

**Planning Obligations Templates:
Model Affordable Housing Clauses**

COVER SHEET

**Template 8/2025:
Full Permissions: Affordable Fixed Equity Sale
Housing: All Locations**

Version 3.0

March 2025

SCOPE:

Main clauses

- (1) For use with full permissions only.
- (2) Assumes CIL chargeable. Note: social housing relief will NOT be available with this tenure product.
- (3) Standards clauses, plus additional declaratory clause 13.5.

Schedule 1 – Affordable Housing

- (1) Applies only to 'market-led' schemes.
- (2) Exceptionally, secures delivery of fixed equity sale schemes in lieu of conventional affordable housing tenure products.
- (3) Requires Affordable Fixed Equity Sale Units to be sold at no more than 60% of their market value (i.e. at a discount of at least 40%) on first and all subsequent sales.
- (4) Assumes no specific phasing provisions required.

Other Schedules

Not included but may need to be added as necessary.

NOTES:

- SDC nomination rights in any form do NOT apply.
- Nevertheless, a requirement to prioritise sales to purchasers with a qualifying Local Connection DOES apply.

CHANGES OUTSTANDING:

Tracked changes: None.

Other changes: None.

Date

2024

[]

and

[]

and

STRATFORD-ON-AVON DISTRICT COUNCIL

and

WARWICKSHIRE COUNTY COUNCIL

DEED OF AGREEMENT

Deed of Agreement under Section 106 of the Town and Country Planning Act 1990

relating to the development of land at

[]

Warwickshire

Stratford on Avon District Council

Elizabeth House

Church Street

Stratford-upon-Avon

Warwickshire

CV37 6HX

(Ref [])

THIS DEED is made the _____ day of _____ 2020

BETWEEN:

- (1) [] of [] and [] ("**the Owner**"), and
- (2) [] whose registered office is [] ("**the Applicant**"), and
- (3) **STRATFORD-ON-AVON DISTRICT COUNCIL** of Elizabeth House, Church Street, Stratford upon Avon, Warwickshire CV37 6HX ("**the District Council**"), and
- (4) **WARWICKSHIRE COUNTY COUNCIL** of Shire Hall Warwick CV37 4RL ("**the County Council**").

WHEREAS: -

1. The **Owner** is the freehold owner of the land at [] which is registered at the Land Registry under title number [] which forms part of the **Site**, the **Site** as shown edged red on the **Plan**.
2. The **District Council** is the Local Planning Authority for the purposes of Section 106 of the Act for the area in which the **Site** is situated.
3. The **County Council** is the [] Authority for the purposes of Section 106 of the **Act** for the area in which the **Site** is situated.
4. The **Applicant**, who has the benefit of an option agreement with the **Owner** dated [] in respect of the **Site**, submitted the **Application** as hereinafter defined to the **District Council** for the development of the **Site**.
5. The **District Council** [] the **Application** on []
6. The **Owner**, the **Applicant**, the **District Council** and the **County Council** are prepared to enter this Deed to secure the planning obligations it creates in the event that the **Planning Permission** is granted.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 Definitions

In this Deed the following words and expressions shall unless the context otherwise requires have the precise meaning set out below:

- "Act"** means the Town and Country Planning Act 1990 (as amended);
- "Affordable Housing Units"** means all the Dwellings to which the provisions of **SCHEDULE 1** apply namely for **Affordable Housing** and "Affordable Housing Unit" should be construed accordingly;
- "Application"** means an application for planning permission submitted to the **District Council** for the **Development** and validated on [] and which has been allocated reference number [];
- "Commencement of Development"** means the date on which any material operation (as defined in Section 56(4) of the **Act**) forming part of the **Development** begins to be carried out other than (for the purposes of any part of this Deed other than [] and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, earthworks, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly;
- "CIL Regulations"** means the Community Infrastructure Levy Regulations 2010 (as amended);
- "Development"** means an planning application for [] to be carried out pursuant to the **Planning Permission**;

"Dwelling"	means any residential unit to be constructed on the Development pursuant to the Planning Permission and "Dwellings" shall be construed accordingly;
"Occupation"	means occupation of the Development (or relevant part thereof as the context requires) for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy", "Occupied" and "Occupations" shall be construed accordingly;
"Open Market Units"	means all or any Dwellings other than an Affordable Fixed Equity Sale Unit constructed pursuant to the Planning Permission and "Open Market Unit" shall be construed accordingly;
[if required] "Open Space"	[if required] means the area to be provided within the Site for recreation and amenity space purposes which are to be permanently retained and maintained as open space to serve the Development in accordance with the provisions set out in SCHEDULE [2] ;
"Planning Permission"	means planning permission for the Development to be granted pursuant to the Application ;
"Plan"	means the plan attached to this Deed;
"Practical Completion"	means the issue of a certificate of practical completion by the Owner's architect or in the event that the Development (or relevant part thereof) is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party's architect and

"Practically Complete" and "Practically Completed" shall be construed accordingly;

"Site"

means the area of land the subject of the **Application** and against which this Deed may be enforced as shown edged red on the **Plan**;

"Working Day(s)"

means any day (apart from Saturday, Sunday, Christmas Eve, Christmas Day, Boxing Day, Good Friday, Easter Monday and any other statutory bank holiday) on which banks in England are open for the transaction of ordinary business.

