

DATED _____ 20

SECTION 106 AGREEMENT
RELATING TO
LAND AT

MADE BETWEEN

EXMOOR NATIONAL PARK AUTHORITY

- and -

- and -

THIS AGREEMENT is made the day of **20**
BETWEEN:-

- (1) **EXMOOR NATIONAL PARK AUTHORITY** whose principal offices are at Exmoor House, Dulverton, Somerset, TA22 9HL (“Authority”)
- (2) of (“Owner”)
- (3) (Co. Regn. No.) of (“the Mortgagee”)

WITNESSES AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement the following words and phrases shall unless the context otherwise require have the following meanings:

- “**1990 Act**” means the Town and Country Planning Act 1990 (as amended);
- “**1996 Act**” means the Housing Act 1996 (as amended);
- “**2008 Act**” means the Housing and Regeneration Act 2008
- “**Adjoining Parish**” means any parish contiguous to the Parish except that where the Parish is only partly within the boundary of the national Park, the term shall extend only to a parish contiguous to that part of the Parish situated within such boundary, and except also that where an Adjoining Parish is only partly within the boundary of the national Park the terms shall extend only to that part of the Adjoining Parish situated within such boundary
- “**Affordable Housing**” means housing that will be made available to people who cannot afford to rent or buy housing which is generally available on the open market and defined in

Annexe 2 of the National Planning Policy Framework to be provided in accordance with the Schedule 1 attached to this Agreement. Words such as Affordable Dwelling shall be construed in the same way.

“Affordable Rental” means rent that is outside the national rent regime but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80% of local market rents (inclusive of service charge) and Registered Provider of Social Housing will be required to calculate the rent based on the Royal Institute for Chartered Surveyors (RICS) approved valuations

“Affordable Selling Price” means the valuation of the freehold interest in the Affordable Unit subject to the Local Occupancy Restriction as determined by the District Valuer or such other valuer agreed in writing by the Authority and the Mortgagee in Possession in accordance with the provisions of the Agreement

“Affordable Unit” means a dwelling to rent at not more than an Approved Rental in accordance with the requirements set out in Schedule 1 of this Agreement

“Application” means the application for planning permission for the Development registered by the Authority under the 1990 Act registered on the [redacted] and given reference

“Approved Rental” means any rental exceeding the Affordable Rental and determined from time to time by the Authority in accordance with paragraph 1(3) of Schedule 1 as being the maximum permitted rental for the Dwelling

“Approved Selling Price” means a valuation of the freehold interest in the Dwelling subject to the Local Occupancy Restriction, as determined by the District Valuer in accordance with the provisions of this Agreement

“Assured Tenancy” and **“Assured Shorthold Tenancy”** have the meaning ascribed to them by Sections 1 and 20 respectively of the Housing Act 1988

“Cascade Provisions” means the provisions set out in the Schedule 1

“Owner” respectively include their successors and assigns;

“Commencement of Development” means the implementation of the Planning Permission by the carrying out of a material operation as defined at Section 56 of the Act of 1990 which is exclusively referable to the Planning Permission other than works of site clearance, archaeological research, ground investigation and decontamination or the erection of site hoardings, and the phrase **“Commence Development”** shall be construed accordingly

“Defined Area” has the meaning ascribed to it by whichever of paragraphs 2(3), 2(4), 2(5), 2(6), 2(7), 2(8) or 3(4) of the Schedule 1 is for the time being applicable to the Dwelling

“Development” means the _____;

“District Council” means _____ District Council

“Dwelling” means each new unit of residential accommodation to be provided as part of the Development

