

DATED

2025

(1) INTERLINK SOUTH COUNTRY PARK LIMITED

(2) HINKLEY AND BOSWORTH BOROUGH COUNCIL

(3) [NATIONAL GRID ELECTRICITY DISTRIBUTION (EAST MIDLANDS) PLC]

DEED OF VARIATION

pursuant to Section 106 and 106A of the Town and Country Planning Act 1990 (as amended)

relating to the land at the former Nailstone Colliery

Application Reference: 25/00060/FUL

BETWEEN

- (1) **INTERLINK SOUTH COUNTRY PARK LIMITED** (company registration number 11999321) whose registered office is situated at 3rd Floor, Paternoster House, 65 St. Paul's Churchyard, London, EC4M 8AB (the "**Owner**"); and
- (2) **HINCKLEY AND BOSWORTH BOROUGH COUNCIL** of Hinckley Hub, Rugby Road, Hinckley, Leicestershire, LE10 0FR (the "**Borough Council**");
- (3) **[NATIONAL GRID ELECTRICITY DISTRIBUTION (EAST MIDLANDS) PLC** (company registration number 02366923) whose registered office is at Avonbank, Feeder Road, Bristol, BS2 0TB ("**National Grid**")]

WHEREAS

- (A) On 7 December 2007 Viridor Waste Exeter Limited executed the 2007 Unilateral Undertaking for the benefit of the Councils to, amongst other things, lay out the Property and other land as a Country Park.
- (B) On 6 March 2008 the Borough Council issued the 2008 Planning Permission which granted consent for the Property and other land to be used for a Country Park together with the redevelopment of adjoining land for storage and distribution uses.
- (C) On 14 February 2011 Viridor Waste Exeter Limited executed the 2011 Unilateral Undertaking for the benefit of the Councils on similar terms to the 2007 Unilateral Undertaking.
- (D) On 31 December 2014, FAR (the successor in title to Viridor Waste Exeter Limited) entered into the 2014 Unilateral Undertaking on similar terms to the 2007 Unilateral Undertaking.
- (E) On 25 July 2017, FAR and the Councils entered into the 2017 S106 Agreement, required pursuant to the 2017 Planning Permission relating to revised highway works associated with the area wide redevelopment.
- (F) On 1 March 2019, FAR and the Councils entered into the 2019 Deed of Variation to vary the Unilateral Undertakings and the 2017 S106 Agreement in connection with revised highway arrangements for the area wide redevelopment.
- (G) On 31 July 2020 the 2020 Planning Permission was granted by the Borough Council for the construction of a distribution centre and ancillary works including access.
- (H) FAR and the Councils subsequently entered into the 2020 Deed of Variation to vary the Unilateral Undertakings and 2017 S106 Agreement which amended the definition of Country Park and substituted new plans which confirmed that the Property remained within the Country Park.
- (I) The Owner is the freehold owner of the Property which forms part of title number LT289365 following a transfer of title on 16 March 2023.
- (J) National Grid Electricity Distribution (East Midlands) plc are the owner of land adjacent to the Property and have [entered into an option agreement dated [] to purchase the Property for an extension of its substation to provide additional electrical capacity on its network. The

Borough Council granted the 2025 Planning Permission for installation of electrical substation and transformers].

- (K) The parties enter into this agreement to remove the Property from the Country Park to allow the 2025 Planning Permission to be implemented.
- (L) The Borough Council is the respective local planning authority for the area within which the Country Park sits and the Property sits within the Borough Council's boundary.

THIS DEED WITNESSES the following:

The parties agree as follows:

1. DEFINITIONS AND INTERPRETATIONS

- 1.1 All words and phrases defined in the 2007 Unilateral Undertaking (including for the avoidance of doubt in the recitals above) shall, save as varied by clause 5 below, have the same meaning in this Deed unless explicitly stated otherwise.
- 1.2 The provisions of the 2007 Unilateral Undertaking and subsequent variations shall continue in full force and effect, as varied by this Deed.
- 1.3 Unless otherwise stated, all references to clause numbers, schedules, and paragraph numbers of schedules are references to the clauses schedules and paragraphs or schedules contained within this Deed.
- 1.4 Where a party includes more than one person any obligations of that party shall be joint and several.
- 1.5 In this Deed unless otherwise stated or the context otherwise provides the following expressions shall have the following meanings:

