(1) **HUNTLEY FARMS LLP**

(2) **LEGAL & GENERAL (STRATEGIC LAND NORTH HORSHAM) LIMITED**

(3) **HORSHAM DISTRICT COUNCIL**

AGREEMENT

Section 106 of the Town and Country Planning Act 1990 in respect of

Land at Rusper Road, Horsham, West Sussex

Lauren Kelly – Head of Legal and Democratic Services
Horsham District Council
Albery House
Springfield Road
Horsham
West Sussex
RH12 2GB

Legal Ref: SW/0011780
Planning Ref: DC/24/0061

THIS AGREEMENT is made as a deed and dated 2025

Between

(1) **Horsham District Council** of Albery House, Springfield Road,, Horsham, West Sussex RH12 2GB (the **Council**);

(2) **Huntley Farms LLP** (company registration number OC315766) whose registered office is situated at Stephenson Place, Stephenson Way, Three Bridges, Crawley West Sussex RH10 1TL (the **Owner**); and

(3) **Legal & General (Strategic Land North Horsham) Limited** (company registration number 11711423) whose registered office is situated at One Coleman Street, London, England, EC2R 5AA (the **Second Owner**);

together the PartiesRECITALS

Whereas

A The Council is the local planning authority as defined in the Act for the area within which the which the Biodiversity Gain Land is situated for the purposes of this Deed and for the purposes of section 106 of the Act and as such is entitled to enforce the planning obligations contained herein;

B The Owner is the registered proprietor of part of the Biodiversity Gain Land, with title absolute which is registered at HM Land Registry under title number WSX211188;

C The Owner has entered into agreements dated 8 May 2013 and 7 June 2018 respectively with Liberty Property Trust UK Limited by way of option agreements and pre-emption agreements for the purchase of the Site and the Second Owner is the beneficiary of those agreements as detailed in paragraphs 4 to 13 of the Charges Register.

D The Second Owner is the registered proprietor of part of the Biodiversity Gain Land, with title absolute which is registered at HM Land Registry under title numbers WSX430988 and WSX447032.

E This Deed is entered into to ensure that the Biodiversity Gain Land provides a Biodiversity Net Gain to satisfy the requirements of Schedule 7A of the 1990 Act.

It is agreed as follows:

1 Definitions

1.1 For the purposes of this Deed the following expressions shall have the following meanings unless the context requires otherwise:

1990 Act means the Town and Country Planning Act 1990 (as amended).

Agreement Expiry Date means a date which is the expiration of the period of 30 years following the Completion Date.

Allocation means attributing any BNG Capacity, whether in respect of Biodiversity Units or Biodiversity Gain Land, by the Ownerstoward a development's requirement to deliver biodiversity (and **Allocate** and **Allocated** and **Allocations** shall be construed accordingly).

Area Habitat Units means the net gain of 24.67 area habitat units as measured by the Biodiversity Metric which will be achieved by the delivery of::

- 0.62 hectares of other woodland; broadleaved in moderate condition
- 3.53 hectares of other neutral grassland in moderate condition
- 0.406 hectares of mixed scrub in moderate condition
- 0.06 hectares of ponds (non-priority habitat) in moderate condition
- 0.33 hectares of rural trees (comprising the planting of no.82 trees) in moderate condition

Biodiversity Gain Land means land shown edged [red] on Plan 1.

Biodiversity Gain Land Monitoring Contribution means the sum of £4180 (four thousand one hundred and eighty pounds) to be paid by the Owner and the Second Owner to the Council under paragraph 5 of Schedule 2 of this Deed to be applied by the Council as a financial contribution towards the Council's costs of monitoring compliance with the Owner and the Second Owner's obligations under this Deed for the purpose of achieving the Biodiversity Net Gain as specified in the Habitat Management and Monitoring Plan.

Biodiversity Gain Site Register means the statutory biodiversity gain site register created under regulation 3 of the Biodiversity Gain Site Register Regulations 2024 or any other equivalent regulations.

Biodiversity Metric means the statutory biodiversity accounting tool published by DEFRA or Natural England from time to time that can be used to measure the biodiversity value or relative biodiversity value of habitat or habitat enhancement for the purposes of biodiversity net gain.

Biodiversity Net Gain or **BNG** means an increase in Biodiversity Units resulting from implementing the Habitat Management and Monitoring Plan (as measured using the Biodiversity Metric) that can be Allocated to a development to fulfil its requirement to create or enhance biodiversity under Schedule 7A of the 1990 Act.

Biodiversity Unit(s) means the quantum of biodiversity as measured by the Biodiversity Metric.