2. Interpretation

- 2.1 The expressions "the **Owner**" "the **Applicant**" "the **District Council**" and "the **County Council**" shall include their respective successors in title and assigns and/or any successor body.
- 2.2 Where appropriate the singular includes the plural and vice versa.
- 2.3 Words importing one gender include all other genders.
- 2.4 Unless otherwise stated all references to clause numbers schedules and paragraph numbers of schedules are references to the clauses schedules and paragraphs of schedules contained within this Deed.
- 2.5 References to statutory provisions shall be construed as references to those provisions as may hereafter be amended or re-enacted.
- 2.6 The obligations herein relate to the **Site** and each and every part thereof.
- 2.7 Any matter that requires the consent or approval or agreement of any party shall be subject to the proviso that such consent or approval or agreement shall not be unreasonably withheld or delayed.

3. Liability of the Owner for the Covenants herein

The covenants and obligations on the part of the **Owner** herein shall bind the **Owner** and in respect of such part or parts of the **Site** vested in them they shall be jointly and severally liable for the breach of any covenant or obligation contained within this Deed provided that no such person shall be liable for any

breach which occurs after they have parted with their entire interest in that part of the **Site** in which the breach occurs but without prejudice to any liability for any subsisting breach arising prior to parting with such interest for which they shall continue to be liable.

4 Enabling Powers

4.1 This Deed is made pursuant to the provisions of Section 106 of the **Act** and shall constitute and shall be deemed to contain planning obligations for the purposes of Section 106 of the **Act** and in the event of a breach it shall be enforceable by the **District Council** as local planning authority and the **County Council** as [] pursuant to all powers enabling and all enactments which may be relevant for the purpose of giving validity hereto or facilitating the enforcement of the obligations herein contained and shall bind the then **Owner's** respective interest in the **Site** subject to the exceptions set out at Clause 7.

4.2 Without prejudice to the generality to clause 4.1 this Deed is further made pursuant to Sections 111 and 120 of the Local Government Act 1972 Section 2 of the Local Government Act 2000 and Section 1 Localism Act 2011 insofar as the same may be relevant to the enforcement of the obligations contained herein.

5 Conditions Precedent

5.1 This Deed is conditional and shall only have effect upon:

5.1.1 the grant of the **Planning Permission**

5.1.3 the **Commencement of Development**

save for the provisions of this clause 5 and clauses 19 (Jurisdiction), 23 (Legal Costs), Clause 24 (Contracts (Rights of Third Parties) Act 1999) and Clause 25 (Applicant's Consent) which shall come into effect immediately upon completion of this Deed.

5.2 For the avoidance of doubt this Deed is entered into on the understanding that in the event of the **Planning Permission** being quashed as a result of any legal proceedings or pursuant to Section 97 of the Act or expires before the **Commencement of Development** or for any other reason then this Deed shall absolutely determine and shall become null and void.

6. Payment of Monies

- 6.1 The obligations herein contained to pay monies to the **District Council** or the **County Council** shall be enforceable against the **Owner** having a freehold interest in the **Site** (except those owners stipulated in Clause 7) at the date on which the obligation arises and any obligation to repay monies shall be construed as referring to a repayment to the party or parties who paid the monies in the first instance.
- 6.2 All payments to be made to the **District Council** and the **County Council** shall be increased by an amount (if any) as identified in the applicable index as set out in the **Relevant Index** in **SCHEDULE []**.
- 6.3 Where payment of any monies to the **District Council** and/or the **County Council** is required to be made on or before a specified number of **Occupations** of **Dwellings** or **Practical Completion** of **Dwellings** the **Owner** will not cause or permit that number of **Occupations** or **Practical Completion** of **Dwellings** to be exceeded until those monies have been paid.

7. Liability

- 7.1 Save for the provisions of **SCHEDULE 1** which shall apply to all **Affordable Housing Units**, the covenants contained in this Deed shall not be enforceable against:
- 7.1.1 individual purchasers or lessees of **Dwellings** (or their respective mortgagees or chargees) constructed pursuant to the **Planning Permission** and any **Qualifying Developing Body** if not the **Site** owner (as defined in Schedule 1); or
- 7.1.2 utility companies in relation to any parts of the **Site** acquired by them for electricity sub-stations gas governor stations or pumping stations or any of the operational functions of such companies; or
- 7.1.3 anyone whose only interest in the **Site** or any part of it is in the nature of the benefit of an easement or covenant.

8. Monitoring

- 8.1 The **Owner** hereby agrees to notify the **District Council** (by way of the S106 Monitoring Officer of the **District Council**) of the following:

8.1.1 The **Commencement of Development**, within seven days of the same occurring PROVIDED THAT default in giving notice or confirming the date by exchange of correspondence shall not prevent the **Commencement of Development** or the operation of this Deed.

