

Appendix 3- Example S106 Agreement Affordable Housing Schedule

1. Definitions

In this Schedule

1.1 "Affordable Housing" has the meaning given to it in Annex 2 of the NPPF (the National Planning Policy Framework as amended or replaced from time to time).

1.2 "Affordable Housing Units" means (unless otherwise agreed in writing by the District Council) [insert number of dwellings] Dwellings to be built as part of the Development on the Site as Affordable Housing and constructed and provided on the Site in accordance with the Affordable Housing Plan and the provisions of this Deed

1.3 "Affordable Rent" means a rent up to 80% of the local market rent (including service charges where applicable) for an equivalent property for the size and location, based on a valuation in accordance with a method recognised by the Royal Institution of Chartered Surveyors and set in accordance with current Government policy for Affordable Rent and with regard to local market context including the relevant Local Housing Allowance provided that rent must comply with the Regulator for Social Housing Rent Standard or as agreed in writing with the Council

1.4 "Affordable Rented Units" means (unless otherwise agreed in writing by the District Council) [insert number of units] of the Affordable Housing Units let by a Registered Provider and offered at an Affordable Rent

1.5 "Affordable Housing Plan" means Plan [insert reference number] showing the location size type specification and Tenure of the Affordable Housing Units on the Site (or such other plan to be agreed in writing with the District Council)

1.6 "Contract" means a contract to transfer the Affordable Housing Units (together with all necessary rights of way and easements) to the Registered Provider

1.7 "District Council's Waiting List" means the list and procedure for allocating Affordable Rented Units and Social Rented Units as set out in the Homeseeker Plus Policy and Service Level Agreement Document or any equivalent or similar replacement from time to time in existence

1.8 "Head of Planning and Strategic Housing" means the officer of the District Council who is responsible for the affordable housing in the District Council's area or such other officer as may be appointed from time to time

1.9 "Help to Buy Agent" means the organisation appointed by Homes England responsible for providing to the Registered Provider a list of people interested in purchasing a Shared Ownership Unit or such other organisation exercising the same functions from time to time appointed by Homes England

1.10 “Homes England” means Homes England of One Friargate, Coventry, CV1 2GN who exercise the functions in relation to the funding of affordable housing and includes any successor body exercising similar functions

1.11 “Homes England Model Lease” means a lease in a form which has been approved and or prescribed by Homes England for shared ownership which allows a lessee to acquire up to and including [*insert maximum percentage*] of the equity of the Shared Ownership Unit and the freehold as may be amended or updated from time to time

1.12 “Homeseeker Plus Policy Document and Service Level Agreement” means the prevailing District Council choice based lettings scheme or such other housing allocation scheme as approved by the District Council which sets out eligibility for Qualifying Persons on the District Council’s Waiting List and the procedure for nominations from the waiting list to Affordable Rented Units and Social Rented Units within the District Council’s administrative area at the time when allocations are made as may be amended or updated from time to time

1.13 “Mortgagee” such 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 Housing

1.14 “Practical Completion” means actual completion of the construction of the Affordable Housing Units in accordance with the Contract which save for minor defects permits beneficial use and occupation of the same

1.15 “Protected Tenant” shall mean any tenant who:

(a) has exercised any statutory or voluntary right to buy (or any equivalent contractual right) in respect of a particular Dwelling; or

(b) has been granted a shared ownership lease of a particular Dwelling and the tenant has subsequently purchased all the remaining shares so that the tenant owns the entire Dwelling;

(c) has purchased a Rent to Buy Unit; or

(d) any mortgagee chargee and or successor in title to anyone falling with categories (a) to (c) above

1.16 “Qualifying Person” means an individual who is on the District Council’s Waiting List and in need of Affordable Housing

1.17 “Rent to Buy Unit” means (unless otherwise agreed in writing by the District Council) [*insert number of units*] of the Affordable Housing Units provided by a Registered Provider where they are let at an Affordable Rent for a minimum period of five years during which period the Registered Provider has the option to:

1.17.1.1 sell the Affordable Housing Unit giving the existing tenant a right of pre-emption should they be in a position to buy the same;

1.17.1.2 sell part of the Affordable Housing Unit and convert the Rent to Buy Unit to a Shared Ownership Unit giving the existing tenant a right of pre-emption should they be in a position to buy the same; or

1.17.1.3 regain possession of the Rent to Buy Unit (which would then be let to a new tenant on a new tenancy (as either a Rent to Buy Unit or Affordable Rented Unit)

1.18 “Registered Provider” means an affordable housing provider as provided for in the Housing and Regeneration Act 2008 and which is registered with Homes England (or its replacement body) and which has been approved by the District Council PROVIDED ALWAYS that if Registered Providers shall have ceased to exist or have been superseded then the expression shall be taken to mean such nearest equivalent body whose objectives include the provision of low cost housing for renting or ownership by local people as the District Council may reasonably approve for the purposes of this Deed

