

Dated

2025

AVANT HOMES (ENGLAND) LIMITED

(1)

AND

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

(2)

AND

LEICESTERSHIRE COUNTY COUNCIL

(3)

DEED

**under Section 106 and 106A of the Town
and Country Planning Act 1990 relating to
land west of Westfield Avenue, Earl Shilton**

PLANNING APPLICATION: 24/01066/FUL

PARTIES

- (1) **AVANT HOMES (ENGLAND) LIMITED** of (Co. Reg. No. 01043597) Avant House 6 and 9 Tallys End, Barlborough, Chesterfield, S43 4WP ("**Owner**");
- (2) **HINCKLEY AND BOSWORTH BOROUGH COUNCIL** of County Offices, Argents Mead, Hinckley, LE10 1BZ ("**Council**"); and
- (3) **LEICESTERSHIRE COUNTY COUNCIL** of County Hall, Glenfield, Leicester, LE3 8RA ("**County Council**").

WHEREAS

- (A) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 and is a Principal Council for the purposes of the Local Government Act for the area in which the Site is situated.
- (B) The County Council is a local planning authority responsible for the provision of biodiversity net gain, waste, highways and libraries for the area in which the Site is situated.
- (C) The Owner is the freehold owner of the Site registered at the Land Registry under Title Number LT503585.
- (D) The Owner has made the Planning Application for the proposed Development.
- (E) The Council has resolved to grant the Planning Permission subject to the prior completion of this Deed.

AGREED TERMS

1 INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this Deed:

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

Affordable Housing has the meaning given to it in Annex 2 of the "National Planning Policy Framework December 2024" (as updated from time to time) but shall be restricted to Discounted Market Sales Housing and provided to eligible household whose needs are not met by the market;

Affordable Housing Scheme a scheme for the Site to be submitted to and agreed by the Council for the provision of Affordable Housing within the Development which shows the tenures of the four Dwellings to be provided as Affordable Housing Units in accordance with the Affordable Housing Tenure Mix;

Affordable Housing Tenure Mix the housing mix for the Affordable Housing Units as follows:

(a) 4x two-bedroom houses,

or such other mix as may be agreed between the Council and the Owner from time to time;

Affordable Housing Unit(s) each and every affordable housing unit to be constructed pursuant to the Development as part of the Affordable Housing Scheme complying with the definition of Affordable Housing;

Accessible Natural Green Space Provision Contribution means the sum of £2,944.80 (TWO THOUSAND, NINE HUNDRED AND FORTY-FOUR POUNDS AND EIGHTY PENCE) (Indexed) to [accord with the Borough Council's current policy requirements

];

Accessible Natural Green Space Maintenance Contribution means the sum of £5,112.00 (FIVE THOUSAND ONE HUNDRED AND TWELVE POUNDS) (Indexed) to [accord with the Borough Council's current policy requirements

];

Biodiversity Metric the recognised 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 an increase or enhancement in biodiversity value (measured using the Biodiversity Metric) that is required by the Planning Permission to achieve the biodiversity net gain requirements applicable under the Act, the Environment Act 2021 and any relevant or successor policies;

Biodiversity Net Gain Land such area of the Site as is required to achieve Biodiversity Net Gain;

Biodiversity Units the product of the size of an area of the Biodiversity Net Gain Land and the distinctiveness and condition of the habitat it comprises (expressed as an area habitat biodiversity unit and/or a hedgerow biodiversity unit and/or a watercourse biodiversity unit), to provide a measure of ecological value based on the Biodiversity Metric;

BNG Monitoring Fee such reasonable sum as is set out in a fee schedule published by the Council (Indexed from the date of the publication of the fee schedule) for the purposes of monitoring compliance with the approved Habitat Monitoring and Management Plan save that where a fee schedule has not been published by the Council at the time this sum becomes payable, the Owner and the

Council shall agree such reasonable sum towards the Council or their agent's costs in monitoring compliance with the Habitat Monitoring and Management Plan;

