 56 (fifty six) days of Advertising the relevant Affordable Dwelling in the case of first lets or 28 (twenty-eight) days of Advertising for subsequent letting a person who has a Local Connection with the Primary Area or the Secondary Area or the administrative area of the Council</p> <p>d) if an insufficient number of people satisfying the requirements of (a), (b) or (c) above has been identified by the Owner in consultation with the Council within a period of 84 (eighty-four) days of Advertising the relevant Affordable Dwelling in the case of first lets or 42 (forty-two) days of Advertising for subsequent letting a person who has a connection with the Primary Area or the Secondary Area or the administrative area of the Council or the County of Devon</p> <p>PROVIDED THAT the time periods set out in this definition can be varied by agreement between the Council and the Owner</p>
“Scheme of Advertising”	<p>means the advertising for sale or letting of any interest in the relevant Affordable Dwelling in accordance with a scheme to be approved by the Council (such approval not to be unreasonably withheld or delayed) which scheme shall include unless otherwise agreed with the Council:</p> <p>(a) in the case of Affordable Rented Dwellings an advertisement on the website of Devon Homechoice or such other similar website for advertising affordable homes which are ready for letting as agreed by the Council; or</p> <p>(b) in the case of Intermediate Affordable Housing which is Grant Funded an advertisement on the website of the relevant Help to Buy Agent</p>
“Secondary Area”	<p>means the parishes of Kingsteignton, Bovey Tracey, Christow, Trusham and Chudleigh</p>
“Shared Ownership Dwelling”	<p>means an Affordable Dwelling let on a Shared Ownership Lease in the standard form of the AHP</p>
“Shared Ownership Lease”	<p>means a lease substantially in the form approved or published by Homes England whereby the tenant having paid an initial premium of no more than 75% of the open market value of the particular unit pays a rent in respect of the remaining equity held by the Owner plus (if appropriate) a reasonable service charge PROVIDED THAT such rent per annum shall:</p> <p>(a) initially be at a level not exceeding 2.75% of the full open market value of the AHP’s retained share of the relevant Affordable Dwelling; and</p> <p>(b) not be at a level which is in conflict with any applicable Homes England restrictions relating to charges payable by the tenant</p>
“Unsuitable”	<p>means accommodation which is 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</p>

- 1.1 Where the number of Dwellings or plots to be provided pursuant to the provisions of this Schedule includes part of a whole number, the number of Dwellings or plots to be provided 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.

The Owner covenants with the Council as follows:

2 PART 1 – Provision of Affordable Housing

- 2.1 To provide 30% of the Dwellings as Affordable Dwellings PROVIDED THAT for the avoidance of doubt this provision does not prevent the use of any Open Market Dwellings as affordable housing
- 2.2 The Affordable Dwellings shall be located in Clusters of no more than 9 (nine) Affordable Dwellings (or such other number as may be stated by the Inspector in the Decision Letter) and the Clusters shall be Intermixed.
- 2.3 Prior to or at the same time as submission of the Reserved Matters Application the Owner shall submit the Affordable Housing Units Layout and Mix Plan to the Council for approval
- 2.4 The Affordable Dwellings shall be provided in accordance with the approved Affordable Housing Units Layout and Mix Plan
- 2.5 (Unless otherwise agreed in writing between the Council and the Owner) 70% of the Affordable Dwellings shall be provided as Affordable Rented Housing and 30% of the Affordable Dwellings shall be provided as Intermediate Affordable Housing.
- 2.6 To procure that 50% of the Affordable Dwellings have been practically completed are ready for Occupation and, save for the Discount Market Dwellings, have been transferred to an AHP prior to more than 50% of the Open Market Dwellings being Occupied and not to permit more than 50% of the Open Market Dwellings to be Occupied unless and until 50% of the Affordable Dwellings have been practically completed are ready for Occupation and, save for the Discount Market Dwellings, have been transferred to an AHP.
- 2.7 To procure that all the Affordable Dwellings have been practically completed are ready for Occupation and, save for the Discount Market Dwellings, have been transferred to an AHP prior to more than 80% of the Open Market Dwellings being Occupied and not to permit more than 80% of the Open Market Dwellings to be Occupied unless and until all of the Affordable Dwellings have been practically completed are ready for Occupation and, save for the Discount Market Dwellings, have been transferred to an AHP.
- 2.8 Once the Owner has transferred any interest in the Affordable Dwellings to an AHP, the following obligations contained in this Schedule shall only be enforceable against the AHP (as successor in title to the Owner) and the AHP's successors in title (in respect of the transferred Affordable Dwellings).