“Homes and Communities Agency”	means the national agency for funding housing regeneration in England established pursuant to the Housing and Regeneration Act 2008 which definition shall include any statutory successor to that function
“Letting”	means a letting of the Dwelling to a tenant on a tenancy at will, a periodic or assured shorthold tenancy or a shared ownership lease, and the term “let” when used in relation to the Dwelling shall be construed accordingly
“Local Occupancy Restriction”	means the restrictions imposed by this Agreement on the ownership and occupation of the Dwelling
“Local Plan”	means the Local Plan (First Alteration) adopted by the Authority under the Act of 1990 on the 1 st day of March 2005
“Mortgagee in Possession provisions”	means the provisions set out in Schedule 1 <u>2</u> to this Agreement
“National Park”	means the Exmoor National Park
“Nominee”	means a person or body nominated by the Authority to acquire the Affordable Housing in its place pursuant to Part A or Part B of Schedule 2
“Obligations”	means the planning obligations contained in the Schedules hereto;
“Persons Who Satisfies The Local Occupancy Definition”	means a person who cannot afford to rent or buy accommodation in the locality on the open market and who:

- (i) is currently resident in the Defined Area and will have been so resident permanently and continuously during the period of 10 years immediately preceding the proposed Sale or Letting of the Affordable Unit to him or her and is either forming a household for the first time or is currently homeless or living in otherwise unsatisfactory accommodation; or
- (ii) is not currently resident in the Defined Area but has a strong local connection with the parish or an Adjoining Parish, including a period of permanent and continuous resident of 10 years or more within the last 20 years; or
- (iii) has an essential need to live close to another person who is currently resident in the Defined Area and will have been so resident permanently and continuously during the period of 10 years immediately preceding the proposed Sale or Letting of the Affordable Unit to the first such person, such essential need arising from the proven age of either such person or from medical reasons relating to either such person; or
- (iv) needs to live close to his or her place of work in the Defined Area

“Plan” means the plan attached hereto;

“Planning Permission” means the planning permission to be granted by the Authority pursuant to the Application and the expression Planning Permission shall include all approvals granted thereunder;

“Registered Provider of Social Housing”	means such organisation registered by the Regulator of Social Housing in accordance with Part 2 of the 1998 Act or if such bodies cease to exist or are superseded the equivalent body whose objectives include the provision of Affordable Housing
“Sale”	means any disposition or disposal of a Dwelling other than a Letting and whether for value or not, and includes (without prejudice to the generality of this definition) the transfer of the freehold or of a leasehold for a term of years certain in the Dwelling but does not include any disposition or disposal under a will or intestacy or under Section 24 of the Matrimonial Causes Act 1973 or Section 2 of the Inheritance (Provision for Family and Dependants) Act 1975. The term “sell” when used in relation to the Dwelling shall be construed accordingly.
“Staircasing”	means, where the Owner for the time being of the Dwelling is a Registered Provider of Social Housing, an arrangement under which the ownership of the Dwelling is shared between the landlord and the tenant
“Site”	means the land the subject of this Agreement, being the plot of land in the Parish of _____ in the County of _____ as and known as _____ and is shown edged red on the Plan 1 and this term shall following the completion of the Development whether in whole or in part include the Dwelling
“Valuation Price”	The price shall be determined by the District Valuer or such other suitable qualified official as shall be agreed in writing between the parties and shall take into

account the following:

1. The Owner shall meet all reasonable fees and expenses charged by the District Valuer (or such other appointed person or company) in determining the price
2. In determining the price the District Valuer (or such other appointed person or company) shall disregard and expenditure incurred by the Owner in the construction of the Dwelling or on their fixtures and fittings or the maintenance or refurbishment of the Dwelling or the replacement or renewal of its fixtures and fittings that shall in his (the District Valuer's (or such other appointed person or company)) opinion be excessive or unreasonable in relation to the standards normally applicable to social housing within the area of District Council

In preparing his Valuation Report the District Valuer (or such other appointed person or company) shall act as an expert and not as an arbitrator

“Valuation Report” means a report prepared by the District Valuer in accordance with paragraph 1(2) of Schedule 1 and in accordance with the Valuation Price