Breach Notice

a notice served by the County Council upon the Owner pursuant to paragraph 1.9 of Schedule 2 which sets out the nature of the breach, the steps the County Council considers are necessary to remedy the breach and a reasonable timescale to carry out these steps;

Bus Pass(es)

a bus pass entitling the holder of the bus pass to travel free of charge on local bus services for a period of six months from the date of issue (up to two passes to be provided to each Dwelling) to encourage new residents to use local bus services as an alternative to the private car to establish changed in travel behavior;

Bus Pass Contribution

the sum of £510 (FIVE HUNDRED AND TEN POUNDS) per Bus Pass (equating to a maximum of £1020 (ONE THOUSAND AND TWENTY POUNDS) per Dwelling) (Indexed) to enable the County Council to issue the Bus Pass(es) subject to a maximum sum of £18,360 (EIGHTEEN THOUSAND THREE HUNDRED AND SIXTY) prior to indexation;

**Casual/Informal Play
Space Provision
Contribution**

means the sum of £1,342.66 (ONE THOUSAND, THREE HUNDRED AND FORTY-TWO POUNDS AND SIXTY-SIX PENCE) (Indexed) to [accord with the Borough Council's current policy requirements];

**Casual/Informal Play
Space Maintenance
Contribution**

means the sum of £1,632.96 (ONE THOUSAND, SIX HUNDRED AND THIRTY-TWO POUNDS AND NINETY-SIX PENCE) (Indexed) to [accord with the Borough Council's current policy requirements];

Commencement of

the carrying out in relation to the Development of any material operation as defined by section 56(4) of the

Development	Act (and the phrase "Commence Development" shall be construed accordingly) but disregarding for the purposes of this Deed and for no other purpose, the following operations: site clearance; ground investigations; site survey works; service diversions; temporary access construction works; archaeological investigation; and erection of any fences, signage and hoardings around the Site;
Completion Notice	a notice served by the Owner pursuant to paragraph 1.2 of 2 which confirms that the Habitat Creation and Enhancement Works have been completed and the Biodiversity Net Gain Land is being maintained and managed in accordance with the Habitat Monitoring and Management Plan;
County Council Monitoring Contribution	the sum of £300 (THREE HUNDRED POUNDS) per financial obligation in favour of the County Council, equating to a maximum of £1,200 (ONE THOUSAND AND TWO HUNDRED POUNDS) towards the County Council's costs of monitoring compliance with this Deed;
Development	the development of the Site authorised by the Planning Permission for the erection of up to 18 dwellings with associated access, car parking, landscaping and drainage;
Dwelling	any dwelling (including a house, flat or bungalow) permitted to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly;
Equipped Children's Play Space Provision Contribution	means the sum of £11,789.06 (ELEVEN THOUSAND, SEVEN HUNDRED AND EIGHTY-NINE POUNDS AND SIX PENCE) (Indexed) to [accord with the Borough Council's current policy requirements];

Equipped Children's Play Space Maintenance Contribution means the sum of £5,689.44 (FIVE THOUSAND, SIX HUNDRED AND EIGHTY-NINE POUNDS AND FORTY-FOUR PENCE) (Indexed) to [accord with the Borough Council's current policy requirements];

Habitat Creation and Enhancement Works those works set out in the Habitat Monitoring and Management Plan which are required to be carried out in order to create and/or enhance the Biodiversity Net Gain Land or the relevant parts thereof suitable for the provision of the Biodiversity Units;

Habitat Land Manager the Owner or an organisation, company or individual appointed or to be appointed by the Owner who will have responsibility for the implementation, management and maintenance of the Habitat Monitoring and Management Plan;

Healthcare Contribution means the contribution calculated using the following:

$$A \times B \times C = D$$

A = Proposed population (number of dwellings on the application land x 2.42)

B = Standard area m²/person (0.08)

C = Cost of extension including fees £/m² (£5,000.00)

D = Total cost

Adjusted in accordance with the indexation provision of the First Schedule to be paid by the Owner to the borough Council towards increasing capacity at the Heath Lane Surgery, Earl Shilton to a maximum sum of SEVENTEEN THOUSAND FOUR HUNDRED AND TWENTY FOUR POUNDS (17,424.00) prior to indexation.

