

*(Unilateral Undertaking to secure BNG Monitoring Fee – Payable on completion of the Deed-Significant onsite which is linked to a planning permission)*

**Dated** **2025**

(1) XXXXXXXXXXXXXXXXXXXX [Owner]

to

**CHESHIRE WEST AND CHESTER BOROUGH COUNCIL (2)**

Planning Obligation by Unilateral Undertaking  
given under Section 106 of the Town and Country Planning Act 1990  
relating to land at **Error! Reference source not found.**

Planning Application Reference:



Head of Legal Services

Cheshire West and Chester Borough Council

The Portal, Wellington Road, Ellesmere Port, CH65 0BA – Ref: LS/.....

**GIVEN BY:**

(1) \_\_\_\_ (company registration number: \_\_) whose registered office is at \_\_\_\_ (“the Owner”)

**TO:**

(2) **CHESHIRE WEST AND CHESTER BOROUGH COUNCIL** of The Portal, Wellington Road, Ellesmere Port, CH65 0BA (**the "Council"**)

**INTRODUCTION**

- (1) The Council is the local planning authority for the area in which the Application Site is situated and for the purpose of the 1990 Act is the authority by whom the planning obligations contained within this Deed are enforceable.
- (2) The Owner is the proprietor of the freehold interest in the land registered at HM Land Registry with absolute title under title number [ ] which comprises the Application Site (*delete if not applicable*).
- (3) The Owner/Developer has submitted the Application to the Council for the Development on [ ] and condition xxxx provides for on site biodiversity net gain. This Deed is required to facilitate payment of the BNG Regulation and Reporting Fee.
- (4) The Council has resolved to grant the Planning Permission subject to the prior completion of this Deed without which the Planning Permission would not be granted.

**NOW THIS DEED WITNESSES AS FOLLOWS:**

**1. DEFINITIONS**

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

**“Act”**

the Town and Country Planning Act 1990 (as amended);

**“Application”**

means the application for outline/full planning permission (received by the Council on

[ ] ) and allocated reference number [ ]

**“Application Site”**

the land at XXX (*Description of the land subject to the planning application*) as shown edged red on the Plan against which this Deed may be enforced;

**“Biodiversity Net Gain (BNG)”**

means Biodiversity Net Gain;

**“BNG Regulation and Reporting Fee”**

means the sum of [ ] paid by the [Owner/Developer] to the Council under clause 4 of this Deed to be used towards the Council’s costs of ensuring compliance with condition xxxx of the Planning Permission;

**“Deed”**

means this Unilateral Undertaking;

**“Development”**

means the development of the Application Site for XXX as described in the Application;

**“Plan”**

the plan numbered \_ attached to this Deed showing the extent of the Application Site;

**“Planning Permission”**

the Application Site’s planning permission for \* [description of development] to be granted under application number xxxxxxxxxxxxxx

**2. CONSTRUCTION OF THIS DEED**

- 2.1. Unless otherwise indicated references to clauses and Schedules are to clauses of and Schedules to this Deed and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule.
- 2.2. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3. Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

- 2.4. Wherever there is more than one person named as a Party and wherever more than one Party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5. Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act 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 that Act or deriving validity from it.
- 2.6. References to any Party to this Deed shall include the successors in title to that Party and to any one deriving title through or under that Party and in the case of the Council the successors to its statutory functions.
- 2.7. Any covenant not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
- 2.8. References to the Application Site shall include any part of it.
- 2.9. The headings are for reference only and shall not affect construction.
- 2.10. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

### **3. LEGAL BASIS**

- 3.1. This Deed is made pursuant to Section 106 of the Act and Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011.
- 3.2. The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner and to the extent that any of the obligations are not planning obligations within the Act they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.

### **4. THE OWNER'S [AND DEVELOPER'S] COVENANTS**

- 4.1. The [Owner/Developer] covenants to pay to the Council on completion of this Deed the BNG Regulation and Reporting Fee.

### **5. JURISDICTION**

- 5.1. This Deed is governed by and shall be interpreted in accordance with the laws of England.

**6. CONDITIONALITY**

This Deed shall come into full force and effect on completion of this Deed.

**7. MISCELLANEOUS**

- 7.1. The Owner shall pay to the Council on completion of this Deed the reasonable costs of the Council incurred in the negotiation, preparation, execution, and monitoring of this Deed together with the BNG Regulation and Reporting Fee.
- 7.2. The Owner warrants that no person other than the Owner has any legal or equitable interest in the Application Site.
- 7.3. Save as provided in respect of successors in title to the Application Site or any successor to the relevant statutory function of the Council no provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 7.4. Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid, illegal or unenforceable then such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of the remaining provisions of this Deed.

**IN WITNESS OF WHICH** this document has been executed as a Deed by the party hereto in the appropriate manner and with the intention of such document being delivered on the part of each of them as a Deed on (but not before) the date at the top of this Deed.

**Executed as a Deed by**

\_\_\_\_\_  
Signature

**in the presence of**

\_\_\_\_\_  
Name of witness

\_\_\_\_\_

Witness' signature

Address of witness

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Occupation of witness:

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