

THIS DEED is made the _____ day of _____ 2020

BETWEEN:

- (1) **Dartmoor National Park Authority** of Parke, Bovey Tracey, Newton Abbot, Devon TQ13 9JQ (“the Authority”)
- (2) **South Hams District Council** of Follaton House, Plymouth Road, Totnes, Devon, TQ9 5NE (“the District Council”)
- (3) **South Brent Eden Ltd (Company Number 10808803)** whose registered office is at 201 Haverstock Hill, Second Floor C/O Fkgb, London, England, NW3 4QG (“the Owner”)

WHEREAS:

- 1. The Authority is the Local Planning Authority for the purposes of the Town & Country Planning Act 1990 for the area that includes the Land and by whom the Obligations imposed by this Agreement shall be enforceable.
- 2. The District Council is the District Council for the Parish of South Brent
- 3. The Owner is the registered proprietor of the freehold interest in the Land with Title Absolute under Title Number DN90120.
- 4. The Authority in exercise of its powers under the Town & Country Planning Act 1990 has resolved to grant Planning Permission for the Development, subject to satisfactory completion of this Deed

THIS DEED NOW PROVIDES AS FOLLOWS:

1 General Definitions

In this Deed the following definitions shall apply:

- Affordable Dwelling** means each of the fourteen (14) dwellings to be erected on the Land identified on Plan 2 to be delivered as Affordable Rented Dwellings pursuant to and as defined in Schedule 1
- Application** the application for full planning permission registered by the Authority under reference 0346/18 to develop the Land by the erection of 40 dwellings, to include fourteen (14) Affordable Dwellings.

Commencement Development	of the date on which any material operation (as defined in Section 56(4) of the 1990 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 Land 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, pegging out operations, diversion and laying of services, laying out of a road, erection of any temporary means of enclosure, the temporary display of Land notices or advertisements and “Commence Development” shall be construed accordingly
Dartmoor National Park	means all that land designated as Dartmoor National Park under the Dartmoor National Park (Designation) Order 1951 as amended by the Dartmoor National Park (Designation) Variation Order 1990
Development	the development of the Land in accordance with the Planning Permission
Dwelling	A dwelling to be constructed on the Land pursuant to Planning Permission inclusive of Open Market Dwellings and Affordable Dwellings
Expert	means a person of not less than 10 (ten) years recent and relevant experience in the matter in dispute and who will be appointed by the Authority in accordance with clause 5 of this Deed
Index	means the All in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation
Interest	means interest at 4 per cent above the base lending rate of the Bank of England from time to time
Land	land at Fairfield, South Brent in the county of Devon as shown edged red on Plan 1, which land is registered at the Land Registry under title number DN90120

Mortgagee	means 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
Obligations	the planning obligations described in the Schedules to this Deed
Open Market Dwellings	all those dwellings which are not Affordable Dwellings
Plan 1	the plan appended to this Deed and marked Plan 1
Plan 2	the plan appended to this Deed and marked Plan 2
Planning Permission	such planning permission as may be granted by the Authority in respect of the Application
T&CPA 1990	the Town & Country Planning Act 1990 (as amended)
Working Day	means any Monday to Friday (other than any statutory or bank or public holidays or a day on which clearing banks are not open for normal business) and does not include the days between 23 December and the immediately following 2 January in each year

2 Interpretation

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

- 2.1 The singular includes the plural, the masculine includes the feminine and vice versa;
- 2.2 References to clauses and schedules are to the clauses in and schedules to this Deed;

SCHEDULE ONE

Affordable Dwellings

Definitions

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

Affordable Housing Provider (“AHP”)	means a registered social landlord or a local or similar authority or a housing association or similar organisation or a social landlord or registered provider or such other body or organisation whose main objective is the provision of affordable housing or such other company or individual as might be agreed in writing between the parties
Adjacent Rural Parish	the rural parishes adjacent to the Parish of Provision which are wholly or substantially within Dartmoor National Park, namely the parishes of Dartmoor Forest (excluding Princetown), Dean Prior, Rattery and Ugborough
Affordable Rent	a rent that does not exceed 80% of the local market rents (including any service charges) and does not exceed the local housing allowance rate applicable to South Hams published by the Valuation Office Agency of HM Revenue and Customs.
Affordable Rented Dwelling	each of the fourteen (14) Affordable Dwellings identified on Plan 2, let for occupation by an Eligible Household at a rent (including any service charge) not to exceed an Affordable Rent
Disposal	a disposition within the meaning of section 27(2) of the Land Registration Act 2002 (not including the creation of a legal charge) or the grant of any tenancy and “Dispose” and “Disposed” shall be construed accordingly
Eligible Household	a household deemed to be in Housing Need and who has a Local Connection
Family Member	Mother, father, sister, brother, daughter, son
Homes England	Homes England, 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

Housing Need means a household formally assessed and registered as being homeless or threatened with homelessness or living in accommodation which in the opinion of the relevant District or Borough Council is insecure or unsuitable and being unable to purchase or rent reasonably suitable accommodation in the open market for property in the locality where the Affordable Dwelling is situated taking into account the person's income and capital and other financial circumstances. Accommodation may be unsuitable on the grounds of cost, overcrowding, unfitness or lack of basic amenities or because of a person's infirmity, physical disability, mental disability or specific social or care needs