8.1.2 Of the reaching of any of the **Occupation** or **Practical Completion** thresholds relating to **Dwellings** being **Affordable Housing Units** or **Open Market Units** (as the case may be) contained in this Deed such notification to be given within 7 days following the reaching of such threshold.

8.1.3 The date of **Practical Completion** of each **Affordable Housing Unit**.

8.2 The **Owner** hereby agrees to notify the **County Council** (by the **County Council's** Infrastructure Delivery Manager at PO Box 43 at the address of the **County Council** aforesaid) of the **Commencement of Development** within 7 days of the occurrence of the same PROVIDED THAT default in giving notice or confirming the date by exchange of correspondence shall not prevent the **Commencement of Development** or the operation of this Deed.

9. The Owner's Covenants to the District Council and the County Council

9.1 The **Owner COVENANTS** with the **District Council** to fully perform and observe the covenants set out in **SCHEDULE 1, [SCHEDULE 2, and SCHEDULE 3]**, and

9.2 The **Owner COVENANTS** with the **County Council** to fully perform and observe the covenants set out in **SCHEDULE [4]**.

10. The District Council's Covenants with the Owner

The **District Council COVENANTS** with the **Owner** to fully perform and observe the covenants set out in **SCHEDULE [5]**.

11. The County Council's Covenants with the Owner

The **County Council COVENANTS** with the **Owner** to fully perform and observe the covenants set out in **SCHEDULE [6]**.

12. Resolution of Disputes

12.1 In the event of any dispute or difference arising between the parties hereto touching or concerning any matter or thing arising out of this Deed

such dispute or difference may be referred by any party to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of agreement) by and on behalf of the President for the time being of the professional body chiefly concerned in England with such matters as may be in dispute and such person shall act as an expert and his decision shall be final and binding on the parties to the dispute or difference and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute in equal shares.

- 12.2 In the absence of agreement between the parties to the dispute or difference as to the suitability of the person to be appointed pursuant to clause 12.1 or as to the appropriateness of the professional body then such question may be referred by any party to a Solicitor appointed by or on behalf of the President for the time being of the Law Society of England and Wales and such Solicitor shall act as an expert and his decision as to the professional qualifications of such person or appropriateness of the professional body shall be final and binding on the parties to the dispute or difference and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute in equal shares.

13. Notices

- 13.1 Any notice consent or approval required to be given under this Deed shall be in writing and shall be delivered personally or sent by prepaid first class post Recorded Delivery post or facsimile transmission
- 13.2 The address for service of any such notice consent or approval as aforesaid shall be on all of the parties at the addresses aforesaid or such other address for service as shall have been previously notified in writing by the parties to all the other parties to this Deed save that payments of any monies to the **District Council** shall be addressed specifically for the attention of the s106 Monitoring Officer of the **District Council** detailing the obligations to which the payment relates and payments of any monies to the **County Council** shall be addressed for the attention of the **County Council's** Infrastructure Delivery Manager at PO Box 43

at the address of the **County Council** aforesaid and shall detail the obligations to which the payment relates.

13.3 A notice consent or approval under this Deed shall be deemed to have been served as follows:

13.3.1 if personally delivered at the time of delivery

13.3.2 at the expiration of forty eight hours after the envelope containing the same was delivered into the custody of the postal authority within the United Kingdom

13.3.3 if sent by facsimile transmission at the time of successful transmission

13.4 In proving such service it shall be sufficient to prove that personal delivery was made or that the envelope containing such notice consent or approval was properly addressed and delivered into the custody of the postal authority in a prepaid first class or Recorded Delivery envelope (if appropriate) or that the facsimile was successfully transmitted as the case may be.

13.5 For the avoidance of doubt, this Clause 13 is without prejudice to the further requirements of the **Owner** to give notice to the **District Council** of the occurrence of the events specified in Part 3 of **SCHEDULE 1** (affordable housing).

14. Registration of the Deed

This Deed shall be registered as a Local Land Charge in the Register of Local Land Charges maintained by the **District Council**.

15. Waiver

No waiver (whether expressed or implied) by the **District Council** (or the **County Council** or the **Owner**) of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the **District Council** (or the **County Council** or the **Owner**) from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

16. Change in Ownership

Save for any individual **Dwellings** erected on the **Site** (unless otherwise expressly provided for by the provisions of **SCHEDULE 1**) and any disposal to a statutory undertaker/utility company the **Owner** agrees with the **District Council** and **County Council** to give the **District Council** and **County Council** written notice as soon as is reasonably practicable of any change in ownership of any of their interests in the **Site** occurring before all the obligations under this Deed have been completed and / or satisfied such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the **Site** or unit of occupation purchased by reference to a plan.

17. Interest

If any payment due to the **District Council** or the **County Council** under this Deed is paid late, interest will be payable from the date payment is due to the date of payment at the rate of 4% above the Bank of England base lending rate prevailing at the time.

18. VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

19. Jurisdiction

This Deed is governed by and interpreted in accordance with the law of England.

20. Variation of Deed

No variation or amendment to this Deed shall be valid unless in writing and signed by or on behalf of all the parties referred to in this Deed (save where an obligation is not relevant to a party to this Deed) save where such party no longer has any interest in the **Site** which is the subject of the variation in which case the variation shall be signed by the owner for the time being of the **Site** but not any purchaser of an individual **Dwelling** nor by any statutory undertaker who acquires an interest in the **Site** for operational purposes.

21. Conduct and Certificate of Satisfaction

Any party to this Deed may make application to the **District Council** and/or **County Council** for written confirmation to the effect that any of the provisions of this Deed have been completed and/or satisfied.

22. Application of Deed

Nothing in this Deed shall prohibit or limit the right to develop any part of the **Site** in accordance with a planning permission (other than the **Planning Permission**) granted or deemed to be granted by any order or where granted expressly by the **District Council** or on appeal.

23. Legal Costs

The **Applicant** shall pay to the **District Council** and **County Council** on completion of this Deed the reasonable legal costs of the **District Council** and **County Council** incurred in the negotiation preparation and execution of the Deed and the **District Council** and the **County Council** hereby acknowledges receipt of the same upon payment.

24. Monitoring Costs

The Applicant shall pay to the **District Council** and County Council on completion of this Deed the sum of [...] representing the reasonable costs of the **District Council** and **County Council** incurred in monitoring the implementation and performance of the obligations contained in this Deed.

25. Contracts (Rights of Third Parties) Act 1999

The provision of the Contract (Rights of Third Parties) Act 1999 shall not apply to this Deed save successors in title to the **Owner** and the **District Council** and **County Council**.

26. Applicant's Consent

The **Applicant** acknowledges and declares that this Deed has been entered into by the **Owner** with its consent and that the **Site** shall be bound by the terms of this Deed PROVIDED THAT it shall not be bound by any of the provisions of this Deed (other than clause 23) unless or until it becomes a successor in title to the **Owner** in relation to the **Site**.

SCHEDULE 1
AFFORDABLE HOUSING

Schedule 1

PART 1: DEFINITIONS

In this Deed the following words and expressions shall unless the context requires otherwise have the meaning set out below:

"Affordable Fixed Equity Sale Unit" Means each **Dwelling** subject to the **Affordable Housing Specification** and which is to be disposed of at the first and all subsequent sales at no more than the **Discounted Value**.

"Affordable Housing" Means each **Dwelling** and associated land subject to the provisions of this **SCHEDULE 1** being an **Affordable Fixed Equity Sale Unit** and which is to be provided with the objective of meeting the needs of households comprising or including a **Qualifying Person** whose needs are not met by the market.

"Affordable Housing Specification" Means:

- (a) Plans and particulars which taken together contain detailed proposals for the development and sale of the **Affordable Housing** within the **Development**, and in particular indicating and confirming:
 - (1) Details of the development to which the **Affordable Housing Specification** relates.

- (2) The identity of the developer (and, if applicable, any agent acting on his behalf) who is to construct, market and sell the **Affordable Housing** to **Qualifying Persons**.
- (3) The arrangements for the marketing and sale of the **Affordable Housing** by the named developer, with the objective of prioritising its marketing and sale to **Qualifying Persons**.
- (4) The location, type, size and tenure of each **Dwelling** on the **Site** (being such as to meet the requirements of Part 2 of this **SCHEDULE 1**) including details of the gross internal floor area (in square metres) of each **Dwelling** and the total gross internal floor area of all **Affordable Fixed Equity Sale Units** and **Open Market Units** respectively comprised within the **Development**.
- (5) Details of any other land (if any) on the **Site** (e.g. parking spaces) to be transferred to the purchaser of any **Affordable Fixed Equity Sale Unit**.
- (6) The minimum standards to be achieved in the design, construction and layout of the **Affordable Housing** including in particular such requirements or standards as may be specified by Part 2 of this **SCHEDULE 1**.
- (7) The intended timing of construction of both the **Affordable Fixed Equity Sale Units** and **Open Market Units** and, where the **Development** is to be

undertaken in phases the phasing timetable.

(8) The maximum estimated total monthly housing costs to purchasers of all and each **Affordable Fixed Equity Sale Unit** on first occupation.

(b) Such amendment or variation to any of the approved plans and particulars itemised at (2) to (8) above as may subsequently be agreed in writing between the **District Council** and the developer identified under item (2) above.

“Certificate of Eligibility”

Means a written statement from an independent financial advisor authorised by the Financial Conduct Authority (or any successor authority) stating that the person or persons wishing to purchase an **Affordable Fixed Equity Sale Unit** has/have been financially assessed and would be unable to purchase the **Affordable Fixed Equity Sale Unit** at **Open Market Value**.