1.2 References in this agreement to an Act of Parliament include a reference to any Regulations made under it and to any statutory provision for the time being in force amending re-enacting or replacing it or them

1.3 The Interpretation Act 1978 applies to this Agreement as it applies to an Act of Parliament

- 1.4 Words in this Agreement importing persons shall where the context so admits of requires be construed as importing corporate bodies and partnerships and shall where importing one gender be construed as importing any other gender
- 1.5 References in this Agreement to the parties shall include their assigns successors in title and any successors in function
- 1.6 All covenants obligations and other commitments contained in this Agreement and expressed to be given or entered into by more than one signature or party hereto shall be joint and several and may be enforced by the Authority against any one or more of such signatories or parties
- 1.7 All covenants and obligations contained in this Agreement and requiring any party hereto to issue any authorisations, approval, consent or certificate shall be subject to the proviso that the issue of such authorisation or other matter is not to be unreasonably withheld or delayed
- 1.8 References in this Agreement to a clause, sub-clause or Schedule are (unless otherwise stated) references to the correspondingly numbered clause, sub-clause or Schedule of this Agreement and reference in any Schedule to a paragraph or sub-paragraph are (unless otherwise stated) references to the correspondingly numbered paragraph or sub-paragraph of that Schedule
- 1.9 The paragraph headings in this Agreement are included solely for each of reference and shall not affect its constitution or interpretation

2. RECITALS

- 2.1 The Authority is the National Park Authority for the National Park and is the Local Planning Authority within the area of the National Park so that all powers and functions conferred by the Act of 1990 upon a Local Planning Authority are powers and functions of the Authority

2.2 The Owner are registered as proprietors of the Land with an absolute freehold title under title number ST

2.3 The Mortgagee is proprietor of a Charge on the Land dated and registered on the at the Land Registry

2.4 The Owner wish to carry out the Development on the Land and have to that end submitted the Application to the Authority

2.5 The Authority is satisfied that the Application may be granted subject to conditions and to the prior execution of an Agreement (being this Agreement), which the Authority considers is necessary for the satisfactory development of the Site.

3. STATUTORY POWERS

3.1 The Authority enters into this Agreement in pursuance of its powers under Section 106 of the Act of 1990 and all other powers enabling it in that regard

3.2 IT IS HEREBY AGREED by and between the Owner and the Authority that the covenant on the part of the Owner contained at sub-clause 4.1 is a planning obligation for the purposes of Section 106 of the Act of 1990 and is enforceable by the Authority without limit of time against any person deriving title under the Owner to the Land or to any part of the Land (including a person deriving title thereto under a will or intestacy or by virtue of an order made under Section 24 of the Matrimonial Causes Act 1973 of Section 2 of the Inheritance (Provision for Family and Dependants) Act 1975) pursuant to sub-section (3) of the said Section 106 PROVIDED however that no person shall be liable for any breach of the said covenant occurring after he shall have parted with all interest in the Land or the part of it in respect of which such breach occurs but without prejudice to the Authority's rights in relation to any antecedent breach

4. THE OWNER'S COVENANT

The Owner HEREBY COVENANT with the Authority to observe and perform each and all of the Obligations contained in the Schedules

5. AUTHORITY'S COVENANT

5.1 The Authority hereby covenants with the Owner to issue the Planning Permission within ten working days following the completion of this Agreement

6. GENERAL PROVISIONS

6.1 IT IS HEREBY AGREED AND DECLARED by and between the parties hereto that:

6.1.1 This Agreement is not and shall not operate or be construed as or be deemed to be a grant of planning permission for the purposes of Part III of the Act of 1990 or for any other purpose

6.1.2 Except as herein specifically provided nothing in this Agreement confers any approval consent or permission required from the Authority in the exercise of any of its statutory functions

6.1.3 Except as herein specifically provided nothing in this Agreement shall be taken by the Owner as diminishing or derogating from any of the rights powers or prerogatives conferred on the Authority by any Act of Parliament or by any Orders or Regulations made thereunder whether now or hereafter

