**York, North Yorkshire and East Riding**

**Section 106 Standard Affordable Housing Definitions**

**April 2017**

**“Act”** the Town and Country Planning Act 1990 as amended

**“Affordable Housing Units”** the number of Dwellings equalling xx%/x no. of the overall number of dwellings the size and type to be agreed in writing with the District Council’s (Housing Manager) and to be Affordable Housing comprising of the rented Affordable Housing Units and the Intermediate Housing Units and reference to Affordable Housing Unit shall be construed accordingly Such Affordable Housing Units to be provided in accordance with the Affordable Housing Scheme and subject to paragraph xxxx of the Third Schedule to be protected in perpetuity as affordable housing or if sold (through any statutory scheme or where an occupier of Intermediate Housing staircases to 100% ownership) any receipt is to be reinvested in the provision of affordable housing in the xxxxx district. The Council to be advised when this occurs and where monies have been used to provide replacement affordable housing.

**Or**

Dwelling(s) to be used for Affordable Housing

**“Affordable Housing”** housing provided to eligible households whose needs are not met by the market in accordance with the definition in Annex 2 of the National Planning Policy Framework (or successor policy in respect of affordable housing)

**“Affordable Housing Scheme”** the scheme showing the number, tenure, location, size and price of Affordable Housing Units to be provided as part of the Development and the programme and timetable for provision of the Affordable Housing Units such scheme to be agreed by the Council.

**“Affordable Housing Tenure Mix”** the tenure mix of Affordable Housing units to be provided as part of the Development.

**“Affordable Rent Housing”** Affordable Housing units which are to be let by the local authority or Registered Provider/Housing Provider to eligible households at a rent which is no more than 80% of Local Open Market Rent (including service charges) or in the event that there is a change in national policy affecting the definition of Affordable Rent Housing such alternative rent levels as may be agreed in writing between the Providers and the Council having regard to the relevant change in national policy.

**“Application”** the application for full/outline planning permission submitted to the Council on xxxx for the Development and allocated reference number (insert planning application number)

**“Chargee”** Any mortagee or charge of the Registered Provider or Shared Ownership leaseholder or successors in title to such mortgagee or charge or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or otherwise

**“Chargees Duty”** The tasks and duties as set out in paragraph XX of the XX schedule

**“Choice Based Lettings Scheme”** (except Harrogate and ERYC) the scheme operated by the Council whereby applicants are given the opportunity to apply for vacancies in affordable housing which are suitable for their needs and according to the criteria for the Scheme

**“Commencement of Development”** 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 this Deed 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, 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.

**“Council’s Agreed Transfer Price”**

1 bed £xxx as at d/m/y

2 bed £xxx as at d/m/y

3 bed £xxx as at d/m/y

4 bed £xxx as at d/m/y

**“Councils Minimum Size”**

1 bed = XX m2 Gross Internal Area

2 bed = XX m2

3 bed= XX m2

4 bed= XX m2

**“Discount Percentage”** the percentage of the open market discount of the initial sale of a Discount Sale Dwelling calculated at the time of that sale by reference to the following formula:

Council’s Agreed Transfer Price x 100

X 100

Market value

**“Discount Sale Dwelling”** an Intermediate Affordable Housing Unit to be disposed of by the Registered Provider or owner by means of discounted sale to the provisions of paragraph x of Part x of the x schedule the discount will be determined in the Affordable Housing Scheme.

**“Disposal”** a disposal on a freehold or leasehold basis (with a minimum 99 year term) in relation to an Affordable Housing Unit(s) and includes any re-disposal and reference to “Dispose” shall be construed accordingly

**“Dwelling”** a residential dwelling (including a house, bungalow, flat or maisionette) to be constructed pursuant to Planning Permission

**“Homes and Communities Agency”** the Homes and Communities Agency of Lateral, 8 City Walk, Leeds, LS11 9AT or any bodies undertaking the existing functions of the Homes and Communities Agency within the meaning of Part 1 of the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act)

**“In need of accommodation” To include local connection ADD schedule 4 part 3 def.………**

**“Index”** All in Tender Price Index published from time to time by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors or any successor organisation

**“Interest”** interest at X % above the base lending rate of the Bank of England from time to time

**“Intermediate Housing”** Affordable Housing Units for sale and/or rent provided at a cost above social rent but below Local Open Market Rent which meet the definition of Affordable Housing. This may include Shared Ownership and equity products and other low cost homes for sale and intermediate rent but not Affordable Rented Housing

**“Intermediate Affordable Housing Requirements”- Part 2 of fourth schedule – local connection?**

**“Intermediate Affordable Housing Units”** xx%/X no. of the Affordable Housing Units to be provided as part of the Development which will be offered for transfer to a Registered Provider at the Council’s agreed Transfer Price to be disposed of by the Registered Provider by methods including (but not by way of limitation) shared ownership, shared equity, discounted sale, sub-market rent, rent to buy or any other sub-market/intermediate type/model which meets the definition in Annex 2 to the National Planning Policy Framework (or any future guidance that replaces it) and other initiative which qualifies for Homes and Communities Agency funding and reference to “Intermediate Affordable Housing Unit” shall be construed accordingly