“Discounted Price”

Means a sale price not exceeding sixty per cent (60%) of the **Open Market Value** of the freehold interest in each **Affordable Fixed Equity Sale Unit**.

“Head of Service”

Means the **District Council’s** relevant Head of Service or any person appointed to exercise his / her functions under this Deed or any person authorised to act on his / her behalf.

“Independent Valuation”

Means a valuation undertaken by a suitably qualified valuer without any personal interest in the **Affordable Fixed Equity Sale Unit** in

question and having at least 10 years' experience of valuing residential properties within a 15 mile radius of the **Affordable Fixed Equity Sale Unit** and for the avoidance of doubt it is acknowledged that a valuer who has carried out an independent valuation is not precluded from acting as a selling agent of the **Affordable Fixed Equity Sale Unit**.

"Interest"

Means any legal and/or equitable interest (whether or not capable of being registered on the **Register**) OTHER THAN:

- (1) A legal charge granted to a bona fide financial provider; OR
- (2) Easements; or infrastructure agreements; or any other interest which the **District Council** may exclude by written notification from time-to-time to the registered proprietor of any **Affordable Fixed Equity Sale Unit**; OR
- (3) A transfer of title from the sole name if a resident registered proprietor to joint names, or from joint names of the same to a single name.

"Local Connection"

Means a person who during the period when an **Affordable Fixed Equity Sale Unit** is marketed in accordance with the **Local Marketing Strategy** satisfies any one or more of the following criteria:

- (1) He or she was **born** (or whose parent(s) were ordinarily resident at the time of birth) in the **Parish** of [] and/or;

- (2) He or she currently ***lives*** in the **Parish** of [] and who has done so continuously for at least the past ***twelve months*** and/or;
- (3) He or she who ***used to live*** within the **Parish** of [] and had done so continuously for not less than ***three years*** at any time during the past five years and/or;
- (4) He or she is currently ***working*** within the **Parish** of [] and who has done so for at least the past ***twelve months*** for an average of not less than 16 hours per week and/or;
- (5) He or she currently has a ***close family member*** (meaning mother, father, brother, sister, son or daughter) living and having their sole and permanent residence in the Parish of [] and who has done so for not less than ***three years***.

“Local Marketing Strategy”

Means:

- (a) A detailed strategy which sets out the intended arrangements for the marketing and sale (at the **Discounted Price**) of all the **Affordable Housing** and which has been devised with the intention of ensuring that the marketing is most effectively directed towards prospective purchasers who are households comprising or including **Qualifying Persons** benefiting from a **Local Connection** and includes a procedure for screening their eligibility as such.

- (b) Any such amendment of variation to (a) thereto as may subsequently be agreed in writing between the **District Council** and the developer named in the approved **Affordable Housing Specification**.

"Mortgagee or Chargee"

Means a means a mortgagee or chargee (of the **Qualifying Developing Body**) or any receiver (including any receiver appointed pursuant to the Law of Property Act 1925) or 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).

"Open Market Value"

Means the value of the freehold interest in any **Affordable Fixed Equity Sale Unit** determined in accordance with the provisions of Part 4 of this **SCHEDULE 1** and used to determine the **Discounted Price**.

"Parish"/"Parishes"

means the named parish as constituted at the date of this Deed or any successor parish constituted by Order.

"Qualifying Person/Persons"

Means someone who:

- (1) Has a **Certificate of Eligibility**; AND
- (2) Benefits from a **Local Connection**; OR
- (3) The wife, husband or **Civil Partner** of a **Qualifying Person** or someone who is a resident dependent (such as a child) of a **Qualifying Person**.

- (4) Someone who inherits an **Affordable Fixed Equity Sale Unit** from a **Qualifying Person** PROVIDED for the avoidance of doubt that that obligations and restrictions contained in this **SCHEDULE 1** shall otherwise continue to apply to that Unit.

“Register”

Means the register of property interests maintained by the Chief Land Registrar pursuant to the Land Registration Act 2002.

“Unsold”

Means EITHER:

- (1) That no written offer to purchase at the **Discounted Price** subject to contract has been made by or on behalf of any **Qualifying Person**; OR
- (2) A written offer to purchase at the **Discounted Price** by or on behalf of a **Qualifying Person** has been made and accepted but for any reason (other than a reason within the reasonable control of the **Owner**) exchange of contracts for such purchase has not taken place within a period of sixteen (16) weeks calculated from the date on which the offer to purchase was accepted; OR
- (3) That contracts for sale have been exchanged but purchase completion has not occurred for any reason (except a reason within the reasonable control of the **Owner**) by the date specified therein;

and the date at which a property remains unsold shall be determined by reference to whichever event (1) to (3) above is the later to occur.

Schedule 1

PART 2: REQUIREMENTS

Affordable Housing Specification and Local Marketing Strategy

1. The **Owner** shall prepare and submit to the **District Council** an **Affordable Housing Specification** and **Local Marketing Strategy** prior to the **Commencement of Development**.
2. There shall be no **Commencement of Development** approved by the **Planning Permission** unless and until such time as the **Affordable Housing Specification** and **Local Marketing Strategy** have both been submitted to and approved in writing by the **District Council**.

