

A new clause 18 shall be added to the agreement in the following words:

**"18 Enforceability**

**18.1 The obligations in this agreement shall not be binding upon:**

**18.1.1 any owner occupier or tenant of the Affordable Dwellings and the Open Market Dwellings or their mortgagees or successors in title.**

**18.1.2 The Registered Provider or their 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 save for the obligations contained in the Second Schedule."**

Addition of Clause 18 is agreed.

Paragraph 1 of the Second schedule to the Original Agreement shall be deleted in its entirety and replaced with the following:

"The obligations within this Schedule shall not be binding upon 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

(a) 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 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

(b) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Dwellings free from the Affordable Housing provisions in this Schedule which provisions shall determine absolutely"

The following is wording recently consulted on with another RP which we believe addresses their concerns and those raised here by yourselves, see point 1.13.3 for details of maximum recoverable sums.

***'1.13 In the event that a mortgagee or chargee (or any receiver including and 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 a Registered Provider or of a shared ownership lessee of the Affordable Dwellings is bound by the terms of this Agreement as mortgagee or chargee or Receiver in exercise of its power of sale of the Affordable Dwellings or any of them none of the Affordable Dwellings shall be sold or otherwise disposed of by the mortgagee or chargee or Receiver unless the following procedure has been followed in respect of each of the Affordable Dwellings:*

**1.13.1**            *The mortgagee, chargee or Receiver shall on each sale have first offered in writing to transfer each of the Affordable Dwellings at the price hereinafter defined for the purposes of social housing to the Council or to a Registered Provider nominated by the Council whose objects or functions include the provision of low cost rented housing (the deed of transfer relating to such transfer to be in such form as the Council shall reasonably require) or in the case of Shared Ownership Dwellings or any of them to a person nominated by the Council; and*

**1.13.2**            *The Council has refused the offer or has failed to accept such offer or is unable to nominate a Registered Provider or in the case of the Shared Ownership Dwellings is unable to nominate a person for such dwelling(s) within a period of six (6) weeks from the date of receipt by the Council of the offer in writing by the mortgagee chargee or Receiver OR has accepted such offer or made such nomination and has failed to complete the disposal arising from such offer or nomination within a period of six (6) weeks from the date of such offer or nomination (whichever is the later) AND the mortgagee chargee or Receiver shall then be at liberty to dispose of the Affordable Dwellings or any of them free from the restrictions contained in this Schedule;*

**1.13.3**            *The price referred to in 1.13.1 above shall be a sum equal to the higher of:*

- a. The open market value on the date of the offer of the Affordable Dwelling(s) on the assumption that (at the date of the offer) the Affordable Dwelling(s) is/are let on an assured tenancy; or*
- b. The sum required by the mortgagee or chargee (or any receiver appointed by such mortgagee or chargee) to redeem its borrowing on the Affordable Dwelling(s) including all accrued principal monies, interest, costs and expenses"*

Paragraph M of the Second Schedule shall be amended so that the words "(including the preserved right to buy)" are included after the words "right to buy".

Agreed

Paragraph j(C) of the Second Schedule shall be amended so that the wording

"and has first been approved by the Council (such approval not to be unreasonably withheld or delayed) or with such minor variations as the parties shall agree ("Approved Lease") provided that for the avoidance of doubt assignment surrender or other disposal of the Approved Lease shall not constitute a disposal for the purposes of this paragraph (j)"

shall be deleted and replaced with "subject to any minor reasonable variations required from time to time"

The addition of "subject to minor reasonable variations required from time to time" agreed but placed after: "and has first been approved by the Council (such approval not to be unreasonably withheld or delayed) or