

**THIS DEED** is dated the

day of

**20**

**BETWEEN**

A PEAK DISTRICT NATIONAL PARK AUTHORITY (“the Authority”)  
of Aldern House Baslow Road Bakewell Derbyshire DE45 1AE

B [ ] (“the Owner”)  
of

C [ ] (“the Applicant”)  
of

**[D [ ] (“the First  
of Occupier”)]**

**[E [ ] (“the  
of Mortgagee”)]**

**NOW THIS DEED WITNESSES AS FOLLOWS:**

**1. INTRODUCTION**

- 1.1 The Authority is the Local Planning Authority for the purposes of the Act for the area within which the Land is situated and by whom the Obligations created by this Deed are enforceable.
- 1.2 The Owner is **[registered as]** the owner of the freehold of the Land **[with title absolute under title number [ ] [subject to a [registered] charge dated [ ] in favour of the Mortgagee]**. The Owner confirms that other than the parties to this Deed there are no other persons with any interest (legal or equitable) in the Land or any part thereof.
- 1.3 The Applicant has by the Planning Application applied to the Authority for permission to carry out the Development.
- 1.4 The Authority has decided to grant planning permission for the Development in accordance with the Planning Application subject to conditions and subject to the making of this Deed without which planning permission for the Development would not be granted. The Obligations are intended to maintain the affordability of the Affordable Dwelling in perpetuity.

## 2. DEFINITIONS AND INTERPRETATION

2.1 For the purposes of this Deed the following expressions shall have the following meanings:

<b>“Act”</b>	means the Town and Country Planning Act 1990
<b>“Affordable Dwelling”</b>	means the locally needed affordable dwellings (or any one of them) to be <b>[erected/converted]</b> on the Land in accordance with the Planning Permission that will be available to persons who satisfy the requirements contained in Schedule 1 of this Deed
<b>“Commencement of Development”</b>	means 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.
<b>“Development”</b>	means the development or part of it authorised by the grant of the Planning Permission
<b>“Land”</b>	means the land or any part thereof (together with any buildings thereon) against which this Deed may be enforced known as <b>[DESCRIPTION FROM REGISTERED TITLE OR DEEDS]</b> <b>[being registered under title number [ ]]</b> and shown for identification purposes only edged red on the Plan.
<b>“Obligations”</b>	means the obligations contained in this Deed
<b>“person”</b>	means an individual and not a body corporate or unincorporated body
<b>“Plan”</b>	means the plan attached to this Deed
<b>“Planning Application”</b>	means the planning application <b>NP/[ ]</b> submitted by the Applicant together with the plans and particulars deposited with the Authority at any time and forming part of the Planning Application

**“Planning Permission”**

means the planning permission subject to conditions to be granted by the Authority for the Development pursuant to the Planning Application a draft of which is referred to in Schedule 2 of this Deed and a copy of which is annexed to this Deed and the expression Planning Permission shall include all amendments, approvals and variations to conditions granted under it

**3. CONSTRUCTION OF THIS DEED**

In this Deed, except where the context clearly requires otherwise:

- 3.1 References to clauses, paragraphs or schedules are to the clauses, paragraphs or schedules in this Deed
- 3.2 References to any party (other than the First Occupier) includes the successors in title to that party and any deriving title through or under that party and in the case of the Authority the successors to its respective statutory functions
- 3.3 Where there is more than one person named as a party and where more than one party undertakes an obligation all their obligations shall be joint and several
- 3.4 The singular includes the plural, the masculine includes the feminine and neuter and vice versa.
- 3.5 The headings in the body of this Deed and in the schedules do not form part of this Deed and shall not be taken into account in its construction or interpretation.
- 3.6 Any reference to an Act of Parliament or statutory provision shall include any amendment, modification, extension or re-enactment of that provision for the time being in force, and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under an Act of Parliament or deriving validity from it.
- 3.7 The schedules to this Deed form part of (and are incorporated into) this Deed.