PART 2 - Affordable Rented Dwellings

- 2.9 Not to permit or otherwise allow any of the Affordable Rented Dwellings to be let other than:
- 2.9.1 to a Qualifying Person (Affordable Rented Housing) who is either releasing an Alternative Affordable Home elsewhere or is in Housing Need;
 - 2.9.2 at a sum not exceeding the Affordable Rent; and
 - 2.9.3 to persons selected in accordance with the Allocations Scheme and the principles of the Devon Homechoice policy as amended from time to time (whether or not the AHP is a member of the Devon Homechoice scheme)
- 2.10 Not to permit or otherwise allow any of the Affordable Rented Dwellings to be let on initial or subsequent lettings prior to the submission to and approval by the Council of a Scheme of Advertising for the Affordable Rented Dwellings
- 2.11 To serve upon the Council a Letting Notice each time an Affordable Rented Dwelling becomes available for letting
- 2.12 To advertise the relevant Affordable Rented Dwelling in accordance with the approved Scheme of Advertising immediately following the service of a Letting Notice
- 2.13 The AHP shall if so required by the Council provide to the Council all necessary documentation as stipulated in Annex 1 as evidence that the prospective tenant satisfies the obligations contained in this Deed
- 2.14 Not to grant a tenancy of the relevant Affordable Rented Dwelling until the Owner or AHP 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 (such approval not to be unreasonably withheld) and if no response is given by the Council within 15 Working Days of receipt of written verification from the Owner or the AHP 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 Business Manager for Housing
- 2.15 In the event that an Affordable Rented Dwelling has not been allocated and Occupied pursuant to paragraph 2.9 above within 30 Working Days of the Dwelling becoming vacant the relevant vacant Affordable Dwelling may be allocated to any person who is considered by the AHP to be in need of such accommodation

PART 3 – Intermediate Affordable Housing

- 2.16 Not to permit or otherwise allow any of the Shared Ownership Dwellings to be sold or let other than:
- 2.16.1 to a Qualifying Person (Intermediate Affordable Housing) who is either releasing an Alternative Affordable Home elsewhere or is in Housing Need; and

- 2.16.2 by way of a Shared Ownership Lease; or
- 2.16.3 by way of another Intermediate Affordable Housing product as may be agreed in writing with the Council
- 2.17 Not to permit or otherwise allow any of the Shared Ownership Dwellings to be sold or let on initial or subsequent sale or letting prior to:
 - 2.17.1 the submission to and subsequent approval by the Council of a Scheme of Advertising for the Shared Ownership Dwellings; and
 - 2.17.2 advertising the relevant Shared Ownership Dwelling in accordance with the Scheme of Advertising approved in accordance with paragraph 2.16.2 above.
- 2.18 In the event that the AHP or the owner of a Shared Ownership Dwelling is unable to sell the Shared Ownership Dwelling in accordance with paragraph 2.16 above within a period of 90 (ninety) days of advertising the Shared Ownership Dwelling may be sold or let to any willing purchaser by way of:
 - 2.18.1 a rent being 80% of the Open Market Rent
 - 2.18.2 another form of Intermediate Affordable Housing; or
 - 2.18.3 a different Affordable Housing product as shall have been approved in writing by the Council (such approval not to be unreasonably withheld or delayed) and such person shall remain bound by the terms of this Deed
- 2.19 The AHP owner of the Shared Ownership Dwelling shall if so required by the Council provide to the Council all necessary documentation as stipulated in Annex 1 as evidence that the prospective purchaser satisfies the obligations contained in this Deed.
- 2.20 Not to exchange or complete contracts for the sale of any interest in the relevant Shared Ownership Dwelling until the Owner or AHP 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 purchaser would satisfy the obligations (such approval not to be unreasonably withheld) and if no response is given by the Council within 15 Working Days of receipt of written verification from the Owner or the AHP 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 Business Manager for Housing