**“Intermediate Rent”**  A rent set at up to and including a maximum of 80% of Local Open Market Rent for that house type and reference to “ Intermediate Rent” shall be construed accordingly

**“Local Open Market Rent”** the average Market Rent for a dwelling in XXXXX with that number of bedrooms that would be leased between and willing lessor and a willing lessee on an appropriate lease

**“Market Housing Units”** that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing (the type and mix to be set out in the Market Housing Units Strategy Mix ) [in brackets for use where specific market mix is being requested]

**“Market Housing Units Mix Strategy”** the strategy for the type of Housing Market Units to be provided as part of the Development and including X% 2 bedroom bungalows x% two and x% three bedroom dwelling houses etc

**“Market Value”** the market value agreed between the Council and the Owners as being the market value of the Affordable Housing Units if sold without any Affordable Housing restriction at the date of Transfer of that Affordable Housing Unit or if not agreed shall mean the price based on the opinion of an independent surveyor agreed and appointed by the Parties calculated having regard to the estimated value for which a relevant dwelling should sell on the date of the valuation between a willing buyer and a willing seller in an arm’s length transaction after proper marketing wherein both parties had acted knowledgeably, prudently and without compulsion

**OR**

A figure to be agreed between the Owner and the District Council calculated having regard to the estimated amount for which a relevant Dwelling should exchange on the date of valuation between a willing buyer and a willing seller in an arms length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion

**“Nominations Agreement”** an agreement securing the Council’s right to nominate to the Registered Provider persons from the Council’s Housing Register to whom the affordable housing will be occupied (for Harrogate + ERYC)

**Or**

an agreement securing the Council’s right to nominate to the Registered Provider persons from the North Yorkshire Homechoice Choice Based Lettings System to whom the Affordable Housing will be occupied.

**“Occupation and occupied”** occupation for the purposes permitted by the Planning Permission but not including the occupation by personnel engaged in construction, fitting out or decoration for occupation or decoration or occupation for marketing or display or occupation in relation to security operations

**“Offer Documentation”** Plans, drawings, specifications and other documentation which the Registered Provider may reasonable require in order to make an offer for the Affordable Housing Units including the following which shall be provided by the owner:

1. drawings showing the size, layout and design of the Affordable Housing Units
2. site layout showing the position of the Affordable Housing Units in relation to the Market Housing Units and the nature of the Market Housing Units
3. a copy of the Planning Permissions and
4. a copy of this agreement

**“Offer Period”** a period of xx calendar months commencing from receipt of the Offer Documentation by a Registered Provider during which the Registered Provider may submit an offer for the purchase of the Affordable Housing Units

**“Off-Site Public Open Space Contribution”** the sum of £xxxx towards the provision and improvement of public open space, sport and recreation facilities within the parishes.

**“Other Parishes”** the parishes of xxxx within the administrative district of xxxx

**“Parishes”** the parishes of xxx within the administrative district of xxx

**“Planning Permission”** a full/outline planning permission subject to conditions to be granted by the Council pursuant to the Application

**“Practical Completion”** issue of a Certificate of Practical Completion by the Owner’s architect or in the event the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party’s architect.

**“Protected Tenant”** any tenant who has:

1. 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 Housing Unit
2. exercised any statutory Protected Right to Buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
3. been granted a Shared Ownership lease by a Registered Provider/Housing Provider in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit
4. purchased a Shared Equity Dwelling and has purchased the retained shared from the Registered Provider or the Council.

And any successor in title to any of (a), (b) (c) or (d) above

**“Registered Provider”** defined by the Housing and Regeneration Act 2008 (or as defined by any amendment, replacement or re-enactment of such Act) and registered under the provisions of the Housing and Regulations Act 2008 or any company or other body approved by the Homes and Communities Agency for receipt of affordable housing grant as may be proposed by the Owner and approved by the Council.

**“Rented Affordable Housing”** housing to be rented to those in Need of Accommodation at an Affordable Rent/ Social Rent (delete as appropriate)

**“Rented Affordable Housing Units”** xx%/ X no. of the Affordable Housing Units which will be offered for transfer to a Registered Provider at the Council’s Agreed Transfer Price and reference to “Rented Affordable Housing Unit” shall be construed accordingly

**“Sale”** the sale and transfer of a completed Market Housing Unit

**“Shared Ownership”** Intermediate Housing which is to be purchased on a shared ownership basis

**“Site”** the land against which this Deed may be enforced as shown edged with a red line on the Plan attached hereto and marked Plan x

**“Social Rent”** a rent which is affordable to people in housing need and which is determined in accordance with the target rents published from time to time by the Homes and Communities Agency or any successor thereto

**“Target Rents”** the rents arrived at in accordance what and formula for target rents published by the HCA or successor thereto as amended from time to time

**“Transfer”** a transfer of the freehold beneficial interest of

1. Affordable Housing Units that have been delivered to a Registered Provider and unconditionally released for completion by the Owner or
2. The parts of the site upon which the Affordable Housing Units are to be constructed in accordable with a build contract between the Owner and the Registered Provider and unconditionally released for completion by the Owner