**4. LEGAL BASIS**

- 4.1 This Deed is made pursuant to section 106 of the Act and any other enabling powers. The covenants, restrictions and requirements imposed upon and/or undertaken by the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Authority as local planning authority against the Owner of the Land or any part thereof.

## **5. CONDITIONALITY**

5.1 This Deed is conditional upon:

- (i) the grant of Planning Permission; and
- (ii) the Commencement of Development

save for the provisions of clause 7.1 which shall come into effect immediately upon the completion of this Deed.

## **6. THE OWNER'S OBLIGATIONS**

6.1 The Owner covenants with the Authority to comply at all times with the Obligations contained in Schedule 1

## **7. MISCELLANEOUS**

7.1 The Owner shall pay to the Authority on completion of this Deed the reasonable legal costs of the Authority incurred in negotiation, preparation, execution and Land Registry registration of this Deed.

7.2 Prior to or upon completion of this Deed the Owner shall provide the Authority with a completed Land Registry Form RX1 (or any subsequent revisions amendments or replacements of the same) signed by the Owner and thereby authorises the Authority to register a restriction at the Land Registry in respect of the Land in the following terms:

“No disposition of **[the part of]** the registered estate **[edged in red on the Plan]** (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by the Peak District National Park Authority of Aldern House Baslow Road Bakewell Derbyshire DE45 1AE or their conveyancer that the provisions of Schedule 1 of the Deed dated [ ] between Peak District National Park Authority (1) [ ] (2) **[and any other parties]** (3) have been complied with or that they do not apply to the disposition”

7.3 Whether or not a completed Form RX1 has been provided to the Authority, the Owner hereby consents to an application being made by the Authority to enter a restriction at the Land Registry against the Land in the above terms.

7.4 The Owner shall be responsible for all Land Registry fees in connection with the registration of the above restriction and (where a completed Form RX1 is not provided to the Authority) for the Authority's reasonable legal costs incurred in the preparation of Form RX1.

7.5 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

7.6 This Deed shall be registrable as a local land charge by the Authority.

7.7 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Authority under the provisions of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Authority by an officer duly authorised by the Authority to give such a consent.

7.8 Any notices to be given under this Deed shall be in writing signed by or on behalf of the party giving it and may be given by:

7.8.1 delivering the notice by hand, in which case it shall be deemed to have been duly served at the time it is so delivered; or

7.8.2 posting the notice in a pre-paid envelope by first class or recorded delivery post, in which case it shall be deemed to have been duly served at the time it would be delivered in the ordinary course of that method of posting.

For the purpose of this clause the address for service of each party shall be:

For the Authority: Aldern House, Baslow Road, Bakewell, Derbyshire DE45 1AE

For the Owner: **[INSERT ADDRESS]**

For the **[COMPLETE FOR ALL OTHER PARTIES]**

Any party may change its address for service by serving a notice in accordance with this clause.

7.9 Insofar as any provision (or part provision) of this Deed is found (for whatever reason) to be invalid or unenforceable then such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

7.10 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.

7.11 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land or that part of the Land in relation to which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

## **8. WAIVER**

8.1 No waiver (whether expressed or implied) by the Authority or Owner of any breach or default in performing or observing any of the provisions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Authority or Owner from enforcing any of the relevant provisions or for acting upon any subsequent breach or default.

**9. JURISDICTION**

This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

**10. COUNTERPARTS**

This Deed may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one deed.

**11. MORTGAGEE'S CONSENT**

**[The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in this Deed and that the security of the mortgage over the Land shall take effect subject to this Deed PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.]**

This document has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it.