- 6.1.4 No forbearance or indulgence (whether express or implied) granted by the Authority to the Owner in respect of any breach of the terms of this Agreement shall prevent the Authority from enforcing its rights in relation to any subsequent breach
- 6.1.5 Nothing in this Agreement shall operate to prevent a Mortgagee in possession of the Land from selling it to a Registered Provider of Social Housing on such terms as to purchase price and otherwise as may be agreed between them
- 6.1.6 This Agreement is not made for the benefit of nor shall any of its provisions be enforceable under the Contracts (Rights of This parties) Act 1999 by any person other than the parties hereto but for the avoidance of doubt the exclusion of the application of that Act shall not prevent any future successor in title to any of the parties to this Agreement from being able to benefit from or to enforce any of the obligations in this Agreement
- 6.1.7 This Agreement is intended to take effect as a Deed
- 6.1.8 Subject to the provisions of Section 106(A) and 106(B) of the Act of 1990 the terms and conditions of this Agreement shall only be capable of being varied by a Supplemental Agreement executed by the parties hereto or their successors in title
- 6.1.9 This Agreement is a Local Land Charge and shall be registered as such

7. MORTGAGEE'S INTEREST

The Mortgagee HEREBY CONSENTS to the Owner entering into this Agreement and acknowledges that this Agreement binds the Land PROVIDED however that it (the Mortgagee) shall not be liable for any breach of any provision of this Agreement unless such breach occurs while it is in possession of the Land

8. RESOLUTION OF DISPUTES

- 8.1 The validity construction and performance of this Agreement shall be governed by English law
- 8.2 If any dispute of difference shall at any time hereafter arise between the parties hereto as to the construction or effect of this Agreement or as to the rights and liabilities of the parties under it or any other matter of whatsoever nature arising out of or in relation to its subject matter then such dispute or difference shall be referred to the English Courts to whose exclusive jurisdiction the parties hereby submit

9. ENTRY INTO FORCE AND DURATION

- 9.1 The covenant on the part of the Authority contained at sub-clause 5.1 shall take effect immediately upon the execution of this Agreement
- 9.2 The covenant on the part of the Owner contained at sub-clause 4.1 shall take effect upon the execution of this Agreement

SCHEDULE 1
AFFORDABLE UNITS

The Planning Obligation

1. No Sale or Letting of the Dwelling without the Authority's approval

- (1) In this paragraph 1 the term "the Owner" means the person or body for the time being having the legal capacity to Sell or Let the Dwelling and (for the avoidance of doubt) shall include but shall not be confined to the Owner their successors and assigns

- (2) Not less than 28 days before the date on which the Dwelling is to become available for Sale or Letting both on the first and on all subsequent occasions the Owner shall notify the Authority in writing of such date and of the terms and conditions on which the Dwelling is to be made so available. If the Owner himself receives less than 28 days' notice of the date on which the Dwelling is to become so available he shall furnish the Authority with the notification as soon as is practicable

- (3) The particulars to be provided to the Authority under paragraph 1(2) shall (without prejudice to the generality of that provision) include the price at which the Dwelling is proposed to be sold or the rental at which it is proposed to be let. If in the case of a Sale the proposed selling price of the Dwelling is in the opinion of the Authority excessive and likely to render the Dwelling unaffordable to Persons Who Satisfies The Local Occupancy Definition, or if in the case of a letting the proposed rental of the Dwelling would exceed the Affordable Rental, the Authority shall so inform the Owner and the parties shall endeavour to reach agreement on a revised selling price or an Approved Rental. If no such agreement has been reached within 28 days of the Authority's so informing the Owner, the Authority shall instruct the District Valuer to prepare a Valuation Report setting out an Approved Selling Price for the Dwelling in the case of a Sale, or an Open market Rental in the case of a Letting. Upon receipt of a Valuation Report in relation to a proposed Letting

the Authority shall adjust the Affordable Rental by such amount (if any) as may appear necessary to determine the Approved Rental

