

**DATED**

**OF**

**20**

**EXMOOR NATIONAL PARK AUTHORITY**

**- AND -**

**- AND -**

**SECTION 106 AGREEMENT  
RELATING TO LAND AT**



**THIS AGREEMENT** is made the                    day of                    Two Thousand  
and [                    ]

**BETWEEN**

**(1) EXMOOR NATIONAL PARK AUTHORITY** of Exmoor House Dulverton  
Somerset TA22 9HL (the “Authority”)

**(2)**                    of                    (the “Owner”)

**(3)**                    of                    (the “Mortgagee”)

**1. RECITALS**

1.01 The Authority is the National Park Authority for the Exmoor National Park (the “Park”) and is the Local Planning Authority within the area of the Park so that all powers and functions conferred on a Planning Authority under the Act of 1990 are powers and functions of the Authority

1.02 The Owner is registered as proprietor with an absolute freehold title under title number [                    ] of the Land (as same is more particularly described at paragraph 2.06)

1.03 The Mortgagee is proprietor of a Charge on the Land dated the [                    ] and registered on the [                    ] at HM Land Registry

1.04 The Authority is satisfied that the Application may be granted subject to conditions and to prior execution of this Agreement

**2. INTERPRETATION**

2.01 References in this Agreement to an act of Parliament include a reference to and Regulations made under it and to any statutory provisions for the time being in force amending re-enacting or replacing it or them

- 2.02 References in this Agreement are included solely for ease of reference and shall not affect its construction or interpretation
- 2.03 The paragraph headings in this Agreement are included solely for ease of reference and shall not affect its construction or interpretation
- 2.04 References in this Agreement to a paragraph are references to the correspondingly numbered paragraph of their Agreement
- 2.05 This Agreement shall be construed as one with the Act of 1990 and any words or phrases not otherwise defined herein shall have though meaning (if any) assigned to them by the said Act
- 2.06 In this Agreement (including the foregoing Recitals) the following words and phrases shall unless the context otherwise requires have the following meanings:

"Act of 1990"	means the Town and Country Planning Act 1990, subject to paragraph 2.01
"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
"Application"	means the planning application <b>dated [ ] and</b> accorded the <b>reference [ ]</b> <b>whereby</b> the Owner sought permission from the Authority for the Extended Family Dwelling on the Land
"Commencement of Development"	means the implementation of the 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 Permission
Dependent Relative	is a relative of you your spouse or civil partner who has an essential need to live close to the occupier of the Extended Family Existing Dwelling or the Dwelling because by virtue of age, family or medical reasons they require long-term care or support
“Dwelling”	Means an existing dwelling on the Land shown edged blue on the Plan
“Extended Family Dwelling”	means the dwelling shown edged green on the Land in pursuance of the Permission
“Land”	means each and all of the plots pieces or parcels of land at [ ] in the Parish and in the County of [ ] which are for the purposes of identification only shown on the plan attached to this Agreement and edged red
“Occupation”	means occupation of the Extended Family Dwelling or part of the Extended Family Dwelling for residential purposes and “Occupy” and “Occupied” shall be construed similarly
“Parish”	means the Parish of [ ]
“Park Officer”	means the National Park Officer for the time being of the Authority and any

	member of staff duly authorised by him to act on his behalf for the purpose of this Agreement
“Permission”	means the planning permission for the Extended Family Dwelling to be issued by the Authority by way of determination of the Application together with all approvals granted thereunder

### **3. AGREEMENT TO RUN WITH THE LAND**

3.01 The Authority enters into this Agreement in pursuance of S106 of the Act of 1990 and all other powers enabling it in that regard

3.02 It is hereby agreed by and between the Owner and Authority that the covenants contained in paragraph 4 and each of them are planning obligations for the purposes of Section 106 of the Act of 1990 and are enforceable by the Authority without limit of time against any person deriving title under the Owner to the Land or any part of the Land pursuant to Section 106 (PROVIDED HOWEVER that neither the Owner nor any person or company shall be liable for any breach of the said covenants or any of them occurring after he she or it have parted with all interest in the Land or part of it in respect of which such breach occurs but without prejudice nevertheless to liability arising before parting with such interest)

### **4. OWNER’S COVENANT WITH REGARD TO THE EXTENDED FAMILY DWELLING**

4.01 The Owner HEREBY COVENANTS with the Authority that he will not

- (i) Occupy or permit Occupation of the Extended Family Dwelling by any person or persons or their descendants unless the Owner can demonstrate that:
  - (a) the occupier of the Dwelling or the occupier of the Extended Family Dwelling has for a minimum period of

ten (10) years or more in the last twenty (20) years been in permanent and continuous residence in the Parish or Adjoining Parish, and