## SCHEDULE 1

### THE OWNER'S COVENANTS

#### Definitions

In this Schedule the definitions in the body of the Deed shall apply with the following additional definitions:

Adjoining Parish	any parish adjoining the Parish insofar only as the Parish and any Adjoining Parish are situate within the boundary of the Peak District National Park
Agreed Letting	the letting of the Affordable Dwelling to a Tenant in compliance with the terms of this Deed.
Approved Selling Price	a freehold or leasehold valuation of the Land subject to the Local Occupancy Restriction as determined by the District Valuer in accordance with the provisions of this Deed
Assured Shorthold Tenancy	an Assured Shorthold Tenancy under the Housing Act 1988 (or subsequent revision replacement or amendment of the same)
Assured Tenancy	an Assured Tenancy under the Housing Act 1988 (or subsequent revision replacement or amendment of the same)
Cascade Provisions	the provisions set out in paragraph 6 of this Schedule 1
Contiguous Parish	a parish which adjoins an Adjoining Parish insofar only as the Contiguous Parish is situate within the boundary of the Peak District National Park
Curtilage	the area of land attached to the Affordable Dwelling (or each of them) and forming one enclosure with it.
District Valuer	District Valuer appointed by the Valuation Office Agency for the area within which the Land is situated.
First Occupier	means <b>[the said [ ] who shall be]</b> the first occupier of the Affordable Dwelling following completion of the construction/ conversion of the Affordable Dwelling
First Occupation	the date the First Occupier Occupies the Affordable Dwelling
Floor Space Guidelines	the floor space guidelines published in the Development Management Policies Development Plan Document in force at the time of the grant of Planning Permission (or any subsequent revisions, replacements or amendments to the same).
Freehold Valuation	a valuation of the Land together with the Affordable Dwelling if sold upon the open market as a freehold estate without the Local Occupancy Restriction.
Homes England	the public body whose role is to fund Registered Providers pursuant to the Housing and Regeneration Act 2008 (or any statutory successor or successor recognised as such by government).
Leasehold Valuation	a valuation of the long leasehold interest created over the land (meaning a lease of over 21 years) if sold upon the open market without the Local Occupancy Restriction.
Letting	the letting of the Affordable Dwelling to a tenant on an Assured Shorthold Tenancy Assured Tenancy or periodic tenancy (upon payment of rent not exceeding the Maximum Rent) without payment of a premium or fine.
Local Occupancy Restriction	the restrictions upon Occupation of the Land imposed by this Deed
Local Qualification Provisions	a person who (immediately prior to taking Occupation) falls within one or more of the following categories: 1. a person (and his or her dependants) who has a minimum of 10 years permanent residence in the Parish or an Adjoining Parish; 2. a person (and his or her dependants) not now resident in the Parish but having lived for at least 10 years out of the last 20 years in the Parish or an Adjoining Parish

	3. a person (and his or her dependants) who has an essential need to live close to another person who has a minimum of 10 years permanent residence in the Parish, the essential need arising from infirmity.
Maximum Rent	the maximum rent that can be charged for the Affordable Dwelling at any particular time. This is the Open Market Rental at the time of the proposed letting less 20%.
Occupation, Occupy, Occupied and Occupier	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation relating to security operations
Open Market Rental	the open market rental for the Affordable Dwelling if let upon an Assured Shorthold Tenancy, Assured Tenancy or other periodic tenancy from year to year or less free from the Local Occupancy Restriction.
Over Investment	any expenditure on the Affordable Dwelling, fixtures, fittings and Curtilage for; a) the construction/conversion of the Affordable Dwelling (including the Land acquisition and all other associated costs) and b) any subsequent extensions or alterations to the Affordable Dwelling or its Curtilage that cause the Total Build Costs to exceed the verifiable costs of construction/conversion of dwellings for social housing schemes in different parts of the Peak District National Park at the date of the Planning Permission or subsequent extension/alteration.
Parish	the civil parish in which the Land is situate insofar only as the Parish is situate within the boundary of the Peak District National Park
Permitted Disposal	any of the following: (a) the grant of easements or rights, transfer, lease or dedication of any part of the Land to a local or other public authority pursuant to a requirement in an agreement or unilateral undertaking under section 106 of the Town and Country Planning Act 1990; (b) the grant of easements or rights, transfer, lease or dedication of any part of the Land to a highways authority to comply with highways requirements or in connection with the adoption or dedication of public highway; or (c) the grant of easements or rights, transfer, lease or dedication of any part of the Land to a utilities company for an electricity substation, gas governor, sewage or water pumping station, drainage balancing device or other similar matters for the provision of services; or (d) the creation of a charge over the Land or any part of it but excluding any Disposal by a mortgagee exercising its power of sale or leasing.
Proven Need for Accommodation	a need of the prospective Occupier which has been proved to the satisfaction of the Authority: (a) to be a need for accommodation which is of the size and type of the Affordable Dwelling as a result of the prospective Occupier being either; (i) a person (and his or her dependants) who is currently living in accommodation which is overcrowded or in the opinion of the Authority otherwise unsatisfactory or (ii) a person (and his or her dependants) who has an essential need to live close to another person who has a minimum of 10 years residence in the Parish, the essential need arising from infirmity and