Parameters of Affordable Housing Specification

3. The **Affordable Housing Specification** shall provide and ensure that:
 - 3.1 [Number] (representing a minimum 35% rounded to the nearest whole number) of the total number of **Dwellings** to be erected on the **Site** shall comprise **Affordable Fixed Equity Sale Units**, and
 - 3.2 All the **Affordable Fixed Equity Sale Units** shall be located either as individual plots or as clusters evenly distributed throughout the **Development** in accordance with the arrangement shown on drawing number [.....] forming part of the **Application**; and in the event of any subsequent amendment any or each cluster to comprise no more than [nine] **Affordable Fixed Equity Sale Units** together unless otherwise agreed in writing between the **Owner** and the **District Council**.
 - 3.3 [Further provisions as required]

4. FOR THE AVOIDANCE OF DOUBT it is declared that nothing required to be included in the **Affordable Housing Specification** shall be construed as requiring anything that may be inconsistent with the **Planning Permission**.

Procedure

5. The **District Council** shall endeavour to give notice of the approval, rejection or request for amendment of the **Affordable Housing Specification** and/or **Local Marketing Strategy** respectively at the earliest opportunity and in any event within eight weeks of the date of the full submission thereof.
6. In the event of the **District Council** giving notice of its rejection of the **Affordable Housing Specification** and/or **Local Marketing Strategy** it shall specify its reasons for rejection and specify the measures required to produce an acceptable submission.
7. In the event that that the **District Council** reject the **Affordable Housing Specification** and/or **Local Marketing Strategy** or request its amendment the **Owner** shall submit a revised **Affordable Housing Specification** and/or **Local Marketing Strategy** to the **District Council** whereupon the **District Council** shall again seek to issue its decision in respect of such **Affordable Housing Specification** and/or **Local Marketing Strategy** on the same terms as set out in paragraph 5 of this Part 2.
8. In the event of a further rejection of the **Affordable Housing Specification** the **Owner** may continue to make further submissions to the **District Council** in order to secure an approval to the **Affordable Housing Specification** or in the alternative the **Owner** may seek to refer any dispute or disagreement to an independent expert in accordance with the provisions of Clause 12 of this Deed save that it is agreed (for the avoidance of doubt) that the expert shall not have power to alter any particulars specified in this Deed.

Schedule 1

PART 3: DELIVERY

Provision of Affordable Housing

1. The **Affordable Housing** shall be provided in accordance with the **Affordable Housing Specification** approved in accordance with Part 2 of this **SCHEDULE 1**.
2. The marketing and sale of the **Affordable Housing** shall take place in accordance with the approved **Local Marketing Strategy** and in accordance with the procedures and restrictions set out in Part 4 of this **SCHEDULE 1**.

Restrictions on occupancy of open market housing

3. No more than [number] dwellings (representing no more than fifty per cent (50%)) of the **Open Market Units** to be erected on the **Site** shall be permitted to be **Occupied** sold leased transferred or otherwise disposed of until not less than [number] dwellings (representing not less than fifty per cent (50%)) of the **Affordable Fixed Equity Sale Units** to be erected upon the **Site** have been completed and made available for sale in accordance with the **Marketing Strategy** and are available for **Occupation**; and
4. No more than [number] dwellings (representing no more than seventy five per cent (75%)) of the **Open Market Units** to be erected on the **Site** shall be permitted to be **Occupied** sold leased transferred or otherwise disposed of until ALL of the **Affordable Fixed Equity Sale Units** to be erected upon the **Site** have been sold to **Qualifying Persons** (the expression "sold" in this instance shall be interpreted as meaning either where purchase completion has taken place or binding contracts for the purchase of a Unit have been exchanged).

Monitoring

5. The **Owner** shall notify the **District Council** in writing of the following events and in accordance with the stated timescales:
 - 5.1 The date when any **Affordable Fixed Equity Sale Unit** achieves practical completion, within seven (7) days of such event occurring (irrespective of whether any certificate has been issued in that respect);
 - 5.2 Particulars of progress on the construction, marketing and sale of each **Affordable Fixed Equity Sale Unit** and **Open Market Unit**, on the first and (where applicable) each subsequent anniversary of the date of **Commencement of Development** (notified in accordance with Clause 8 of this Deed) until the sale of the last **Dwelling** comprised within the **Development**;

- 5.3 The particulars of intended sale required under paragraph 9 of Part 4 of this **SCHEDULE 1**.
- 5.4 Particulars of the first completion of purchase of each **Affordable Fixed Equity Sale Unit**, within seven (7) days of the date such completion of purchase occurs.
6. Any written notice required to be given under paragraph 7 of this Part 3 may be provided electronically in accordance with directions notified or published from time-to-time by the **District Council**.