BNG Capacity means the total Biodiversity Units offering comprising of:

(a) Area Habitat Units; and

(b) Hedgerow Units.

resulting from the implementation of the Habitat Management and Monitoring Plan on the Biodiversity Gain Land.

Breach Notice means a notice which may be served by the Council on the Owners (or either one of them) under paragraph 6 of schedule 3 of this Deed.

Certificate of Completion means a written certificate of completion confirming that the Habitat Creation and Enhancement Works have been completed to the reasonable satisfaction of the Council on the Completion Date issued (or deemed to have been issued) by the Council under paragraph 1.1(b)(i) of Schedule 3 in the form appearing at Appendix 1

Commencement Date means the date upon which the Habitat Creation and Enhancement Works have commenced.

Completion Date means the date specified in the Certificate of Completion as the date the Habitat Creation and Enhancement Works were completed.

Completion Date Notice means written notice from the Owner and the Second Ownerto the Council of the proposed Completion Date of the Habitat Creation and Enhancement Works served in accordance with paragraph 17(d) of Schedule 2.

Covenant Period: 30 years from and including the Completion Date.

Deed: this agreement.

DEFRA means the public body known as the Department for Environment, Food & Rural Affairs or any successor body which acts as the Government's advisor for the natural environment, food or rural affairs in England.

Expert has the meaning given by Clause 8 of this Deed.

Habitat Creation and Enhancement Works means the habitat creation and enhancement works set out in the Habitat Management and Monitoring Plan (excluding any management or monitoring activities specified in the Habitat Management and Monitoring Plan).

Habitat Management and Monitoring Plan or **HMMP** means the approved document titled 'Habitat Management and Monitoring Plan' at Schedule 4 which contains written narrative and spatial mapping details for Biodiversity Net Gain on the Biodiversity Gain Land.

Hedgerow Units means the net gain of 3.36 hedgerow units as measured by the Biodiversity Metric which will be achieved by the delivery of:

0.39 kilometres of species rich native hedgerow in good condition

Insolvency Event means, in respect of the Owner or the Second Owner:

(a) a winding up order is made by the Court;

(b) an administrator is appointed under the provisions of Schedule B1 of the Insolvency Act 1986;

(c) a receiver, liquidator, provisional liquidator, administrative receiver is appointed in respect of it, or any of its assets;

(d) a resolution is passed for its winding up, liquidation or reorganisation (save for the purposes of a solvent reorganisation);

(e) an order is made for a moratorium under Part A1 and Schedule ZA1 of the Insolvency Act 1986; or

(f) a bankruptcy order is obtained against an individual under part IX of the Insolvency Act 1986.

Interest means Interest at a rate of 4% above the base rate of the NatWest Bank PLC from time to time.

Management Company means a limited company or company limited by guarantee (or companies) established by the Second Owner to be responsible for the maintenance and management of Public Amenity Space which forms part of Residential Managed Land as defined by and in accordance with the provisions of the Outline Agreement and known as Mowbray Estate Management Company Limited Co Reg No 14367079 of registered address Units 1-3 Beech Court, Wokingham Road, Hurst, Berkshire, United Kingdom, RG10 0RQ.

Monitoring Report means the monitoring reports to be issued to the Council as specified in the Habitat Management and Monitoring Plan.

Natural England means the public body known as Natural England or any successor body which acts as the Government's advisor for the natural environment in England.

Owners means the Owner and the Second Owner together.

Owners' Obligations means the obligations given to the Council by the Owner and the Second Owneras set out in Schedule 2.

Outline Agreement means the Section 106 Agreement dated 1 March 2018 between (1) Horsham District Council (2) West Sussex County Council (3) Thomas Gue (4) Maxwell Gerald Walton and Cathering Lucie-Ann Walton (5) Philip Graham Hardy (6) Graylands Farm Limited (7) Louise Anne Bubb, Alexander James Bubb and Olwen Jennifer Jones (8) John Alfred Heydon and Lynn Jennifer Heydon (9) Nicholas Charles Kenward and Melanie Jane Kenward (10) Sarah Jane Marsh and James Owen Marsh (11) Ricardo John Roberto and Glenda Coral Macmanus (12) Huntley Farms LLP (13) Lorna Anne Cain (14) Pauline Grace Carmichael, Robert Ingram Carmichael and Elizabeth Grace Jackson (15) Liberty Property Trust UK Limited (16) Clydesdale Bank

PLC (7) Svenska Handelsbanken AB (PUBL) (18) Liberty Property Trust UK Limited associated with the Outline Planning Permission for planning permission reference DC/16/1677

Parties means (collectively) the Council, Owner and Second Ownerand **Party** shall refer to any of them as the context requires.

