

Appendix 2

1. Proposed Mortgagee Exemption Clause

The [affordable housing provisions] in this Agreement *[DN: cross-referencing the specific provisions would be preferable]* shall not be binding on:-

- 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:
 - 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
 - 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 Agreement which provisions shall determine absolutely.

2. Existing Chargee's Duty Clause

The provisions under this Deed shall not be binding on a Chargee PROVIDED THAT the Chargee shall prior to seeking to dispose of any Affordable Housing Unit(s) pursuant to any default under the terms of its mortgage or charge give not less than one (1) month's prior written notice to the Council of its intention to dispose and;

- a) in the event that the Council responds within two (2) months from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Unit(s) can be made in such a way as to safeguard the Dwelling(s) as Affordable Housing then the Chargee shall co-operate with such arrangements and use its reasonable endeavours to secure such transfer
- b) if the Council does not serve its response to the notice served under Clause 7.1(a) above within two (2) months then the Chargee shall be entitled to dispose free of restrictions set out in the Schedule Five
- c) if the Council or any other person cannot within three (3) months of the date of the Chargee's notice under Clause 7.1(a) above secure such transfer then provided that the Chargee shall have complied with its obligations under Clause 7.1(a) the Chargee shall be entitled to dispose free of the restrictions set out in the Schedule Five

PROVIDED THAT at all times the rights and obligations in this Clause 7.1 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interests of the Chargee in respect of monies outstanding under the charge or mortgage