- (4) Where an Approved Selling Price has been determined in accordance with paragraph 1(3), the Owner shall not seek or accept any consideration in excess thereof in relation to the Sale of the Dwelling. The Dwelling shall not be let at a rental in excess of the Affordable Rental or, where an Approved Rental has been determined in accordance with paragraph 1(3), such Approved Rental
- (5) The Dwelling shall not be sold or let otherwise that in accordance with the Cascade Provisions
- (6) The Dwelling shall not (save as provided by sub-paragraph 3(4)(v) of this Schedule) be occupied otherwise than as the sole or principal residence of Persons Who Satisfies The Local Occupancy Definition and every disposition of the Dwelling whether by way of Sale or Letting shall be subject to a specific condition to that effect in a form to be approved by the Authority

2. Cascade Provisions – Private Owners

- (1) In this paragraph 2 the term “the Owner” means the person or body for the time being having the legal capacity to Sell or Let the Dwelling
- (2) The provisions of this paragraph 2 shall apply where the Owner is any person or body other than
 - (a) a Registered Provider of Social Housing, or
 - (b) The Lessee of an Affordable Unit under a shared ownership lease originally granted by a Registered Provider of Social Housing which does not permit the Registered Provider of Social Housing’s share of the ownership thereof to fall below 20% and whereby the Registered Provider of Social Housing retains control of any future Sale or Letting and in any case where the Owner is such a person as is mentioned in

either sub-paragraph (a) or (b) of this paragraph 2(2) the provisions of paragraph 3 of this Schedule 2 will apply (and not the other provisions of this paragraph 2)

Lettings

- (3) During the period of six months commencing on the date first notified to the Authority under paragraph 1(2) (the "First Six Months") the Dwelling shall not be let except on the basis that the Defined Area consists of the Parish and the Adjoining Parishes
- (4) If the Owner has been unable to let the Dwelling in accordance with paragraph 2(3) by the expiry of the first two months then during the two months next following (the "Second Two Months") the Dwelling may be let on the basis that the Defined Area consists of any part of the area of the District Council situated within the ~~N~~ational Park
- (5) If the Dwelling has not been let at expiry of the Second Two Months then it may be let on the basis that the Defined Area consists of any part of the area of the National Park

Sales

- (6) During the period of six months commencing on the date notified to the Authority under paragraph 1(2) (the "First Six Months") the Dwelling shall not be sold except on the basis that the Defined Area consists of the Parish and the Adjoining Parishes
- (7) If the owner has been unable to sell the Dwelling in accordance with paragraph 2(6) by the expiry of the First Six Months then during the six months next following (the "Second Six Months") the Dwelling may be sold on the basis that the Defined Area consists of any part of the area of the District Council situated within the National Park

- (8) If the Dwelling has not been sold at the expiry of the Second Six Months then it may be sold on the basis that the Defined Area consists of any part of the area of the National Park

All disposals

- (9) Before entering into any contract for the Sale or Letting of the Dwelling, the Owner shall notify the Authority in writing of the identity of the proposed buyer or tenant. No such Sale or Letting shall proceed unless and until it has been demonstrated to the satisfaction of the Authority that the proposed buyer or tenant is Persons Who Satisfies The Local Occupancy Definition and will occupy the Affordable Unit concerned as his or her sole principal residence and that the terms of the proposed Sale or Letting are such as to ensure that the requirements of paragraph 1(4) will continue to be complied with and the Authority has issued the Owner with a certificate in writing (not to be unreasonably withheld) to that effect