Plan 1 means the plan marked "Plan 1" at Schedule 1

Register means act of applying for Registration on the Biodiversity Gain Site Register.

Registration means the record on the Biodiversity Gain Site Register of the Biodiversity Gain Land, the BNG Capacity, the Remaining BNG Capacity, and any Allocations.

Relevant Event means any of the following events:

(a) a change in the law and/or national policy; or

(b) a decision of a Court, tribunal, Secretary of state or other decision maker with competence,

that results in Biodiversity Net Gain not being required by law or the Biodiversity Gain Land the subject of this Deed no longer being considered to be an effective form of Biodiversity Net Gain.

Remaining BNG Capacity means the available BNG Capacity on the Biodiversity Gain Site Register which can be Allocated to a development

Variation Event means any of the following events that would have a material impact on the calculation of any un-Allocated Biodiversity Net Gain:

(a) a change in Natural England's guidance or policies;

(b) a change in industry practices or in the generally accepted calculation methods for the type or extent of land required to achieve Biodiversity Net Gain;

(c) the Biodiversity Metric is amended, updated, or replaced by Natural England and/or DEFRA;

(d) the Biodiversity Gain Land becomes designated under law or is otherwise encumbered by any right which would be incompatible with the Biodiversity Net Gain or any existing Allocation; or

(e) such other event as may be agreed between the Parties as constituting a Variation Event.

Working Day means Monday to Friday inclusive excluding Bank or public holidays.

1.2 Clause headings do not affect the interpretation of this Deed.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 A reference to a **company** includes any company, corporation or other body corporate, wherever and however incorporated or established.

1.5 Unless the context otherwise requires, words in the singular include the plural and in the plural shall include the singular.

1.6 Unless the context otherwise requires, a reference to one gender includes a reference to the other genders.

1.7 A reference to the Owner or Second Owner includes those deriving title through or under it. A reference to the Council includes any successors to its statutory functions.

1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.9 Unless the context otherwise requires, a reference to a statute or statutory provision does include any subordinate legislation made from time to time under that statute or statutory provision.

1.10 A reference to **writing** or **written** excludes faxes and e-mail.

1.11 A reference to **this Deed** or to any other deed or document referred to in this Deed is a reference to this Deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time.

1.12 References to Clauses and Schedules are to the Clauses and Schedules of this Deed.

1.13 An obligation on a Party not to do something includes an obligation not to allow that thing to be done.

1.14 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.15 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2 Legal Basis

2.1 This Deed is made under Section 106 of the Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 with intent that it creates planning obligations binding the Owner and the Second Owner's interests in the Biodiversity Gain Land.

2.2 The obligations, restrictions and covenants in Clause 4 are planning obligations for the purposes of Section 106 of the Act enforceable by the Council as local planning authority.

2.3 No person shall be liable for any breach of any provisions of this Deed after it shall have parted with its entire interest in the Biodiversity Gain Land or the part of the Biodiversity Gain Land in relation to which the breach relates but without prejudice to its liability for any subsisting breach arising prior to parting with such interest and for the purposes of this clause a person parts with an interest in the Biodiversity Gain Land notwithstanding the retention of easements or the benefit of covenants, restrictions or reservations which shall not constitute an interest for the purposes of this clause.

3 Conditionality and Termination

3.1 This Deed is effective on the date it is dated.

3.2 This Deed shall terminate on the Agreement Expiry Date, where the Owner and the Second Owner are not in material and continuing breach of their obligations at that date.

3.3 Where a Relevant Event occurs, the obligations in Clause 4 shall not apply in relation to any Biodiversity Gain Land which has not been Allocated at the date of the Relevant Event.

3.4 The termination of this Deed under clause 3.2 shall not affect any accrued rights and liabilities or any rights or remedies of the parties for breach, non-observance of non-performance of the obligations under this Deed.

4 The Owner and Second Owner's Covenants

The Owner and the Second Owner covenant jointly and severally with the Council so as to bind their interests in the Biodiversity Gain Land as set out in Schedule 2 of this Deed.

5 The Council's Covenants

The Council covenants with the Owner and the and SecondOwner as set out at Schedule 3.

6 Interest on late payment

If any sum or amount has not been paid to the Council by the date it is due, the Owner and Second Owner shall pay the Council interest on that amount at the Interest Rate. Such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

7 Ownership

7.1 The Owner and the Second Owner shall notify the Council immediately of any change in ownership of any of their interests in the Biodiversity Gain Land occurring before all the obligations under this Deed have been discharged.