Local Connection means a household containing at least one permanent resident who –

A) currently lives in the Parish of Provision or Adjacent Rural Parish and having done so for a least five years; or

B) has lived in the Parish of Provision or Adjacent Rural Parish for at least five years, but moved away within the past five years; or

C) has a strong local connection to the Parish of Provision or Adjacent Rural Parish by virtue of, for example: upbringing or current employment

Initial Period the period of four weeks starting from the date the Affordable Rented Dwelling is advertised for rent

Parish of Provision the civil parish of South Brent

The Owners' Covenants

- 1.1 The Owner covenants to manage and deal with the Affordable Rented Dwellings in perpetuity in accordance with the Obligations set out in this Schedule One.
- 1.2 The Owner covenants with the Authority to construct the Development in such manner as to ensure that fourteen (14) of the Dwellings shall be provided as Affordable Rented Dwellings.

Restriction on Occupation of Open Market Dwellings

- 2.1 The Owner shall transfer the freehold estates of the completed Affordable Rented Dwellings to an Affordable Housing Provider in accordance with paragraphs 2.2-2.4 below.

- 2.2 The Owner shall not cause or permit the first Occupation of more than 20 Open Market Dwellings until the Owner has transferred the Affordable Rented Dwellings to an Affordable Housing Provider.
- 2.3 The transfer of the Affordable Rented Dwellings to the Affordable Housing Provider shall be in such form as the Owner shall reasonably require to ensure that the Affordable Rented Dwellings are subject to substantially the same rights and easements and covenants (both restrictive and positive) as are to be granted and reserved in sales of the Open Market Dwellings.
- 2.4 The Owner shall provide to the Authority with at least one month's prior written notice of the anticipated date on which the Affordable Rented Dwellings shall be available for Occupation.

Restrictions on Occupation of Affordable Rented Dwellings

- 3.1 Not to permit or otherwise allow any of the Affordable Rented Dwellings to be let other than:
- 3.1.1 to an Eligible Household; and
 - 3.1.2 at a sum not exceeding the Affordable Rent;

No eligible Household can be Found

- 3.2 If upon the expiry of the Initial Period, the Affordable Rented Dwelling is vacant and no person has signed a tenancy agreement, the Affordable Rented Dwelling may be allocated to any person who demonstrates to the reasonable satisfaction of the Authority or the District Council that they are in Housing Need, **and** either:
- (a) they are currently living in Dartmoor National Park, having done so for a continuous period of not less than 12 months; **or**
 - (b) they have a strong local connection to Dartmoor National Park, for example by reason of:
 - (i) employment or paid work (in each case for not less than 16 hours per week) in the National Park, having done so for a continuous period of at least two (2) years
 - (ii) being a person whose upbringing or a significant part of their upbringing took place in the National Park
 - (iii) having a Family Member who is living in the National Park and has done so for a continuous period of at least five (5) years.
 - (iv) having previously lived in the National Park for at least five (5) years
- 3.3 If upon the expiry of a period of 10 Working Days, commencing on the expiry of the Initial Period, no person has signed a tenancy agreement, the Affordable Rented Dwelling may be allocated to any person who demonstrates to the reasonable satisfaction of the Authority or its District Council that they are in Housing Need and any such person shall be conclusively presumed for the purposes of this Deed to be entitled to Occupy the Affordable Rented Dwelling.

3.4 In the event that an Affordable Rented Dwelling is let pursuant to paragraphs 3.2- 3.3 above, to a person who is not an Eligible Household within the meaning of this Schedule, once that persons' tenancy comes to an end, the provisions of this Schedule shall continue to apply.

Mortgagee Protection

4.1 The affordable housing covenants and restrictions in this Deed shall not be binding on a Mortgagee or Receiver PROVIDED THAT:

- (a) A Mortgagee or Receiver shall give prior written notice to the District Council of its intention to Dispose of any Affordable Rented Dwelling (the "Mortgagee's Notice") and shall thereafter use reasonable endeavours over a period of at least three calendar months from the date of the Mortgagee's Notice to complete a Disposal of the Affordable Rented Dwelling to an Affordable Housing Provider PROVIDED ALWAYS that the Mortgagee or Receiver shall not be under any obligation to Dispose of the Affordable Rented Dwelling for a sum less than the monies outstanding pursuant to the mortgage or charge or pursuant to the terms of any security documentation including all accrued principal monies, interest costs and charges.
- (b) In the event that a Disposal of the Affordable Rented Dwelling(s) pursuant to paragraph 4.1 (a) above cannot be completed by the date which is three calendar months after the date of the Mortgagee's Notice, the Mortgagee or Receiver shall be entitled to Dispose of the Affordable Rented Dwelling(s) free of the restrictions as to affordable housing in this Deed and such restrictions shall in respect of the relevant Affordable Rented Dwelling(s) cease to apply and determine absolutely