3. Cascade Provision – Registered Provider of Social Housing

- (1) The provisions of this paragraph 3 shall apply where (and only where) the person or body for the time being having the legal capacity to Sell or Let the Dwelling is either:-
- (a) a Registered Provider of Social Housing, or
 - (b) such a person as is mentioned in paragraph 2(2)(b) of this Schedule 2 such person or body being (in either case) referred to hereafter in this paragraph 3 as “the Owner”
- (2) In the event that the Dwelling is or is to be subject to a staircasing arrangement this paragraph 3 shall apply only if and for as long as the Owner’s share of the Ownership thereof does not fall below 20% and if the Owner retains control of any future sale or letting. If or as soon as the Staircasing arrangement fails or ceases to satisfy those conditions paragraphs 2(3) to 2(9) (both numbers inclusive) and not this paragraph 3 will apply in all respects to any sale or letting of the Dwelling

- (3) At the same time as it notifies the Authority under paragraph 1(2) that the Dwelling will become available for letting at the expiry of a period mentioned in that paragraph ("the Specified Period"), the Owner shall issue a notification in the same terms to the District Council and to the Parish Councils of the parish and of the Adjoining Parishes, shall publish an advertisement to the same effect in at least one newspaper circulating in the locality and shall cause the impending availability of the Dwelling to be advertised on the internet through the website of Homefinder Somerset partnership.
- (4) Upon the expiry of the Specified Period the Owner shall let the Dwelling in accordance with the following order of priority:-
- (i) to tenants who are Persons Who Satisfies The Local Occupancy Definition on the basis that the Defined Area consists of the parish and the Adjoining Parishes or if no such tenants are available
 - (ii) to tenants who are Persons Who Satisfies the Local Occupancy Definition on the basis that the Defined Area consists of any part of the area of the District Council situated within the National Park PROVIDED ALWAYS that the Owner shall not less than 28 days previously have notified the District Council and the Parish Councils of all the other Parishes within the Defined Area as so extended that the Dwelling has become available for letting on that basis or if no such tenants are available
 - (iii) to tenants who are Persons Who Satisfies the Local Occupancy Definition on the basis that the Defined Area consists of any part of the area of the National Park PROVIDED ALWAYS that the Owner shall not less than 28 days previously have notified the District Council and the Parish Councils of all the other Parishes within the Defined Area as so extended that the Dwelling has become available for letting on that basis or if no such tenants are available

- (iv) to tenants who are Persons Who Satisfies The Local Occupancy Definition on the basis that the Defined Area consists of any part of the area of the National Park or of the District Council PROVIDED ALWAYS that the Owner shall not less than 28 days previously have notified the District Council and the Parish Councils of all the other Parishes within the Defined Area as so extended that the Dwelling has become available for letting on that basis or if no such tenants are available
 - (v) to tenants who are not Persons Who Satisfies The Local Occupancy Definition but who have established a proven housing need in accordance with the Owner's normal letting criteria PROVIDED however that the Dwelling may not be let to any such tenants otherwise than under a controlled occupancy retained equity scheme under which no staircasing is permitted
- (5) At the same time as it issues the notification referred to at paragraph 3(3) the Owner may if it so chooses issue the same notification to the District Council and to all the other Parish Councils entitled to be so notified under paragraphs 3(4)(ii), (iii) and (iv) and state in all such notifications and in the newspaper and internet advertisements referred to at paragraph 3(3) that the Dwelling is to be let in accordance with the Cascade Provisions immediately following the expiry of the Specified Period. Where the Owner has taken that course it may at the expiry of the Specified Period let the Dwelling in accordance with the order of priorities set out at paragraphs 3(4)(i) to (v) (both numbers inclusive) without further notification or delay
- (6) Before entering into any contract for the Letting of the Dwelling the Owner shall notify the Authority in writing of the identity of the proposed tenant. The Authority shall be entitled to be satisfied that the requirements of paragraphs 3(3) and 3(4) or (as the case may be) 3(5) have been complied with and to that end the Owner shall comply with any reasonable request made by the Authority for the production of documentary or other evidence demonstrating

that the proposed tenant has been selected in accordance with the order of priorities set out at paragraph 3(4) and that any Persons Who Satisfies The Local Occupancy Definition who might have wished to apply for the tenancy has had a reasonable opportunity to do so