1.19 “Tenure” means Affordable Housing Units which comprise one or more of the following tenure types

1.19.1 Affordable Rented Unit;

1.19.2 Shared Ownership Unit;

1.19.3 Social Rented Units; and/or

1.19.4 Rent to Buy Units

1.20 “Shared Ownership Unit” means (unless otherwise agreed in writing by the District Council) [insert number of units] of the Affordable Housing Units provided by a Registered Provider where a proportion of the equity is sold on a long lease to the purchaser and the remainder of the equity is initially retained by the Registered Provider subject to rent being charged on the retained equity on terms that are set out in the Homes England Model Lease or such other form of lease reasonably requested by the Registered Provider and which shall be first approved by the District Council and in accordance with the following:

1.20.1 the initial percentage of equity sold is between 10% (or such other percentage as may be agreed by the District Council) and 75% which shall be calculated to ensure the Shared Ownership Units are affordable to those in housing need with regard to local incomes and local house prices;

1.20.2 the annual rent on unsold equity is initially set at no more than 2.75% or such other percentage as may be agreed by the District Council (acting reasonably) of the value of the equity retained by the Registered Provider or such other rent as complies with the requirements from time to time of Homes England; and

1.20.3 charges for services are levied in accordance with the good practice guidance issued by Homes England but provided always that this provision shall not prevent each such unit being responsible for contributing of a fair and reasonable proportion of any service charge levied for the Development and/or that part of the Development within which such each unit shall be situate

1.21 “Size Standard” means compliance with the Government’s Nationally Described Space Standard for each and every unit type of Affordable Housing Unit

1.22 “Social Rent” means a maximum weekly rent for a tenant who is granted a tenancy of the accommodation for the first time is formula rent calculated in accordance with the Government’s current Rent Standard guidance or equivalent thereof (exclusive of any service charges)

1.23 “Social Rented Units” means (unless otherwise agreed in writing by the District Council) [insert number of units] of the Affordable Housing Units let by a Registered Provider and offered at a Social Rent

2. The Owners covenant with the District Council as follows:-

2.1 Not to cause or permit the Implementation until a Contract has been entered into with a Registered Provider

2.2 To provide the Affordable Housing Units on the Site in accordance with the Affordable Housing Plan; Size Standards and the provisions of this Deed and unless otherwise agreed by the District Council the Affordable Housing Units shall comply with the requirements set out below:

[Example....]

Property Type*	GIFA m2	Total no.	Tenure	Plot no.
[insert type]	[insert m2]	[number]	Rent to Buy	[add plot no’s]
[insert type]	[insert m2]	[number]	Affordable Rent	[add plot no’s]
[insert type]	[insert m2]	[number]	Social Rent	[add plot no’s]
[insert type]	[insert m2]	[number]	Shared Ownership	[add plot no’s]

* (No. of Beds/Persons & House/Flat/etc.)

2.3 Save as otherwise provided in this schedule from the date of Practical Completion the Affordable Housing Units shall remain Affordable Housing Units available for future Qualifying Persons, PROVIDED THAT if an Affordable Housing Unit is released from the provisions of this Schedule then the subsidy that enabled the affordability (as calculated at the date of release) shall be recycled for alternative affordable housing provision in West Oxfordshire District and in accordance with National Planning Policy Framework guidance unless otherwise agreed by the Council in writing

2.4 The Affordable Rented Units and the Social Rented Units shall on the first and any subsequent let be allocated to Qualifying Persons in accordance with the District Council’s Homeseeker Plus Policy Document and Service Level Agreement PROVIDED THAT if the unit has not been let on completion of 2 letting cycles the Registered Provider shall be permitted to allocate a vacant unit to someone from its own waiting list

2.5 The Rent to Buy Units shall managed and occupied in accordance with the requirements of Homes England

2.6 The Shared Ownership Units shall be sold to applicants that have registered with the Help to Buy Agent PROVIDED THAT where possible (and only if this does not contradict or breach the grant funding conditions as set by Homes England) priority shall be given to people with a local connection to West Oxfordshire for a period of 6 weeks from when the Dwelling is first marketed (on initial and shared ownership resales)

2.7 The obligations in this Deed shall not be binding upon:

2.7.1 A Protected Tenant

2.7.2 A Mortgagee

PROVIDED THAT:

(i) such Mortgagee shall first give written notice to the Council of its intention to dispose of the Affordable Housing Unit(s) and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of its Affordable Housing Unit(s) 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 month period, the Mortgagee shall be entitled to dispose of the Affordable Housing Unit(s) free from the affordable housing provisions in this Deed (as set out in the First Schedule hereof), which provisions shall determine absolutely.