Habitat Management and the habitat management and monitoring plan for the

Monitoring Plan	Biodiversity Gain Land as approved pursuant to the relevant conditions of the Planning Permission;
Index	the BCIS All-in Tender Price Index issued by the Royal Institution of Chartered Surveyors or any successor and the term "Indexed" shall be construed accordingly;
Interest	the interest at 4% above the base lending rate of Barclays Bank Plc from time to time;
Library Contribution	the sum of £543.56 (FIVE HUNDRED AND FOURTY THREE POUNDS AND FIFTY-SIX PENCE) (indexed) to provide improvements to Earl Shilton library and its facilities, including, but not limited to, books, material, or associated equipment or to reconfigure the internal or external library space to account for additional usage as a result of this Development;
Local People	<p>persons who:</p> <p>(a) have a total household income at or below the average household income level for Hinckley and Bosworth as published by the Council at the point of sale of the Affordable Housing Unit and who:</p> <p>(i) live within Hinckley and Bosworth or within three miles of the Hinckley and Bosworth boundary; or</p> <p>(ii) are moving to Hinckley and Bosworth to take up employment or to be near to relatives resident within Hinckley and Bosworth or within three miles of the Hinckley and Bosworth boundary; or</p> <p>(iii) otherwise meet the affordability criteria of the Local Help to Buy Agent for Affordable Housing comprising Intermediate Housing in Hinckley and Bosworth including</p>

provision for an eligible First Time Buyer;

Market Housing Unit	each and every Dwelling (other than an Affordable Housing Unit) to be constructed pursuant to the Development;
Market Value	the market value of the relevant Affordable Housing Unit at the point of sale as validated by an accredited independent valuer being a member of a relevant recognised professional body engaged in surveying and/or valuation (" Independent Valuer ") on the assumption that the Dwelling was otherwise a Market Housing Unit and not an Affordable Housing Unit;
Occupation	first occupation for the beneficial use of the Dwellings and for the avoidance of doubt excludes occupation for fitting out and use of the Dwellings for show homes or marketing purposes and reference to "Occupied" and "Occupy" shall be construed accordingly;
Outdoor Sports Provision Contribution	means the sum of £6,255.36 (SIX THOUSAND, TWO HUNDRED AND FIFTY-FIVE POUNDS AND THIRTY-SIX PENCE) (Indexed) to [accord with the Borough Council's current policy requirements];
Outdoor Sports Maintenance Contribution	means the sum of £2,972.16 (TWO THOUSAND, NINE HUNDRED AND SEVENTY-TWO POUNDS AND SIXTEEN PENCE) (Indexed) to [accord with the Borough Council's current policy requirements];
Off-Site Public Open Space Provision Contribution	means together the Accessible Natural Green Space Provision Contribution, the Casual/Informal Play Space Provision Contribution, the Equipped Children's Play Space Provision Contribution and the Outdoor Sports Provision Contribution (indexed) payable by the Owner to the Council in accordance with the provisions of

clause 2.1 of Schedule 3 hereof;

Off-Site Public Open Space Maintenance Contribution

means together the Accessible Natural Green Space Maintenance Contribution, the Casual/Informal Play Space Maintenance Contribution, the Equipped Children's Play Space Maintenance Contribution and the Outdoor Sports Maintenance Contribution (indexed) payable by the Owner to the Council in accordance with the provisions of clause 2.2 of Schedule 3 hereof;

Plan

the plan numbered 3187-100 attached at Appendix 1;

Planning Application

the application for planning permission registered by the Council on 25 November 2024 under reference number 24/01066/FUL;