7.2 Notice under Clause 7.1 shall include details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Biodiversity Gain Land or unit of occupation purchased by reference to a plan.

7.3 The Owner and the Second Owner warrant that no person other than the Owner and the Second Owner has any legal or equitable interest in the Biodiversity Gain Land.

8 Disputes

8.1 In the event of any dispute or difference arising out of the terms of this Deed such dispute or difference may, subject to Clause 8.4, be referred by any Party giving written notice to the other Parties to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as the Expert whose decision shall be final and binding on the parties in the absence of manifest error.

8.2 Any costs incurred by referring a dispute to the Expert under this clause shall be borne by the Party incurring such costs unless the Expert determines otherwise.

8.3 A person appointed under this clause shall act as an independent expert and not an arbitrator. It shall be a term of appointment that a timetable for determination of the dispute shall be fixed at the outset of the matter provided that such timetable shall provide that:

(a) each Party to the dispute must submit its first representations to the person appointed under Clause 8.1 above within 28 days of the person appointed writing to the parties requesting such representations; and

(b) once the parties to the dispute have received the first representations that each has submitted to the person appointed under sub-Clause (a) above, they shall have a further 14 days to submit to the person appointed their response to these first representations.

8.4 This Clause does not:

(a) affect the Council's ability to apply for and be granted:

(i) declaratory or injunctive relief, specific performance, payment of any sum, damages or any other means of enforcing this Deed; or

(ii) consequential and interim orders and relief;

(b) not apply to disputes in relation to matters of law which will be subject to the jurisdiction of the courts;

(c) fetter any Party's rights to bring an action in the courts;

(d) apply to any dispute in relation to any matter which is expressly to be agreed or approved or determined by any Party in its absolute discretion under this Deed or in relation to any failure or delay by such Party in agreeing or approving or determining such matter in its absolute discretion.

9 Costs

9.1 The Owner and the Second Owner shall pay to the Council the Council's reasonable and proper legal costs incurred in the preparation, negotiation and completion of this Deed on or before the date of this Deed.

10 Waiver

No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants, terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

11 Mortgagee Liability

11.1 Any future mortgagee or chargee of any part of the Biodiversity Gain Land shall have no liability under this Deed unless it takes possession of the Biodiversity Gain Land in which case it shall be bound by the obligations in Clause 4 as a person deriving title through the Owner or the Second Owner.

12 General

12.1 The Parties undertake that:

12.1.1 this agreement constitutes a Deed.

12.1.2 nothing in this Deed confers or is intended to confer a benefit on a third party under the Contracts (Rights of Third Parties) Act 1999.

12.1.3 It is hereby agreed by the Owner and the Second Owner that failure by the Council at any time to enforce the provisions of this Deed or to require performance strictly or otherwise by the Owner or the Second Owner of any of the conditions, covenants, agreements or obligations of this Deed or any failure or delay by the Council to exercise any act, right or remedy shall not be construed as a creating an estoppel in connection with any such condition, covenant, agreement or obligation and shall not affect the validity of this Deed or any part thereof or the right of the Council to enforce any provision and any variation of this Deed shall not vitiate the remainder of the Deed which shall remain in full force and effect subject to such amendment or amendments.

12.1.4 The Owner and the Second Owner hereby undertake that:

12.1.4.1 this Deed supersedes and replaces all previous negotiations whether oral or written;

12.1.4.2 the Owner and the Second Owner have not relied on any express or implied statement warranty representation or undertaking given by or on behalf of the Council; and

12.1.4.3 nothing herein contained excludes the liability of any party in relation to fraud.

12.1.5 The Owner and the Second Owner acknowledge that this Agreement will be registered as a local land charge.

12.1.6 The Owner and the Second Owner hereby give consent for Plan 1 at Schedule 1 to be reproduced by the Council.

12.1.7 If any provision in this Deed shall be held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired.

12.1.8 Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 applies to the covenants in this Deed.

12.1.9 References to the Biodiversity Gain Land include any part of it.

12.1.10 Any covenant by the Owner and/or the Second Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.

12.1.11 Where any payment of costs or other payments are to be made by the Second Owner or the Owner to the Council such costs and other payments shall be deemed to be reasonable and proper.

12.1.12 If any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable, such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provision of this Deed.

12.1.13 Nothing contained or implied in this Deed shall prejudice or affect the rights, powers, duties and obligations of the Council in the exercise of its functions in any capacity (including in particular its capacities as highway authority and local planning authority) and the rights, powers, duties and obligations of the Council under private, public or subordinate legislation may be effectively exercised as if it were not a Party to this Deed.