Schedule 1

PART 4: SALE AND OCCUPANCY

General restrictions

1. The **Affordable Housing** shall not (save for the specific dispensations contained in paragraphs 3 and 4 (if applicable) or paragraph 26 (if applicable) of this Part 4) be **Occupied** at any time otherwise than strictly in accordance with the provisions of this **SCHEDULE 1**.
2. The occupancy of each **Affordable Fixed Equity Sale Unit** shall be restricted at all times to a single household occupying such property as their sole and permanent residence and which household shall include at least one ordinarily resident member who at the date of sale is a **Qualifying Person** SAVE as unless expressly provided for in accordance with paragraphs 3 and 4 (consent of the **District Council** to letting etc.) or paragraphs 18 and 19 of this Part 4 (waiver in respect of **Unsold** properties etc.) or paragraph 26 of this Part 4 (mortgagee protection procedure) as the case may be.

Restriction on letting etc.

3. No **Affordable Fixed Equity Sale Unit** shall be leased or let under any form of tenancy or licence without the prior written consent of the **District Council**.
4. If (at its sole discretion) the **District Council** shall determine to consent to the letting of any **Affordable Fixed Equity Sale Unit** pursuant to paragraph 3 of this Part 4, such consent may be subject to such terms and conditions as the **District Council** may reasonably consider appropriate and such terms or

conditions shall be deemed to comprise and be subject to the covenants contained in this Deed.

Disposal of Interest

- 5.** No **Interest** in any **Affordable Fixed Equity Sale Unit** may first be disposed of unless and until the further relevant provisions of paragraphs 8 to 20 (procedure on first sale) of this Part 4 have been complied with.
- 6.** No **Interest** in any **Affordable Fixed Equity Sale Unit** may subsequently be disposed of until the further relevant provisions of paragraphs 21 to 25 (procedure in re-sales) of this Part 4 have been complied with.

Interpretation

- 7.** For the purposes of Part 4 of this **SCHEDULE 1**:
 - 7.1** Any reference to the **District Council** may also be construed as a reference to any conveyancer, nominee or valuer acting on its behalf.
 - 7.2** Any reference to the **Owner** may also be construed as reference to any representative or valuer acting on his/her behalf.

Procedure on first sale

- 8.** The **Owner** shall notify the **District Council** and [] [Parish/Town] Council in writing of the availability, asking price (being the **Discounted Price**) and intended start date for the marketing of each **Affordable Fixed Equity Sale Unit** not less than seven (7) days prior to the commencement of such marketing. The **Owner** shall on this occasion also provide the **District Council** with copies of the **Independent Valuations** obtained in accordance with paragraphs 13 to 15 of this Part 4.
- 9.** The **District Council** shall be entitled at its reasonable discretion within a period of twenty eight (28) days beginning with the date of valid receipt of the **Independent Valuations** to refer any question or dispute concerning the **Open Market Value** and/or the basis on which it (and the associated **Discounted Price**) has been determined to the **Owner** for resolution.
- 10.** In the event of any such question or dispute remaining unresolved to the satisfaction of the **District Council** within a further period of six (6) weeks of it being notified to the **Owner**, the **Owner** may after the end of this further period

refer such question or dispute for resolution in accordance with Clause 12 of this Deed.

11. The **Owner** shall only offer for sale and shall sell the freehold interest in each **Affordable Fixed Equity Sale Unit** for not more than the **Discounted Price**.
12. For the avoidance of doubt, no rent or other charge shall be levied on the unsold equity of any **Affordable Fixed Equity Sale Unit**.
13. In order to determine the **Discounted Price**, the Owner shall (at his/her own expense) obtain two **Independent Valuations** for each **Affordable Fixed Equity Sale Unit**. The valuations obtained shall take into account and shall specify in writing that they have taken into account the restrictions and requirements specified in this Deed.
14. For the avoidance of doubt the **Owner** shall be entitled to repeat such process if he/she so requires PROVIDED that he shall provide further notifications in accordance with paragraph 13 of this Part 4 together with copies (to the **District Council**) of any subsequent **Independent Valuations**.
15. The **Independent Valuations** shall determine, firstly, the **Open Market Value** of the **Affordable Fixed Equity Sale Unit** in question. The maximum **Discounted Price** that may be charged shall be determined with reference to the average **Open Market Value** determined by the two **Independent Valuations**: save where the said valuations differ by more than 5% in which case the **Owner** shall obtain a third **Independent Valuation** and the price to be determined shall be the average of the two valuations which are the closest in amount.
16. There shall be no disposal (other than by way of mortgage or charge) of any **Interest** in any **Affordable Fixed Equity Sale Unit** without including within the transfer instrument the following provisions in paragraphs 16.1, 16.2 and 16.3 (restriction on title):
 - 16.1 "The transferee shall not dispose of the freehold interest in the property (other than by way of mortgage or charge) other than on the terms set out in SCHEDULE 1 of the Deed of Agreement dated _____ and made between (1) [] [] (2) Stratford-on-Avon District Council and (3) Warwickshire County Council ("the Agreement"), and
 - 16.2 Without procuring a direct covenant from the disponee (other than a mortgagee or chargee) in favour of Stratford-on-Avon District Council to

observe and perform the covenants contained in Part 4 of SCHEDULE 1 of the Agreement; and