Planning Permission

the planning permission to be granted by the Council pursuant to the Planning Application, a draft copy attached at Appendix 2;

Practical Completion

completion of the construction of any Market Housing Unit or Affordable Housing Unit together with all associated infrastructure works and service connections to such a standard that any such Market Housing Unit or Affordable Housing Unit is fit for human habitation, free of patent defects and complies with the Planning Permission to enable beneficial Occupation;

Site

the land west of Westfield Avenue, Earl Shilton, Leicestershire as shown edged red on the Plan;

Travel Pack(s)

a pack of information supplied by the County Council upon payment of the Travel Pack Contribution containing details of local walking and cycling routes, local bus services/stops/timetables, Bus Pass application forms, shops and other local amenities and details of any community transport, car sharing or car club scheme operating in the vicinity of the Land;

Travel Packs Contribution	the sum of £52.85 (FIFTY TWO POUNDS AND EIGHTY FIVE PENCE) per Travel Pack (Indexed) payable by the Owner to the County Council to enable the County Council to issue a Travel Pack to the first Occupier of each Dwelling subject to a maximum sum of £952 (NINE HUNDRED AND FIFTY TWO POUNDS) prior to indexation;
VAT	value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax;
Working Day	any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England;
Waste and Recycling Contribution	the sum of £891.54 (EIGHT HUNDRED AND NINETY ONE POUNDS AND FIFTY FOUR PENCE) (Indexed) for the site reconfiguration and/or development of waste infrastructure to increase the capacity for the Barwell Household Waste Recycling Centre (HWRC) or any other HWRC directly impacted by this Development.

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or Schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or Schedule or recital in this Deed.
- 2.2 In the event of any conflict between the provisions of this Deed and any document annexed hereto as referred to herein the terms and conditions of this Deed will prevail.
- 2.3 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.4 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.

- 2.5 A person includes a natural person corporate or unincorporated body (whether or not having separate legal personality) and reference to a company shall include any company corporation.
- 2.6 Any reference to an Act of Parliament shall include any modification, extension, 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.
- 2.7 References to the Council, the County Council or the Owner shall include their successors in title and assigns and to any person deriving title through or under or the successors to their respective statutory functions.
- 2.8 The headings and contents list are for reference only and shall not affect construction.
- 2.9 Any covenant or obligation by any party not to do any act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done.

3 LEGAL BASIS

- 3.1 The Deed is made pursuant to Section 106 and 106A of the Act and the covenants and obligations in this Deed are planning obligations for the purposes of Section 106 of the Act so as to bind the Site and each and every part thereof and are enforceable by the Council as the Local Planning Authority against the Owner its successors in title and assigns and the other parties to this Deed.
- 3.2 To the extent that any of the obligations covenants restrictions and requirements contained herein are not planning obligations within the meaning of Section 106 of the Act they are entered into pursuant to Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers which may be relevant for the purpose of giving validity hereto or facilitating the enforcement of the obligations hereto.

4 COMMENCEMENT

This Deed is conditional upon:

- 4.1 the grant of Planning Permission; and
- 4.2 the Commencement of Development,

save that this clause 4 and clause 7 shall take effect from the date on which this Deed is completed.

5 COVENANTS BY THE OWNER

- 5.1 The Owner covenants with the Council as set out in Schedule 1.
- 5.2 The Owner covenants with the County Council as set out in the Schedule 22 and Schedule 33.

6 FURTHER COVENANTS BY THE OWNER

The Owner shall pay to the Council and the County Council on execution of this Deed the reasonable legal costs and monitoring incurred in the negotiation, preparation and execution of this Deed up to a maximum of £XXXX in respect of the Council and £XXXX in respect of the County Council.

7 FUTURE PERMISSIONS

Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission) granted after the date of the Planning Permission.