- (7) Nothing in this Agreement shall restrict or otherwise affect the right of the Owner to sell the Dwelling to another Registered Provider of Social Housing on such terms as may be agreed between them. In the event of the Owner's proposing to sell the Dwelling to a person or body who is not a Registered Provider of Social Housing however paragraphs 2(6), 2(7) and 2(8) will apply to any such proposed sale in all respects

4. Certificates

- (1) The decision of the Authority as to whether any certificate sought by the Owner under paragraph 2(9) should be issued or withheld shall be final. Any certificate issued by the Authority under that paragraph shall specify the name of the proposed purchaser or tenant and the address of the Affordable Unit concerned and shall not authorise the disposal to the person so specified of any other dwelling within the National Park or the disposal of that Affordable Unit to any other person
- (2) Upon the completion of any disposal of the Dwelling whether under paragraph 2 or paragraph 3 of this Schedule 2 and whether by way of Sale or Letting the Owner shall forthwith supply to the Authority a certified copy of the instrument of disposal

SCHEDULE 2
MORTGAGEE IN POSSESSION PROVISIONS

PART A

1. Part A of tThis Schedule shall only apply to:-

~~0.~~ a Mortgagee that is a member of the Council of Mortgage Lenders and

~~4.3.3.~~ A Mortgagee entering into possession of an Affordable Dwelling or any part thereof or exercising any power of sale of an Affordable Dwelling must adhere to the following procedures:

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~~4.3.4.2.1.1~~ The Mortgagee must as soon as reasonably possible give notice to the ~~National Park~~ Authority in writing that the Mortgagee has entered into possession of an Affordable Dwelling or any part thereof or is exercising any power of sale of an Affordable Dwelling

~~4.3.2~~ ~~2.1.2~~ The Mortgagee must within two weeks of the notice given under ~~4.2.1.1~~ above offer to sell the Affordable Dwelling to the ~~National Park~~ Authority or its Nominee at the Affordable Selling Price,

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~~4.3.3.2.1.3~~ If within the 12 weeks (from the date of the notice in ~~4.2.1.1~~ above) the ~~National Park~~ Authority, or its Nominee, whether a Registered Provider of Social Housing or a qualifying person, have agreed in writing to purchase the Affordable Dwelling then completion shall take place within 12 weeks of the date of written agreement to purchase or such longer period as may be agreed between the parties.

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~~4.3.4.2.1.4~~ If after a period of 12 weeks (from the date of the notice in ~~4.2.1.1~~ above) neither the ~~National Park~~ Authority, or its Nominee, whether a Registered Provider of Social Housing or a qualifying person, have agreed in writing to purchase the Affordable Dwelling, or the purchase has not been completed in accordance with the requirements and timings set out in ~~4.2.1.3~~ above, the Mortgagee can dispose of the

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Affordable Dwelling to any purchaser free from qualifying restrictions in this Agreement.

~~4.3.5~~ 2.1.5 If the Mortgagee in Possession sells the property in accordance with clause ~~4-2.1.4~~ of this Schedule then the first occupant following that sale shall not be required to meet the requirements of this Agreement. On the vacation of the property by that occupant, the Affordable Dwelling in question shall thereafter be occupied in complete accordance with the requirements of this Agreement (unless a sale takes place again under Clause ~~4-2.1.4~~).

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PART B

1 Part B of this Schedule shall only apply to a Mortgagee that is a member of the Council of Mortgage Lenders and only to rented or shared equity properties where a Registered Provider of Social Housing has an equity stake in the housing unit(s).