	(b) to be a need which cannot be met within the existing housing stock at a price similar to that of the proposed Affordable Dwelling
Registered Provider	a provider of social housing pursuant to Part 2 of the Housing and Regeneration Act 2008 and has not been de-registered pursuant to Section 118 of that Act and who is approved by the Authority (such approval not to be unreasonably withheld or delayed).
Sale	a disposition within the meaning of s27(2) of the Land Registration Act 2002 of the whole or any part of the Land (whether or not for valuable consideration) including the grant or sale of a Shared Ownership Lease but excluding a Permitted Disposal
Shared Ownership Dwelling	an Affordable Dwelling which is part owned and part let by a Registered Provider and part owned and part let to an Occupier on the terms of a Shared Ownership Lease, with the ownership of the Occupier being no greater than 80%
Shared Ownership Lease	a lease upon which the Shared Ownership Dwelling shall be let containing covenants on the part of the lessee in the same terms as the Owner's Obligations contained in this Deed insofar as such Obligations are applicable and capable of taking effect and with the ownership of the Occupier being no greater than 80%
Tenant	a tenant of the Affordable Dwelling under the terms of an Agreed Letting
Total Build Costs	the total costs incurred by the Applicant or Owner in completing the Development including (but not limited to) the costs of Land acquisition, infrastructure and services.
Valuation Report	a valuation report prepared by the District Valuer in a form agreed by the Authority or any review of the same by the Authority

#### **LOCAL OCCUPANCY RESTRICTION**

1. Not to cause or permit the Affordable Dwelling to be Occupied by any person other than one who is occupying it as his/her sole residence.
2. Not to cause or permit the Affordable Dwelling to be Occupied by any person other than one who qualifies for the Occupation of the Affordable Dwelling in accordance with this Deed and (where the Owner is a Registered Provider) the letting regulations or shared ownership sales regulations of the Registered Provider.
3. Where the Owner is a Registered Provider, not to cause or permit any person to Occupy the Affordable Dwelling unless that person is a Tenant (or part owner of the Affordable Dwelling under a Shared Ownership Lease) PROVIDED THAT in the case of a Shared Ownership Dwelling no Occupier shall be permitted to own more than 80% of the freehold interest in the Affordable Dwelling under the Shared Ownership Lease and the Shared Ownership Lease shall contain a provision to this effect.
4. Where the Owner is not a Registered Provider:
  - 4.1 The First Occupier of the Affordable Dwelling shall **[be the said [ ] and shall]:**
    - 4.1.1 satisfy the Local Qualification Provisions **and**
    - 4.1.2 establish a Proven Need for Accommodation **and**

4.1.3 Occupy the Affordable Dwelling for a period of not less than 3 years, unless the Authority shall at the request of the First Occupier approve in writing a shorter period of occupation on the ground that overriding unforeseen circumstances have arisen.