13 Limitation of Liability

13.1 No person shall be liable under this Deed after it shall have parted with its interest in the Biodiversity Gain Land (or in the event of a disposal of part of the Biodiversity Gain Land be liable in respect of that part disposed) but without prejudice its liability for any subsisting breach arising prior to parting with such interest (or part thereof).

13.2 This Deed shall not be enforceable against:

(a) any statutory undertaker who acquires any part of the Biodiversity Gain Land or interest therein for the exclusive purpose of carrying out their statutory undertaking; or

(b) any person whose only interest in the Biodiversity Gain Land or any part of it is in the nature of the benefit of an easement or covenant, or as the owner of the sub-soil of any highway within the Biodiversity Gain Land.

13.3 No person shall be liable for breach of obligation if it is shown:

(a) That the breach occurred as a result of a matter beyond the defendant's control; or

(b) That the breach occurred as a result of doing, or not doing, something in an emergency in circumstances where it was necessary for that to be done, or not done in order to prevent loss of life or injury to any person.

14 Notices

14.1 Any notice, certificate or other communication required or permitted to be given under this Deed shall be:

(a) in writing; and

(a) either

(i) delivered by hand; or

(ii) sent by pre-paid first-class post or other next working day delivery service.

(b) sent to

(i) the Council at the address referred to on page 1 of this Deed (marked for the attention of the Head of Development and Building Control or as otherwise notified to the Second Owner and/or Owner from time to time); and

(ii) any other Party at its registered address or as otherwise notified to the Council from time to time).

14.2 Any notice, certificate of other communication sent by post shall be deemed (in the absence of evidence of receipt) to have been delivered 2 (two) Working Days after despatch and in proving the fact of despatch it shall be sufficient to show that the envelope was properly addressed and posted.

14.3 Any notice, certificate or other communication delivered personally shall be deemed to have been delivered at the time it is received provided it is received between 0900hrs

and 1700hrs on a Working Day but otherwise it shall be deemed to have been received on the next Working Day.

14.4 This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15 Value Added Tax

15.1 Any sum payable under this Deed is exclusive of VAT (if any).

15.2 If at any time VAT is required to be paid in respect of any sum due under this Deed then to the extent that VAT had not been previously charged in respect of that sum the Council shall have the right to issue a VAT invoice and the VAT shall be paid accordingly.

16 Governing Law

16.1 This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the Parties submit to the exclusive jurisdiction of the courts of England.

17 Execution

This Deed has been executed by the Parties and is delivered on the date on the first page.

IN WITNESS whereof this Agreement has been duly executed the day and year first hereinbefore mentioned

EXECUTED as a **DEED** by **HUNTLEY FARMS LLP**
Acting by two members

……Signature of Member

……Print Name

In the presence of:

W……Signature
I……...Print Name
T……..Address 1
N……..Address 2
E……..Address 3
S……..Post Code
S……..Occupation

……Signature of Member

……Print Name

In the presence of:

W……Signature
I……...Print Name
T……..Address 1
N……..Address 2
E……..Address 3
S……..Post Code
S……..Occupation

EXECUTED as a **DEED** by **LEGAL & GENERAL (STRATEGIC LAND NORTH HORSHAM) LIMITED**
Acting by two directors or a director and a company secretary

……Signature

……[Director]

In the presence of:

W……Signature
I……..Print Name
T……..Address 1
N……..Address 2
E……..Address 3
S……..Post Code
S……..Occupation

……Signature

……[Director/Secretary]]

In the presence of:

W……Signature
I……..Print Name
T……..Address 1
N……..Address 2
E……..Address 3
S……..Post Code
S……..Occupation

SEALED WITH THE COMMON SEAL of

HORSHAM DISTRICT COUNCIL

in the presence of:

Authorised Officer

Schedule 1– Plan 1 (Biodiversity Gain Land)

Schedule 2 – Owner and Second Owner's Covenants

The Owner and the Second Owner covenant with the Council so as to bind their interests in the Biodiversity Gain Land as follows:

Implementation of the Habitat Management and Monitoring Plan

1.1 To:

(a) notify the Council in writing of the Commencement Date within 10 Working Days of it occurring;

(b) begin the Habitat Creation and Enhancement Works no later than the date 12 months following the date of Registration; and

(c) complete the Habitat Creation and Enhancement Works in accordance with the Habitat Management and Monitoring Plan by no later than 12 months from the service of the Commencement Notice;