Act	means the Town and Country Planning Act 1990
Councils	means the Borough Council, North West Leicestershire District Council and Leicestershire County Council
Country Park	has the definition given to it in the 2007 Unilateral Undertaking being the country park proposed for the former Nailstone Colliery as the same is more particularly described in the Country Park Management Plan
Country Park Management Plan	means the country park management plan prepared for Curtis Hall Ltd by Lockhart Garratt Ltd with reference 14-0975/3779/D01 V5 dated 22 September 2014 and annexed to the 2020 Unilateral Undertaking
Country Park Management Plan Appendices	means the following plans annexed to the Country Park Management Plan: (a) Appendix 1: Country Park Indicative Masterplan Ref 1336-13-13B

	(b) Appendix 2: Phasing Strategy Ref 1336-13-10F
	(c) Appendix 3A: Footpaths, cycleways and bridleways plans Ref 1336-13-14
Country Park Plan	means the plan showing the Country Park coloured and shaded blue attached to the 2020 Deed of Variation reference GA19A42-BP116
Property	means the land coloured and shaded purple on the Plan
Plan	means the plan attached to this Deed reference MC08953
Site	means land registered under title number LT289365
Subsequent Variations	means the Unilateral Undertakings, together with the 2017 S106 Agreement, 2019 Deed of Variation and 2020 Deed of Variation
Unilateral Undertakings	means the 2007 Unilateral Undertaking, 2011 Unilateral Undertaking and 2014 Unilateral Undertaking
2007 Unilateral Undertaking	means the unilateral undertaking dated 7 December 2007 pursuant to section 106 of the Act between (1) Viridor Waste Exeter Limited, (2) Nailstone Park Limited, (3) Hinckley and Bosworth Borough Council, (4) North West Lincolnshire District Council and (5) Leicestershire County Council relating to the Application Site
2008 Planning Permission	means the outline planning permission granted by the Secretary of State for Communities and Local Government for the Application Site (reference: 06/00980/OUT)
2011 Unilateral Undertaking	means the unilateral undertaking dated 14 February 2011 pursuant to section 106 of the Act between (1) Viridor Waste Exeter Limited, (2) Nailstone Park Limited, (3) Hinckley and Bosworth Borough Council, (4) North West Lincolnshire District Council and (5) Leicestershire County Council relating to the Application Site and submitted alongside the 10/00851/EXT and 10/0115/NAC planning applications
2014 Unilateral Undertaking	means the unilateral undertaking dated 31 December 2014 pursuant to section 106 of the Act between (1) FAR, (2) Hinckley and Bosworth Borough Council, (3) North West Lincolnshire District Council and (4) Leicestershire County Council relating to the Application Site

2017 S106 Agreement	means the agreement dated 25 July 2017 pursuant to section 106 of the Act between (1) FAR and (2) Hinckley and Bosworth Borough Council
2017 Planning Permission	means the planning permission with reference 16/00567/FUL
2019 Deed of Variation	means the deed of variation dated 1 March 2019 pursuant to section 106A of the Act between (1) FAR, (2) Hinckley and Bosworth Borough Council, (3) North West Lincolnshire District Council and (4) Leicestershire County Council relating to the Application Site
2020 Planning Permission	means the planning permission with reference 20/00224/FUL
2020 Deed of Variation	means the deed of variation dated 31 July 2020 pursuant to section 106A of the Act between (1) FAR, (2) Hinckley and Bosworth Borough Council, (3) North West Lincolnshire District Council and (4) Leicestershire County Council relating to the Application Site
2025 Planning Permission	means the planning permission with reference 25/00060/FUL

2. **LEGAL BASIS**

- 2.1 This Deed is made pursuant to Section 106 and Section 106A of the Act and Section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers to the intent it shall bind the Owner and the successors in title of the Owner to each and every part of the Site and its assigns.
- 2.2 The covenants, restrictions and requirements contained in this Deed are planning obligations for the purposes of Section 106 of the Act and are entered into by the Owner [and National Grid Electricity Distribution (East Midlands) plc] with the intention that they bind the interests held by those persons in the Site and their respective successors and assigns.
- 2.3 The covenants, restrictions and requirements contained in this Deed are enforceable by the Borough Council as the local planning authorities against the Owner and any person deriving title under them.
- 2.4 The Owner confirms that their title to the Site and Property is free from any encumbrances which would prevent the Owner entering into this deed of variation and undertaking.

3. **CONTINUING EFFECT OF THE 2007 UNILATERAL UNDERTAKING**

- 3.1 This Deed is supplemental to and varies the 2007 Unilateral Undertaking and the Subsequent Variations.
- 3.2 Except as varied by this Deed the provisions of the 2007 Unilateral Undertaking (as amended by the Subsequent Variations) shall remain in full force and effect and shall be applicable to the Site in respect of the Development and all references in the 2007 Unilateral Undertaking to

"this/the Agreement" or "this/the Deed" shall take effect as references to the 2007 Unilateral Undertaking and the Subsequent Variations as varied by this Deed.