4.2 After the first three years from the date of First Occupation, the Occupation of the Affordable Dwelling shall be restricted to a person or persons who accord with the Cascade Provisions.

5 Where the Owner is a Registered Provider:

5.1 The First Occupier of the Affordable Dwelling shall:

5.1.1 satisfy the Local Qualification Provisions **and**

5.1.2 establish a Proven Need for Accommodation

5.2 Thereafter the Occupation of the Affordable Dwelling shall be restricted to a person or persons who accord with the Cascade Provisions.

**CASCADE PROVISIONS**

6. All prospective Occupiers of the Affordable Dwelling (other than the First Occupier) are to be selected in accordance with the following priorities and in the following order:

6.1 Firstly, a person who qualifies in accordance with the Local Qualification Provisions.

6.2 Secondly, if no such person is found within a period of not less than 3 months of the date of first advertising of the Sale of the Land or Letting of the Affordable Dwelling (in accordance with paragraphs 16-18 of this Schedule 1) (“the First Advertising Date”) the prospective Occupiers shall be selected in the following order:

- i. Firstly a person currently resident in the Parish or an Adjoining Parish whose permanent residence for the last 5 consecutive years has been in the Parish or an Adjoining Parish;
- ii. Secondly, in the absence of such a person, a person who satisfies the Local Qualification Provisions in a Contiguous Parish rather than the Parish or an Adjoining Parish ;
- iii. Thirdly, in the absence of a person falling within categories i or ii above by the end of the period of 4 months from the First Advertising Date, a person whose permanent residence for the last 10 consecutive years has been in the Peak District National Park, who would qualify in accordance with the Local Qualification Provisions if they were amended so that instead of “Parish” and “the Adjoining Parish” the words “the Peak District National Park” were substituted;
- iv. Fourthly, in the absence of a person falling within categories i, ii or iii above by the end of the period of 6 months from the First Advertising Date, a person who would qualify in accordance with the Local Qualification Provisions if

they were amended so that the words “a part of a civil parish split by the National Park boundary but lying outside that boundary or a civil parish lying outside but adjacent to the said boundary” were substituted instead of “the Parish” and “the Parish or an Adjoining Parish”, such person having permanently resided in that civil parish or elsewhere in the Peak District National Park for the last 10 consecutive years.

- 6.3 At any time when the Owner is a Registered Provider, all prospective Occupiers shall also establish a Proven Need for Accommodation.
- 6.4 In the case of any prospective Occupier (other than the First Occupier or one who satisfies the Local Qualification Provisions) the Owner shall, prior to a Sale or Letting, provide satisfactory documentary evidence to the Authority that sufficient steps have been taken to find an Occupier falling within a higher priority group within the Cascade Provisions but that no such person has come forward.
- 6.5 For the avoidance of doubt, the Cascade Provisions shall apply afresh in the case of each proposed Sale or Letting of the Affordable Dwelling.

#### **FIRST VALUATION**

7. Immediately following completion of the Development when the Affordable Dwelling is fit for occupation the Owner shall write to the Authority requesting that the Authority instruct the District Valuer to prepare a Valuation Report to provide (a) a Freehold Valuation or where appropriate a Leasehold Valuation and (b) an Approved Selling Price in the case of a freehold and (c) an Open Market Rental valuation in respect of any letting. The District Valuer will prepare his valuations as an expert not as an arbitrator.
8. The Owner will be responsible for payment of all fees and expenses of the District Valuer.
9. In the event of the Owner not requesting that the Authority to instruct the District Valuer in accordance with the above provisions, the Authority shall be at liberty to instruct the District Valuer and the costs of this Valuation Report will be a debt due to the Authority by the Owner.
10. In determining the (a) Freehold or long leasehold Valuation (b) Approved Selling Price or (c) Open Market Rental the District Valuer shall disregard any Over Investment.