(d) issue the Completion Date Notice to the Council within 10 Working Days of the completion date of the Habitat Creation and Enhancement Works;

(e) promptly rectify any defects in the Habitat Creation and Enhancement Works identified by the Council under paragraph 1.1(b)(ii) of Schedule 3 and issue a subsequent Completion Date Notice and thereafter to continue to rectify any defects and issue Completion Date Notices until the Council issues a Certificate of Completion;

(f) upon receiving the Certificate of Completion from the Council, maintain the Biodiversity Gain Land in accordance with the Habitat Management and Monitoring Plan for a period of not less than 30 years from the Completion Date; and

(g) provide a Monitoring Report to the Council within 20 (twenty) Working Days of each Monitoring Report date specified in the Habitat Management and Monitoring Plan.

2 Allocation

2.1 To notify the Council when:

(a) the BNG Capacity is first Allocated; and

(b) the BNG Capacity has been fully Allocated.

2.2 Not to Allocate any BNG Capacity:

(a) while an application to amend the Registration is pending; and

(b) unless

(i) the Allocation is recorded on the Biodiversity Gain Site Register; and

(ii) the Remaining BNG Capacity as recorded on the Biodiversity Gain Site Register is sufficient to fulfil any such Allocation.

3 Biodiversity Gain Site Register

3.1 To:

(a) Register the Biodiversity Gain Land on the Biodiversity Gain Site Register at any time but no later than when the first application for Allocation is made PROVIDED THAT the Council is hereby authorised to apply to revise the Registration in line with any determination by the Expert;

(b) pay the Council's reasonable costs in respect of any application by it to applying to amend the Registration under sub-paragraph (a);

(c) notify the Council in writing of the date of any Registration within 10 Working Days of it occurring;

(d) do the following if an application to Register the Biodiversity Gain Land is unsuccessful, as soon as reasonably practicable:

(i) notify the Council in writing;

(ii) remedy the defects in the application;

(iii) re-apply to register the Biodiversity Gain Land on the Biodiversity Gain Site Register; and

(iv) continue to notify the Council and remedy defects in any application until the Biodiversity Gain Land is Registered;

(e) apply to amend the Registration if directed by the Expert under Clause 8.

3.2 Not to amend the Registration without the Council's prior written approval, other than to record additional Allocations or where necessary to comply with this Deed.

4 Habitat Management and Monitoring Plan

4.1 To notify the Council of any requested amendment to the Habitat Management and Monitoring Plan, such notice to include:

(a) the proposed amended Habitat Management and Monitoring Plan;

(b) a statement of reasons for such amendment; and

(c) confirmation (with reasons) that the amendment would not prejudice:

(i) the use or management of the Biodiversity Gain Land in a manner consistent with its function to deliver Biodiversity Net Gain; and

(ii) the continued functioning of the Biodiversity Gain Land for Biodiversity Net Gain or any existing Allocation.

4.2 Where the Council agrees (or the Expert determines) that an amended Habitat Management and Monitoring Plan is approved under paragraph 4.1 of this Schedule, to:

(a) apply to amend the Registration as soon as reasonably practicable where necessary to reflect the BNG Capacity or Remaining BNG Capacity under the amended or replacement Habitat Management and Monitoring Plan; and

(b) keep the Council informed of the progress of the application and take all reasonable steps to conclude it (including correcting and re-submitting it where necessary).

5 Biodiversity Gain Land Monitoring Contribution

5.1 To pay the Biodiversity Gain Land Monitoring Contribution to the Council upon or before completion of this agreement.

6 Access for Inspection

6.1 from the Commencement Date, to allow the Council, its agents, and contractors with or without workmen and equipment to:

(a) enter onto the Biodiversity Gain Land at all reasonable times (following reasonable notice given in accordance with paragraph 6 of Schedule 3) to monitor compliance with:

(i) the obligations in this Deed; and

(ii) any Breach Notice;

and

(b) pass and repass across any land in the Owner and/or Second Owner's control which is necessary to gain access to for the purpose of accessing the Biodiversity Gain Land in accordance with paragraph 6.1(a).