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2 The Affordable Housing shall not be used for any purpose other than for Affordable Housing provided that this provision shall:

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2.1 not bind purchasers of individual Affordable ~~Housing~~Dwellings or their mortgagee or tenants or the mortgagee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or otherwise by a party who has provided loan facilities to any purchaser where the following procedure has been followed:

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2.1.1 a mortgagee chargee receiver administrator or manager (including an administrative receiver) approved pursuant to the Law of Property Act 1925 or otherwise by a party who has provided loan facilities to the purchaser give written notice to the Authority three months prior to exercising any power of sale in respect of any of the Affordable Housing and ~~to~~ provided the

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Authority the opportunity to complete a transfer of the Affordable Housing or appropriate part thereof for a price to be agreed in accordance with paragraph 2.1.4 of Part B within such period to another Registered Provider of Social Housing in order to ensure that they continue to be used for the purpose of Affordable Housing; and

2.1.2 if the Authority or ~~Affordable Housing~~ Registered Provider of Social Housing is unable to complete such a transfer of the Affordable Housing or appropriate part thereof at such a price within the said period of three months in accordance with paragraph 2.1.1 of this Part B then the Mortgagee shall be entitled to dispose of the Affordable Housing on the open market free from the obligations contained in Part B of this Schedule;

2.1.3 The Authority and the Mortgagee shall endeavour to agree the price which shall represent the open market value of the Affordable Housing or the amount outstanding under any charge together with all interest and costs in favour of the Mortgagee which ever shall be greater but subject to all or any tenancies of the Affordable Housing (or any part thereof as may be subsisting at the date of the notice provided for in paragraph 2.1.1 of this Part B but otherwise free from obligations contained in this Agreement which shall cease to apply and in default of such agreement between the Authority and the Mortgagee within a period of six weeks from the date of service of the notice referred to in paragraph 2.1.1 of this Part B the price shall be determined on the same basis by valuation by an independent surveyor (the "Surveyor") experienced in valuing residential land and property and social housing who shall act as an expert and whose costs shall be borne as the Surveyor shall direct or otherwise by the Authority

and the Mortgagee in equal shares and the Surveyor shall be appointed in default of agreement between the parties in the application by either party by or on behalf of the president for the time being of the Royal Institute of Chartered Surveyors (or its successor organisation) or ~~their~~his duly appointed deputy and the Surveyor's determination shall be binding on both parties;

2.1.4 if the Mortgagee does not wish to exercise its power of sale at any time after giving notice to the Authority under the provisions of paragraph 2.1.1 of this Part B then it may give to the Authority not less than 7 days written notice of its intention to ~~discontinue~~ and in such case the Mortgagee shall be responsible for the payment of any costs reasonably and properly incurred by the Authority as a result of service of the original notice.

2.1.5 The Authority shall in formulating or promoting any arrangements under this paragraph 2.1 of this Part B give consideration to protecting the interests of the mortgagee chargee receiver or manager (including administrative receiver) in respect of monies and interest outstanding under its mortgage or charge

2.2 Schedule 1 shall cease to apply to any part of the Affordable Housing disposed of by the Mortgagee on the open market having satisfied the provisions of paragraph 2.1 of this Part B

2.3 Schedule 1 shall cease to apply to any successor in title to any of the above, including any mortgagee chargee or receiver to such successors in title

2.4 Schedule 1 shall cease to apply to any statutory undertaker or other person who acquires any part of the site or interest therein for the

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purpose of the supply of electricity gas water drainage telecommunications services or public transport services required for the connection and supply of services to the Affordable Housing to be constructed on the Site

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IN WITNESS of which the parties hereto have executed this document as a deed the day and year first before written

THE COMMON SEAL OF
EXMOOR NATIONAL PARK
AUTHORITY

was affixed In execution as a deed

in the presence of

[Witness Name]

[Witness Signature]

Address

Occupation

Executed and delivered as a)

Deed)

by)

in the presence of)

[Witness Name])

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[Witness Name])
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