#### **RESTRICTIONS ON TRANSFER**

11. Not to cause or permit the disposal (other than a Permitted Disposal) of the Land
  - 11.1 except by way of a Sale or an Agreed Letting in both cases at a price or rental that reflects the provisions of this Deed, and
  - 11.2 in accordance with the provisions of paragraphs 12-15 of this Schedule 1, and

- 11.3 in the case of a Sale where the Owner is a Registered Provider, to any party other than a Registered Provider or an Occupier by way of a Shared Ownership Lease.
12. Before initiating any Sale of the Land the Owner shall again write to the Authority giving details of the proposed Sale and repeat the procedure for obtaining a Freehold Valuation or a Leasehold Valuation (as appropriate) and Approved Selling Price in accordance with clauses 7 to 10 of this Schedule 1.
13. The Owner having received the further Valuation Report may then proceed with the Sale of the Land at a price not exceeding the Approved Selling Price. A copy of the Valuation Report shall be made available to all parties interested in the Sale. The Owner shall not ask for nor accept any consideration for a Sale of the Land in excess of the Approved Selling Price.
14. Prior to agreeing any Sale of the Land the Owner must provide the Authority with the name and address of the proposed purchaser together with evidence, sufficient to satisfy the Authority (a) that the proposed purchaser complies with the Local Qualification Provisions, the Proven Need for Accommodation and/or Cascade Provisions (as applicable) **or** (b) that the proposed purchaser is a Registered Provider **and** (c) that the provisions relating to local advertising contained in paragraphs 16-18 of this Schedule 1 have been complied with.
15. The Owner shall ensure that the instrument of disposal (including a Shared Ownership Lease in the case of a Shared Ownership Dwelling) contains covenants on the part of the transferee or the lessee in the same terms as the Owner's Obligations contained in this Deed insofar as such Obligations are applicable and capable of taking effect. Upon the completion of any Sale or disposal of the Land the Owner will forthwith supply to the Authority a certified copy of the instrument of disposal.

## **LOCAL ADVERTISING**

### **Local advertising by non-Registered Provider**

16. Where the Owner is not a Registered Provider, before any Sale of the Land or Letting of the Affordable Dwelling (other than a Letting to the First Occupier):
- 16.1 The Owner shall endeavour to sell or rent to a person within the Parish or an Adjoining Parish satisfying the Local Qualification Provisions and advertise (in the case of a proposed Sale) that the Land/Affordable Dwelling is for Sale at a price not exceeding the Approved Selling Price or (in the case of a proposed Letting) that the Affordable Dwelling is available for letting at a rental not exceeding the Maximum Rent. The Affordable Dwelling must be advertised at least every four weeks in at least two newspapers circulating within the Parish and the Adjoining Parishes (or subsequently where the Cascade Provisions apply the Contiguous Parishes or Peak District National Park or

Adjoining Parishes outside of its boundary as appropriate). The advertisement must clearly identify the Affordable Dwelling as being available only to those people who satisfy the Local Qualification Provisions (and where applicable have a Proven Need for Accommodation or satisfy the Cascade Provisions). Copies of such advertisements must be provided to the Authority if requested.

- 16.2 The Owner shall also copy any advertisement to (a) the parish council of the Parish (b) the Parish Councils of the Adjoining Parishes/Contiguous Parishes/other parishes within the Peak District National Park (as appropriate) (c) the Housing Authority for the municipal district in which the Affordable Dwelling is situated (d) any housing association operating within the area in which the Land is situated and (e) any other housing associations or Registered Providers nominated by the Authority. A list of the relevant housing associations/Registered Providers will be provided by the Authority upon request. Copy letters should make clear who has been included in the circulation and that recipients are free to inform those that they consider may have an interest in the Affordable Dwelling