7 Step-In Rights

7.1 To notify the Council within 20 Working Days of service of a Breach Notice in accordance with paragraph 6 of Schedule 3 whether the Owner and the Second Owner accepts or disputes the notice;

7.2 Where the Owner and/or the Second Owner notifies the Council that it disputes a Breach Notice (or it is unable to agree remedial steps under sub-paragraph 7.3(a)):

(a) to include a reasoned response in the notice under paragraph 7.1 (if disputing the Breach Notice); and

(b) to request, within 10 Working Days of any time limit in the Breach Notice (or other extended timeframe as agreed with the Council in writing), that the matter be referred for determination by an Expert;

7.3 Where a Breach Notice is accepted (and for the avoidance of doubt a Breach Notice is deemed accepted in the event that the Owner and/or the Second Owner fails to respond to the Breach Notice within 20 Working Days of service of the Breach Notice in accordance with paragraph 7.1 herein) or the Expert has determined that it is valid, to:

(a) comply with the requirements of the Breach Notice within the time limits specified by the Breach Notice (or other extended timeframe as agreed with the Council in writing);

(b) use reasonable endeavours to agree the following with the Council within 20 Working Days of the notifying the Council that it accepts the Breach Notice:

(i) the steps required to remedy the breach; and

(ii) if applicable, any remedial works;

and

(c) to remedy the breach within the time period specified in the Breach Notice (or such other period as may be agreed with the Council under sub-paragraph (a)) in accordance with the details agreed under sub-paragraph (a);

7.4 To comply with any requirements imposed on the Owner and/or Second Owner in connection with a Breach Notice by the Expert within the time limits specified in the Expert's determination;

7.5 Where the Owner and/or Second Owner has failed to comply with a time limit of the Breach Notice or Expert's determination in respect of a Breach Notice, to allow the Council, its agents, and contractors with or without workmen and equipment to enter:

(a) the Biodiversity Gain Land; and

(b) other land in the Owner and/or the Second Owner's control needed to access the Biodiversity Gain Land,

at all reasonable times (following reasonable notice given in accordance with paragraph 6 of Schedule 3) to carry out works reasonably necessary to comply with the requirement of the Breach Notice or the Expert's determination, as applicable, following reasonable notice given in accordance with paragraph 6 of Schedule 3; and

7.6 To pay the Council a sum equivalent to its reasonably and properly incurred costs in exercising its step-in rights and carrying out the relevant works under paragraph 7.5 within 20 Working Days of a notice requesting payment (such notice to include a breakdown of such costs).

7.7 In default of payment of a sum falling due to the Council in whole or in part pursuant to paragraph 7.6 of this Schedule, the Council shall be entitled to recoup its costs from the Owner and/or the Second Owner or its successors in title and secure the same by registering a charge or restriction on the title of the Site at HM Land Registry.

8 Recalculation of BNG Capacity

8.1 To do the following where a Variation Event occurs and there is un-Allocated BNG Capacity:

(a) not further Allocate any Remaining BNG Capacity until the Remaining BNG Capacity is agreed under sub-paragraph (b) of this Schedule (or determined by the Expert);

(b) notify the Council of its calculation of the Remaining BNG Capacity taking into account the Variation Event and submit it to the Council for approval;

(c) in the event of dispute over the calculation of the Remaining BNG Capacity under sub-paragraph (b) of this Schedule, either Party may refer the matter to an Expert for determination;

(d) upon receipt of written approval from the Council for the calculation submitted under sub-paragraph (b) of this Schedule or by the Expert's determination under Clause 8, accept thereafter that the Remaining BNG Capacity shall be deemed to be the amounts agreed and:

(i) Allocate only to the Remaining BNG Capacity on this revised basis; and

(ii) ensure the Biodiversity Gain Site Register in respect of the Biodiversity Gain Land to reflects the revised Remaining BNG Capacity as soon as reasonably practicable.

(e)

9. Restriction on alienation of any part of the Biodiversity Gain Land

<u>The Owner and the Second Owner covenants with the Council:</u>

9.1 Not to sell, lease, assign, underlet, transfer or otherwise part with its interest in the BNG Land, or any part of it, otherwise than to the Management Company without first providing a surety, performance bond or similar (to be agreed with the District Council) to guarantee the cost of carrying out the BNG obligations secured by this Schedule 2 of this Agreement to include any legal or administration costs associated with the carrying out of those obligations pursuant to a Breach Notice by or on behalf of the District Council.

9.2 To consent to the entering of the following restriction on the transferee's title to the BNG Land at HM Land Registry following the registration of the transfer and shall provide the transferor with all necessary assistance and/or documentation to permit entry of the restriction:

“No disposition of the registered estate (other than a charge) by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by the proprietor for the time being of the estate registered under title number [ ] (or any title created out of that title) or their conveyancer that the provisions of Schedule 2, Clause 9.1 of the Agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 between (1) Huntley Farms LLP (2) Legal and General (Strategic Land North Horsham) Limited and (3) Horsham District Council dated [2025] have been complied with”.