8 THE COUNCIL AND COUNTY COUNCIL'S COVENANTS

- 8.1 The County Council hereby covenants with the Owner pursuant to Section 106 of the Act to use the contributions in Schedule 33 for the specified purposes.
- 8.2 The County Council covenants to use the Bus Passes Contribution (or such amount of it that is paid to the County Council in accordance with paragraph 1.2 of Schedule 33) for the provision of Bus Passes to the first occupant(s) of each Dwelling where such first occupants apply for Bus Passes.
- 8.3 In the event that the Waste and Recycling Contribution and the Library Contribution, payable pursuant to this Deed are not applied to the purposes specified has not been expended or committed to be expended within ten years of the date of payment the County Council shall within 28 working days of receipt of a written demand repay to the Owner any unexpended part of the said sum(s).
- 8.4 In the event that the Bus Pass Contribution, payable pursuant to this Deed are not applied to the purposes specified has not been expended or committed to be

expended within five years of the date of payment the County Council shall within 28 working days of receipt of a written demand repay to the Owner any unexpended part of the said sum(s).

9 MISCELLANEOUS

9.1 Unless expressly stated no provisions of this Deed confer any rights in favour of any person under the Contracts (Rights of Third Parties) Act 1999.

9.2 This Deed shall be registrable as a local land charge by the Council.

9.3 Where the agreement, approval, consent or expression of satisfaction is required by the parties hereto under the terms of this Deed such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction required to be given on behalf of:

(a) the Council shall be in writing by the Head of Planning following the performance and satisfaction of all the obligations contained in this Deed the Council shall on written request from the Owner effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed; and

(b) the County Council shall be in writing to the Head of Planning and Historic and Natural Environment.

9.4 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 or enforceability of the remaining provisions of this Deed.

9.5 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.

9.6 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed nor shall any sum be payable to the Council or the County Council pursuant to this Deed in respect of any development carried out pursuant to such further planning permission.

9.7 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, powers, duties and obligations of the Council under all statutes by laws statutory instruments orders and regulations in the exercise of their functions as a local authority and such rights discretions powers duties and obligations may be as fully and effectively exercised as if the Council were not a party to this Deed.

10 ENFORCEABILITY AND LIABILITY

10.1 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 Site (or whilst it shall have no interest in the Site or any part of it) but without prejudice to liability for any subsisting breach arising prior to parting with such interest and a person having only the benefit of any licence easement or covenant over or in respect of the Site or any part of it shall be deemed to have parted with its interest in the entire Site (or to have no interest in the Site or any part of it) for the purposes of this clause.

10.2 This Deed shall not be enforceable against owners-occupiers or tenants (or their mortgagees or chargees) of Dwellings nor against those deriving title from them.

10.3 A statutory undertaker who acquires any part of the Site or any interest in it for the purposes of the supply of electricity gas water drainage or telecommunication services is not to be treated as a person deriving title from the Owner for the Purposes of Section 106(3) of the Act.

11 COUNCIL'S DISCRETION

For the avoidance of doubt nothing herein contained shall prejudice or affect the rights, discretions, powers, duties and obligations of the Council and County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

12 CIL

If at any time hereafter a CIL becomes payable in respect of the Development or any part of it, the parties will use reasonable endeavours to agree (where legally necessary) variations to this Deed with the intent that the planning benefits of this Deed should continue to be secured and delivered and all physical works required to be provided hereunder are carried out (whether for physical, social or green

infrastructure) but that the Owner shall not be in a position where they are required to pay twice for the same item of infrastructure.

13 WAIVER

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

14 CHANGE IN OWNERSHIP

14.1 The Owner agrees to give the Council and County Council immediate written notice of any change in ownership of any of its interests in the Site occurring before or all the obligations under this Deed has been discharged (save that the Owner shall not be required to give notice of the change in ownership in relation to any of the persons against whom the obligations herein are not enforceable as identified in clause 10) such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan.

14.2 Any notice, consent or approval required to be given under this Deed shall be in writing and shall be delivered personally or sent by pre-paid recorded delivery post.