- 16.3 The transferor and the transferee hereby apply to the Chief Land Registrar for the following restriction to be entered in the Register of the title to the site or such other form of restriction as the Chief Land Registrar shall otherwise direct that shall have the same effect:

“No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge not being a charge registered before the entry of this restriction is to be registered without a certificate issued by Stratford-on-Avon District Council or authorised conveyancer of the District Council that the provisions of SCHEDULE 1 of the Deed of Agreement dated and made between (1) [] [] (2) Stratford-on-Avon District Council and (3) Warwickshire County Council have been complied with or do not apply to the disposition.”

- 17.** As soon as possible after the completion of the registration in the **Register**, the **Owner** shall provide to the **District Council** official copies of the registered title sufficient to demonstrate that the restrictions set out in paragraph 16 of this Part 4 have been properly entered against the respective title.
- 18.** In the event that any **Affordable Fixed Equity Sale Unit** has been continuously marketed in accordance with the approved **Local Marketing Strategy** for a period of not less than twelve (12) weeks from EITHER the intended start date notified in accordance with paragraph 8 (procedure on first sale) of this Part 4 OR the later date of resolution of any question or dispute in accordance with paragraph 9 or 10 of this Part 4 (as the case may be) but remains **Unsold** then the further provisions of paragraph 19 of this Part 4 shall apply.
- 19.** The Owner may (but for the avoidance of doubt is not obliged to) then offer for sale the said **Unsold** property to any purchaser regardless of whether they comprise or include a **Qualifying Person** PROVIDED (for the avoidance of doubt) that the said **Unsold** property shall continue to be offered for sale at all times for a price not exceeding the **Discounted Price** calculated in accordance with the provisions of this Part 4.

20. Prior to the exchange of contracts for the sale of any **Affordable Fixed Equity Sale Unit** written particulars of the intended sale shall be notified to the **Head of Service**. Such particulars shall include a statement of the following matters:

20.1 The intended date of exchange of contracts (being not less than seven (7) days from the date of such notification) and the intended date of completion; and

20.2 The purchase price to be paid; and

20.3 The name(s) and previous address(s) of the purchaser(s); and

20.4 Confirmation of the eligibility of the purchaser(s) with reference to the **Local Connection** criteria.

Procedure on re-sales

21. Prior to the subsequent disposal of any **Interest** in any **Affordable Fixed Equity Sale Unit** (other than for the avoidance of doubt a disposal in accordance with the provisions of paragraph 26 (mortgagee protection procedure) of this Part 4) the **Owner** (for the time being) shall establish (at his/her own expense) the **Discounted Price** in a like manner to the process described at paragraphs 13 to 15 of this Part 4.

22. The **Owner** (for the time being) shall then notify the **District Council** and [] [Parish/Town] Council of the availability of and particulars for the sale of the said **Affordable Fixed Equity Sale Unit** in a like manner to the requirements set out in paragraph 8 of this Part 4.

23. The **Owner** (for the time being) having complied with the requirements of paragraph 22 of this Part 4 shall then use all reasonable endeavours to advertise and market the said **Affordable Fixed Equity Sale Unit** to **Qualifying Persons**.

24. In the event that the said **Affordable Fixed Equity Sale Unit** has been continuously marketed in accordance with paragraph 23 of this Part 4 for a period of not less than twelve (12) weeks from EITHER the intended start date notified in accordance with paragraph 8 (as applied by paragraph 22) of this Part 4 OR the later date of resolution of any question or dispute in accordance with paragraph 9 and 10 of this Part 4 (as the case may be but remains **Unsold** then the further provisions of paragraphs 18 and 19 of this Part 4 shall apply in a like manner.

25. The provisions and requirements of paragraphs 11 to 20 of this Part 4 shall continue to apply to any re-sale in a like manner as to any first sale.

Mortgagee protection procedure

26. The covenants in this **SCHEDULE 1** shall not be binding on a **Mortgagee or Chargee** of the whole or any part of the **Affordable Housing** or any persons or bodies deriving title through such **Mortgagee or Chargee** PROVIDED THAT:

26.1 such **Mortgagee or Chargee** shall first give written notice to the **District Council** of its intention to dispose of the **Affordable Housing** (or any part thereof in which they have an **Interest**), and

26.2 shall have used reasonable endeavours over a period of three months from the date of the written notice to agree or complete a disposal of the **Affordable Housing** to the **District Council** for a consideration of 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

26.3 if contracts for such disposal have not been exchanged within the said three-month period, the **Mortgagee or Chargee** shall be entitled to dispose of the **Affordable Housing** (or any part thereof in which they have an **Interest**) free from the covenants in this **SCHEDULE 1** which provisions shall at that point determine absolutely.

END OF SCHEDULE 1