#### **Local advertising by Registered Provider**

17. Where the Owner is a Registered Provider, the local advertising requirements set out at paragraph 16 above shall apply to a Letting of the Affordable Dwelling or grant or Sale of a Shared Ownership Lease.
18. Before any Sale (other than by way of a grant or sale of a Shared Ownership Lease) of the Land (or part thereof) by a Registered Provider:
- 18.1 The Owner shall notify the following parties of the proposed Sale and that the Land is available for sale only to a Registered Provider at a price not exceeding the Approved Selling Price: (a) the parish council of the Parish (b) the Parish Councils of the Adjoining Parishes/Contiguous Parishes/other parishes within the Peak District National Park (as appropriate) (c) the Housing Authority for the municipal district in which the Affordable Dwellings are situated (d) any housing association operating within the area in which the Land is situated and (e) any other housing associations or Registered Providers nominated by the Authority. A list of the relevant housing associations/Registered Providers will be provided by the Authority upon request. Such notifications should make clear who has been included in the circulation and that recipients are free to inform those that they consider may have an interest in the property.

#### **RESTRICTIONS ON LETTING**

##### **Where the Owner is not a Registered Provider**

19. To ensure that any Tenant of the Affordable Dwelling accords with the Local Qualification provisions (and/or where applicable the Proven Need for Accommodation or Cascade Provisions) and to ensure that the rent does not exceed the Maximum Rent, the Owner

covenants to obtain the Authority's prior written approval to any proposed Letting and to provide the Authority with the following prior to agreeing any Letting:

- 19.1 the name and address of the intending Tenant together with evidence, sufficient to satisfy the Authority, that the intending Tenant satisfies the Local Qualification Provisions and/or where applicable the Proven Need for Accommodation or Cascade Provisions
  - 19.2 a draft copy of the proposed tenancy agreement. The said tenancy agreement must comply with the provisions of this Deed and in particular must include (a) a clause prohibiting any assignment or sub-letting in breach of the Local Occupancy Restriction and (b) a rent review clause that does not conflict with the provisions of this Deed (namely that any reviewed rent must not exceed the Maximum Rent at the time of review). The Letting must be made on the terms of the draft approved by the Authority.
  - 19.3 details of the proposed rent to be charged (including any reviewed rent)
20. Prior to agreeing any rent review under the terms of the tenancy agreement approved under paragraph 19 of this Schedule the Owner covenants to obtain the approval of the Authority to the proposed reviewed rent.

#### **Where the Owner is a Registered Provider**

21. Upon completion of the Letting or grant or sale of a Shared Ownership Lease of any Affordable Dwelling the Owner shall provide a certificate in writing to the Authority confirming that the Occupier complies with the Local Qualification Provisions and the Proven Need for Accommodation or the Cascade Provisions (as applicable).

#### **RESTRICTIONS ON EXTENSIONS/ALTERATIONS**

22. Not to execute, undertake or permit or allow any extensions or alterations to the Affordable Dwelling or its Curtilage without the prior consent of the Authority including (but not limited to) any of the following:-
  - 22.1 any extensions or alterations to the Affordable Dwelling that result in the total floor area exceeding the Floor Space Guidelines. (For the avoidance of doubt no internal or external alterations will be permitted which result in the total floor space of the Affordable Dwelling or any Affordable Dwelling within the Development exceeding 10% of the original floor space or 97 square metres, whichever is the lesser).
  - 22.2 any conversion of storage or roof space into a space to be used for other purposes
  - 22.3 any merging or uniting of the Affordable Dwelling with any other property or building
  - 22.4 any internal alterations to the Affordable Dwelling to the extent that they affect the Affordable Dwelling's ability to accommodate the number of persons for which it was designed (and as agreed in the original or any subsequent planning permissions).
23. The Owner shall not seek to use any of the following as a means of seeking the removal of the Local Occupancy Restriction:

- 23.1 any consent given by the Authority for the alterations referred to in paragraph 22 of this Schedule
- 23.2 any Over Investment
- 23.3 any under occupancy of the Affordable Dwelling (such that the Affordable Dwelling would then fall outside the Floor Space Guidelines).
24. The Owner agrees that notwithstanding any immunity gained through continuous breach of any planning condition the provisions of this Deed shall prevail in respect of the valuation of the Land/Affordable Dwelling and the Owner acknowledges that the Authority will enforce this deed as necessary to prevent the Affordable Dwelling being developed or used in breach of the s106 Obligations.