14.3 The address for service of any such notice, consent or approval as aforesaid shall be:

- (a) in the case of service upon the Council addressed to Head of Planning; and
- (b) in the case of the County Council addressed to Team Manager, Planning Obligations and Systems Team, Planning and Historic and Natural Environment Department, County Hall, Glenfield, LE3 BRA or such other address for service as shall have been previously notified by the County Council to the Owners; and
- (c) in the case of the Owner to the addresses stated at the beginning of this Deed or such other address for service as shall have been previously notified by the Owner to the Council and County Council.

14.4 A notice, consent or approval required or authorised to be given under this Deed shall be deemed to be served as follows:

- (a) if personally served at the time of delivery and if posted at the time when it would be received in the ordinary course of business;
- (b) to prove such service it shall be sufficient to prove that personal delivery was made or that the envelope containing such notice, consent or approval was properly addressed and delivered into the custody of the postal authority in a pre-paid first class recorded delivery envelope.

15 DISPUTE RESOLUTION

15.1 In the event of any dispute or difference arising between the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of agreement) by the president (or equivalent person) 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 an expert whose decision shall be final and binding on the parties to the dispute or difference and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties to the dispute or difference in equal shares.

15.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to clause 15.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

15.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 28 working days after the conclusion of any hearing that takes place or 28 working days after he has received any file or written representation.

15.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.

15.5 The provisions of this clause shall not affect the ability of the Council or County Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

16 INDEXATION

Any sum payable pursuant to Schedule 3 shall be increased in accordance with any proportional increase in the Index from the date of this Deed to the date upon which payment is made.

17 INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

18 VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

19 JURISDICTION

This Deed is governed by and interpreted in accordance with the laws of England and Wales.

20 SECTION 73 VARIATIONS

In the event that the Council shall at any time hereafter grant a planning permission pursuant to an application made under Section 73 of the Act in respect of the conditions relating to the Planning Permission (and for no other purpose whatsoever) references in this Deed to the Application and the Development (where agreed in writing by the parties) shall be deemed to include any such subsequent planning applications and planning permissions granted as aforesaid and this Deed shall henceforth take effect and be read and construed accordingly.

21 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

SCHEDULE 1

AFFORDABLE HOUSING

1. The Owner covenants with the Council:
 - 1.1 Not to occupy any of the Affordable Housing Units constructed on the Site as part of the Development other than in accordance with the provisions of this Deed.
 - 1.2 Not less than 20% of the total number of Dwellings comprised in the Development will be provided as Affordable Housing.
 - 1.3 Not less than four weeks prior to the Commencement of Development to submit to the Council for its formal written approval an Affordable Housing Scheme. For the avoidance of doubt the Affordable Housing Scheme shall not require delivery of the Affordable Housing Units other than in accordance with the Affordable Housing Tenure Mix and the layout of the Affordable Housing Units approved pursuant to the Planning Permission.
 - 1.4 Not to allow or permit Commencement of Development until the Affordable Housing Scheme has been approved in writing by the Council.
 - 1.5 To provide the Affordable Housing Units in accordance with the approved Affordable Housing Scheme.
 - 1.6 Not to Occupy or cause or permit the Occupation of more than 50% of the Market Housing Units on the Site until and unless the Affordable Housing Units have been constructed in accordance with the Planning Permission and are ready and available for Occupation and are accessible by vehicles and pedestrians.
 - 1.7 The disposal of the Affordable Housing Units shall be to eligible Local People at a sum not exceeding 80% of the Market Value.

1.8 The Owner shall submit an application to the Chief Land Registrar of the Land Registry to place the following restriction in the proprietorship register of the title to the relevant Affordable Housing Units (or in such other form as the Chief Land Registrar shall deem appropriate) and on completion of the registration of such restriction will deliver to the Council an official copy of the relevant registered title:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate, or by the registered proprietor of any registered charge is to be registered without a certificate signed by a conveyancer that the provisions of paragraph 1.7 of Schedule 1 to the Section 106 Agreement dated [xxxxxxx] between (1) Avant Homes (England) Limited, (2) Hinckley and Bosworth Borough Council and (3) Leicestershire County Council have been complied with or that they do not apply".