- (b) the occupier of the Extended Family Dwelling is an immediate family member of the occupier of the Dwelling by virtue of being a direct descendant or antecedent of that occupier, or
  - (c) the occupier of the Extended Family Dwelling or the Dwelling is a Dependent Relative and the Authority has given its prior written consent that the occupier meets the definition of a Dependent Relative
- (ii) sell, let or otherwise dispose of the Extended Family Dwelling separately from the whole of the remainder of the Land
  - (iii) sell, let or otherwise dispose of the remainder of the Land separately from the Extended Family Dwelling

4.02 The Owner HEREBY COVENANTS with the Authority to

- (i) provide to the Authority within at least twenty eight (28) days notice of the details of an occupier of the Extended Family Dwelling or the Dwelling under clause 4.01.(c) in the format annexed as Appendix 1 and not to permit such Occupation until it is approved by the Authority which shall not unreasonably withhold such approval
- (ii) provide to the Authority within twenty one (21) days such evidence as required by the Authority to satisfy the Authority that the requirements for Occupation of the Extended Family Dwelling or the Dwelling set out in clause 4.01 are being complied with

**5. AUTHORITY'S COVENANT TO ISSUE PERMISSION**

5.01 The Park Authority HEREBY COVENANTS with the Owner to issue the permission within ten working days following completion of the Agreement

## **6. GENERAL PROVISIONS**

6.01 It is HEREBY AGREED AND DECLARED by and between the parties hereto that:

- (i) This Agreement is not and shall not operate or be construed as or be deemed to be grant of a planning permission for the purposes of Part III of the Act of 1990 or for any other purpose
- (ii) Except as herein specifically provided nothing in this Agreement confers any approval consent or permission required from the Authority in the exercise of any statutory function
- (iii) 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 conferred on the Authority by any Act of Parliament or by any Order or Regulations made thereunder whether now or hereafter
- (iv) No forbearance of 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
- (v) This Agreement is not made for the benefit of nor shall any of its provisions be enforceable under the Contract (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 the 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
- (vi) This Agreement is intended to take effect as a Deed
- (vii) 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
- (viii) This Agreement is a Local Land Charge and shall be registered as such



## **7. MORTGAGEE'S CONSENT**

7.01 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**

8.01 The validity, construction and performance of this Agreement shall be governed by English Law

8.02 If any dispute or 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 than 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**

9.01 Paragraph 5.01 shall come into force immediately upon the execution of this Agreement

9.02 The remaining provisions of this Agreement shall be conditional upon but shall come into force immediately upon the grant of the Permission and shall continue to bind the Land into whosoever hands the same may come pursuant to paragraph 3.02

9.03 If the Permission shall expire or be revoked or quashed prior to the Commencement of Development this Agreement shall forthwith determine and cease to have effect but without prejudice to any rights previously acquired under it by any party thereto

IN WITNESS whereof the parties hereto have executed and delivered this  
Agreements as a Deed the day and year first before written

The COMMON SEAL of the )  
EXMOOR NATIONAL PARK )  
AUTHORITY hereunto affixed in )  
the presence of: )

SIGNED as a DEED by the said )  
 )  
in the presence of:- )

Witness signature  
Witness name  
Witness address

SIGNED as a DEED by the said )  
 )  
as attorney for )  
in the presence of:- )

Witness signature  
Witness name  
Witness address

APPENDIX 1

[Address]

[Date]

[Insert Planning Officers name]  
Planning Department  
Exmoor National Park Authority  
Exmoor House  
Dulverton

Dear [ ]

Planning Application Number [ ]  
Section 106 dated [ ]  
Relating to [Address of Dwelling] (the "Dwelling") and [Address of Extended Family Dwelling] (the "Extended Family Dwelling")

Please accept this letter as an application for approval [insert name] to Occupy the [Dwelling] [Extended Family Dwelling] as defined in the above agreement from the [date being not less than one month from the date of this letter].

I enclose as evidence the following to show that [insert name] is a Dependent Relative of [insert name] and that they satisfy clause 4.01(i) (c) of the above agreement



a letter from their doctor confirming that they need to live close to the occupier of the [Extended Family Existing Dwelling] [Dwelling] by virtue of age, family or medical reasons they require long-term care or support

evidence of the relationship between [insert name] and [insert name] for example a birth certificate

I understand that Exmoor National Park Authority may request such evidence as required by the Authority to satisfy the Authority that the requirements for Occupation of the Extended Family Dwelling or the Dwelling set out in clause 4.01 of the S106 Agreement are being complied with. I undertake to provide such evidence within [ ] of a written request to do so.

Yours faithfully/sincerely,