PART 4 - Discount Market Dwellings

- 2.21 The Owner shall not Dispose of a Discount Market Dwelling(s) unless and until the Owner has:
 - 2.21.1 given not less than fourteen (14) Working Days prior written notice to the Council of their intention to market the Discount Market Dwelling(s) for sale **PROVIDED THAT** on the first Disposal of a Discount Market Dwelling the earliest date upon which the said written notice may be validly served shall be two (2) calendar months following commencement of construction of the relevant Discount Market Dwelling(s); and

- 2.21.2 provided to the Council in writing two (2) Open Market Value valuations of the Discount Market Dwelling(s) from Estate Agents ("**Market Valuations**")
- 2.22 The sale price of a Discount Market Dwelling shall be the average of the Open Market Value from the two (2) Market Valuations referred to in paragraph 2.21.2 above with a 25% discount applied to the average figure ("**Sale Price**")
- 2.23 The Owner shall not cause or permit the sale of a Discount Market Dwelling(s) for more than 75% of the Open Market Value as determined at the date the prior written notice required by paragraph 2.21.1 above is served on the Council in perpetuity
- 2.24 The Owner shall notify the Council in writing promptly of the name and address of the proposed buyer of a Discount Market Dwelling(s) together with full details of the Sale Price and shall provide such information as the Council may reasonably require to satisfy itself that the proposed buyer meets the requirements of paragraphs 2.25, 2.26 and/or 2.27 below and that the Sale Price offered by the Owner does not exceed the 75% of the Open Market Value
- 2.25 Each and every transfer of a Discount Market Dwelling(s) (save for any transfer made to the Council or an AHP pursuant to paragraph 2.26 below) shall contain the following covenant:
- "Unless otherwise agreed in writing by the Council, not to let the whole or part of the dwelling for a period in excess of six (6) months in any period of ownership unless the rent payable reflects the discounted sale price of the dwelling"
- 2.26 Not to permit or otherwise allow any of the Discount Market Dwellings to be sold other than to a Qualifying Person (Intermediate Affordable Housing) who is either releasing an Alternative Affordable Home elsewhere or is in Housing Need
- 2.27 In the event that a Discount Market Dwelling has not been sold pursuant to paragraph 2.26 above within thirty (30) Working Days of first marketing the Discount Market Dwelling the Owner shall continue to market the said Discount Market Dwelling but shall also offer to sell the Dwelling to the Council and an AHP for no more than 75% of Open Market Value
- 2.28 In the event that the Discount Market Dwelling has not been sold pursuant to paragraphs 2.26 or 2.27 above within eighty (80) Working Days of first marketing the Discount Market Dwelling the Owner shall be free to sell the Discount Market Dwelling at no more than 75% of Open Market Value to any person PROVIDED THAT the provisions of this Schedule which relate to Discount Market Dwellings shall (unless otherwise agreed in writing by the Council) apply in full in respect of any subsequent Disposals of the said Discount Market Dwelling

PART 5 - Release

- 3 The planning obligations and other provisions contained in this Schedule shall not apply to:
- 3.1 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 or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

- i) such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Dwellings and shall have used reasonable endeavours over a period of three (3) months from the date of the written notice to complete a disposal of the Affordable Dwellings 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
 - ii) if such disposal has not completed within the three (3) month period, the mortgagee or chargee or Receiver shall be entitled to dispose of the Affordable Dwellings free from the Affordable Housing provisions in this Deed which provisions shall determine absolutely
- 3.2 any tenant of any Affordable Rented Dwelling who exercises any right to acquire his Affordable Dwelling (or any interest in it) or acquires the said Affordable Rented Dwelling pursuant to any voluntary sales policy of his landlord and nor to any person deriving title through or under such tenant to the intent that such provisions shall determine absolutely; nor
- 3.3 any person holding a Shared Ownership Lease of any Affordable Dwelling from time to time in the event that such person exercises any right to staircase which may be included in such Shared Ownership Lease and such leaseholder acquires a 100% leasehold or freehold interest in the relevant dwelling and nor to any person deriving title through or under such leaseholder to the intent that such provisions shall determine absolutely.