4. COMMENCEMENT

- 4.1 The provisions in this Deed shall take effect immediately upon completion of this Deed.

5. VARIATIONS TO THE ORIGINAL AGREEMENT

- 5.1 The Parties agree that the 2007 Unilateral Undertaking (as varied by the Subsequent Variations) shall be further varied as set out in Schedule 2.
- 5.2 This Deed shall be read in conjunction with the 2007 Unilateral Undertaking and the Subsequent Variations.
- 5.3 In all other respects, the 2007 Unilateral Undertaking and the Subsequent Variations (as varied by this deed) shall remain in full force and effect.

6. COVENANTS

- 6.1 The Owner covenants with the Borough Council to observe and perform the covenants, restrictions and obligations contained in the 2017 Unilateral Undertaking as varied by this Deed, in so far as these have not already been discharged in full.
- 6.2 The Borough Council where and if applicable covenant to observe and perform the covenants, restrictions and obligations on their part as contained in the 2017 Unilateral Undertaking as varied by this Deed.

7. VALUE ADDED TAX

- 7.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax (VAT) properly paid.
- 7.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed, then to the extent that VAT has not been previously charged in respect of that supply, the party making the supply shall have the right to issue a VAT invoice to the party to whom the supply was made and the VAT shall be paid accordingly.

8. THIRD PARTY RIGHTS

- 8.1 A person who is not a party to this Deed shall have no right under the Contract (Rights of Third Parties) Act 1999 ('the 1999 Act') to enforce any of its terms but for the avoidance of doubt it is agreed that the exclusion of the application of the 1999 Act shall not prevent all or any future successors in title to any of the parties to this Deed from being able to benefit from or to enforce any of the obligations of this Deed.

9. LEGAL FEES

- 9.1 The Owner covenants to pay to the Borough Council on or before the date of completion of this Deed the Borough Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, negotiation and completion of this Deed.

10. REGISTRATION

- 10.1 This Deed is a Local Land Charge and shall be registered as such by the Borough Council.

11. NO WAIVER

- 11.1 No waiver (whether expressed or implied) by the Borough Council or the Owner 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 Borough Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

12. NO FETTER

- 12.1 Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the Borough Council in their exercise of its functions in any capacity.

13. GOVERNING LAW AND JURISDICTION

- 13.1 The 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 the parties hereby submit to the non-exclusive jurisdiction of the Court of England and Wales.

14. EXECUTION AND DELIVERY

- 14.1 This document is executed as a deed and is delivered on the date stated at the beginning of this deed.

IN WITNESS whereof the parties hereto have executed this Deed on the date first above written.

EXECUTED AS A DEED by

affixing the **COMMON SEAL OF**

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

in the presence of and attested by

..... Authorised Signatory

EXECUTED AS A DEED by

INTERLINK SOUTH COUNTRY PARK LIMITED

acting by a Director

.....

in the presence of

.....

Witness

Witness Name

Witness Address

.....

EXECUTED as a **DEED**

by affixing the common seal of

National Grid Electricity Distribution (East Midlands) Plc

In the presence of:

Authorised Signatory:

Schedule 1

Plan with reference MC08953

Schedule 2

Variations

- 1.1 The definition of Country Park Land at clause 1.1.10 of the 2007 Unilateral Undertaking (as varied by the 2020 Unilateral Undertaking) shall be amended to read:

'the Country Park Land' means all that land forming part of the Application to be laid out as the Country Park as the same is shown edged green on plan reference 133-13-55-B **attached to the 2020 Unilateral Undertaking and expressly excluding the land coloured purple on plan reference MC08953 attached to this deed**'
- 1.2 Plan reference MC08953 attached to this deed of variation at Schedule 1 shall be inserted into the 2007 Unilateral Undertaking, alongside plan reference 133-13-55-B attached to the 2020 Unilateral Undertaking, and shall be deemed to be part of the 'the Country Park Land' definition for the purposes of the 2007 Unilateral Undertaking (as varied).
- 1.3 The parties acknowledge that the Country Park, which included the Property at the time, has been transferred to the Owner in compliance with paragraph 3.1.2 of Schedule 2 of the 2007 Unilateral Undertaking (as varied by the 2020 Unilateral Undertaking). This Deed varies the ongoing obligations in the 2007 Unilateral Undertaking for the Country Park Management Plan to be carried out in accordance with the Country Park Management Plan Appendices, so that the obligations only relate to the Country Park Land as amended by this Deed.