SCHEDULE 2

BIODIVERSITY NET GAIN

- 1 The Owner covenants with the County Council as follows:
 - 1.1 to implement the approved Habitat Management and Monitoring Plan on the Biodiversity Net Gain Land and to complete the Habitat Creation and Enhancement Works within the timetable specified within the approved Habitat Monitoring and Management Plan;
 - 1.2 to serve the Completion Notice upon the County Council when the Habitat Creation and Enhancement Works have been completed;
 - 1.3 to pay the BNG Monitoring Fee prior to first Occupation of the Development and not to Occupy the Development until the BNG Monitoring Fee has been paid to the County Council;
 - 1.4 not to Occupy any Dwellings until a Habitat Land Manager has been appointed (the identity of such Habitat Land Manager to be previously approved by the County Council in writing and the County Council should be notified of any replacement or successor to the Habitat Land Manager, such replacements or successors to also be approved by the County Council prior to their appointment);
 - 1.5 to manage and maintain the Biodiversity Net Gain Land in accordance with the approved Habitat Management and Monitoring Plan for a period of 30 years from the completion of the Development;
 - 1.6 to allow access to the Biodiversity Net Gain Land on reasonable notice and at reasonable times to persons duly authorised by the County Council for the purposes of monitoring compliance with the Habitat Management and Monitoring Plan and this Deed;
 - 1.7 to submit the first Inspection and Monitoring Report to the County Council on the first anniversary of the service of the Completion Notice, the second anniversary of the service of the Completion Notice and the fifth anniversary of the service of the Completion Notice then at five yearly intervals thereafter until the Biodiversity Net Gain Land is no longer being managed and maintained in accordance with paragraph 1.5 above;

- 1.8 no party shall be liable for breaching a requirement of the approved Habitat Management and Monitoring Plan which arises as a direct result of a Force Majeure Event;
- 1.9 if the County Council is not satisfied that the obligations within this Deed and the approved Habitat Management and Monitoring Plan are being complied with, they shall serve a Breach Notice upon the Owner, provided always that the County Council shall have first discussed any such concerns with the Owner and given the Owner a reasonable timeframe within which to investigate, respond to and/or remedy any alleged breach prior to the service of any Breach Notice by the County Council.

SCHEDULE 4

THE COUNCIL'S COVENANTS WITH THE OWNER

1. The Council hereby covenants with the Owner pursuant to Section 106 of the Act to use the Off-Site Public Open Space Provision Contribution and Off-Site Public Open Space Maintenance Contribution for the specified purposes.
2. In the event that the Off-Site Public Open Space Provision Contribution and Off-Site Public Open Space Maintenance Contribution payable pursuant to this Deed are not applied to the purposes specified has not been expended or committed to be expended within ten years of the date of payment the County Council shall within 28 working days of receipt of a written demand repay to the Owner any unexpended part of the said sum(s).

THIS DEED has been executed as a deed, is delivered, and takes effect on the date stated at the beginning of it.

EXECUTED as a **DEED** by affixing the company seal of
HINCKLEY AND BOSWORTH BOROUGH COUNCIL

in the presence of

Director

Director/Secretary

EXECUTED as a **DEED** by affixing the company seal of
LEICESTERSHIRE COUNTY COUNCIL

in the presence of

Director

Director/Secretary

EXECUTED as a **DEED** by
AVANT HOMES (ENGLAND) LIMITED
acting by [*name of director*], a director

Director

.....

in the presence of

Signature of witness

.....

Name (IN BLOCK CAPITALS)

.....

Address

.....

.....

.....

I confirm that I was physically present
when

signed this deed

.....

APPENDIX 1

PLAN

APPENDIX 2

DRAFT PLANNING PERMISSION