#### **MORTGAGEE IN POSSESSION CLAUSE**

25. Subject to the provision in paragraph 26 of this Schedule, paragraphs 1 to 21 of this Schedule shall not be binding on any mortgagee or chargee exercising a power of sale of any Affordable Dwelling or in the case of a Shared Ownership Dwelling a power to assign the Shared Ownership Lease in respect of that Shared Ownership Dwelling (and also upon and following the appointment of a receiver by any such mortgagee or chargee) (“the Mortgagee in Possession”) **PROVIDED THAT:**
- 25.1 the said mortgagee or chargee is a body corporate registered by the Financial Conduct Authority and/or the Prudential Regulation Authority (or any successor body whose function is to regulate mortgages and loans) and not otherwise, and
- 25.2 in the case of a Shared Ownership Lease the Mortgagee in Possession has offered to surrender the Shared Ownership Lease to the Registered Provider and either the Registered Provider has declined to purchase the share or has not responded to the offer within six weeks of the written offer being made; and
- 25.3 the Mortgagee in Possession has given not less than four months prior written notice to the Authority of its intention to dispose of the Affordable Dwelling or assign the Shared Ownership Lease (“the Disposal Notice”) and
- 25.4 in the event that the Authority responds within two months from receipt of the Disposal Notice indicating that arrangements for the transfer of the Affordable Dwelling or the Shared Ownership Lease can be made in such a way to safeguard it as an Affordable Dwelling then the Mortgagee in Possession shall cooperate with such arrangements so far as is reasonably practicable to secure a transfer that will achieve that outcome; and
- 25.5 if the Authority does not respond to the Disposal Notice or, if it does respond but no arrangements to secure a transfer pursuant to 25.4 above are completed within four months of the service of the Disposal Notice, then the Mortgagee in Possession shall be entitled to dispose free from the restrictions provided for in paragraphs 1 to 21 of this Schedule 1.

26 On a subsequent Sale or Letting of the Affordable Dwelling all of the provisions of this Deed (including paragraphs 1 to 21 of this Schedule 1) shall again apply.

**REQUIREMENT TO PROVIDE INFORMATION**

27 To assist the Authority in monitoring affordable housing within the Peak District National Park and to enable it to fulfil its statutory functions the Owner covenants to fully respond to requests for information from the Authority regarding the occupation or use and development of the Land/Affordable Dwelling within 30 days of receipt of a written request for the same (or such longer period as the Authority may agree in writing).

**SCHEDULE 2**

DRAFT FORM OF NOTICE OF PLANNING PERMISSION ATTACHED

The COMMON SEAL of )  
PEAK DISTRICT NATIONAL PARK AUTHORITY )  
was affixed to this deed in the presence of )

Authorised Signatory

Signed as a Deed by the said [ ].....  
in the presence of:-

Witness Signature .....  
Name .....  
Address .....  
.....

Signed as a Deed by the said [ ].....  
in the presence of:-

Witness Signature .....  
Name .....  
Address .....  
.....

[other executions]



PEAK DISTRICT NATIONAL PARK AUTHORITY

and

**[OWNER]**

and

**[APPLICANT]**

and

**[FIRST OCCUPIER]**

and

**[MORTGAGEE]**

**PLANNING OBLIGATION BY DEED**

**under s106 of the Town and Country Planning Act 1990 relating to [LAND AT.....]**

**(Locally needed affordable dwelling)**

Andrea G. McCaskie  
Head of Law  
Peak District National Park Authority  
Aldern House  
Baslow Road  
Bakewell  
Derbyshire  
DE45 1AE