Schedule 3 – Council Covenants

The Council covenants with the Owner and the Second Owneras follows:

1 Inspection of the Habitat Management and Monitoring Plan

1.1 To:

(a) inspect the Habitat Creation and Enhancement Works within 30 Working Days following receipt of the Completion Date Notice;

(b) to do the following where Habitat Creation and Enhancement Works are inspected under sub-paragraph (a):

(i) promptly issue a Certificate of Completion if the Habitat Creation and Enhancement Works have been completed to the reasonable satisfaction of the Council; or

(ii) promptly notify the Owner and the Second Ownerof any defects, if the Council determines that the Habitat Creation and Enhancement Works have not been completed; and

(c) where the Owner or the Second Owner(or either one) issues a subsequent Completion Date Notice under paragraph 17(d) of Schedule 2, re-inspect the Habitat Creation and Enhancement Works under paragraph 17(a)(a) of this Schedule and to comply with paragraph 1.1(b) of this Schedule until it issues the Certificate of Completion.

2 Habitat Management and Monitoring Plan

2.1 Not to unreasonably withhold or delay giving its written approval to any revised or replacement Habitat Management and Monitoring Plan submitted by the Owner and Second Owner to the Council under Schedule 2 of this Deed;

2.2 To monitor the implementation and operation of the Habitat Management and Monitoring Plan by a suitably qualified ecology and environmental management professional by way of periodic physical visits to the Biodiversity Gain Land and/ or remotely surveying the Biodiversity Gain Land and to provide, as soon as practicable afterwards, a written report to the Owners of the findings of any monitoring activities, at the following intervals:

(a) annually from the Completion Date until the 5 years' anniversary of the Completion Date; and

(b) every five years thereafter until the Agreement Expiry Date.

3 Biodiversity Gain Register

3.1 To affirm with the Owner and the Second Ownerthat BNG Capacity shall be Allocated by the Owner and the Second Owner at the Owner and the Second Owner's absolute discretion subject to the provisions of this Deed.

4 Habitat Management and Monitoring Contribution

4.1 To use the Biodiversity Gain Land Monitoring Contribution for its intended purpose and not for any other purpose.

5 Right of Access

5.1 To give reasonable notice to the Owner and the Second Owner of its intention to access the Biodiversity Gain Land for the purposes of inspection under paragraphs 6 of Schedule 2 of this Deed to ascertain the Owner's and the Second Owner's compliance with its covenants under this Deed or a Breach Notice.

6 Breach Notice and Step-in Rights

6.1 Where it considers that the Owner and/or the Second Owner are not complying with their obligations under this Deed, and intends to take steps to remedy the breach, to first notify the Owner and the Second Owner by serving a Breach Notice setting out:

(c) the reasons for alleging non-compliance;

(d) the steps it proposes the Owner and the Second Owner should take to remedy any breach or non-compliance, and

(e) the reasonable time limits for the Owner and the Second Owner to take these steps;

6.2 Where it serves a Breach Notice (or the Expert determines that the Owner and the Second Owner should take any steps within a specified time limit), it may notify the Owner and the Second Owner of any extension of time specified in the Breach Notice or Expert's determination, as it considers appropriate (in is absolute discretion);

6.3 Where the Owner and/or the Second Owner does not comply with the time limits specified in the Breach Notice (or as otherwise agreed) or the Expert's determination, undertake the requirements imposed on the Owner and the Second Owner as set out in the Breach Notice or Expert's determination provided that the Council:

(a) provides reasonable notice that it, its agents, and contractors with or without workmen and equipment will enter the Biodiversity Gain Land and/or land in the Owner and/or the Second Owner's control to access the Biodiversity Gain Land;

(b) promptly repairs any damage caused by exercising the step-in rights under this paragraph; and

(c) issues to the Owner and the Second Owner a full breakdown of the time spent and costs incurred in exercising its step-in rights under this paragraph.

7 Recalculation of BNG Capacity

7.1 To notify the Owner and the Second Owner in relation to any BNG Capacity calculation submitted under paragraph 8.1(b) of Schedule 2 whether:

(i) it is approved; or

(ii) why it is not approved.

Schedule 4 – Habitat Management and Monitoring Plan

APPENDIX 1- CERTIFICATE OF COMPLETION

To: [Include details of the Owner and theSecond Owner] Limited of [Address]

From Horsham District Council of Albery House, Springfield Road, Horsham, West Sussex RH12 2GB *(or such other address)*

Site:

It is hereby certified that the Habitat Creation and Enhancement Works carried out at [ ] have been completed to the reasonable satisfaction of the Council on the Completion Date, being [Date] of [Month] 20[XX].