

**Onsite**  
**PAS Biodiversity Net Gain (BNG)**  
**Legal Agreement Template Version ~~2.0~~3.0**

The Planning Advisory Service (PAS) commissioned Dentons to create a suite of sample agreement templates to facilitate securing biodiversity gains in the various ways allowed for by the Environment Act.

This template is provided for council legal teams to modify according to their council's standards and the specific requirements of individual developments.

This template is aimed at providing a streamlined approach, enhancing the efficiency in drafting agreements, and benefitting all stakeholders involved.

**Important Notes:**

- This document is a template and serves as an initial guide or heads of terms.
- This template requires judgement and does not constitute legal advice. It is essential to consult with your legal teams to review and modify the content.
- Local Planning Authorities (LPAs) and other parties to the agreement should collaborate with their legal teams to modify the template as needed for each specific development.

This template includes drafting notes to explain options of drafting and usage.

<b>Version 1.0 published:</b>	July 2024
<b>Last updated:</b>	<del>April 2025</del> <a href="#">March 2026</a>
Check for updates to this template on the PAS website	

## Between

- (1) [\*\* ] of [\*\* ] (the **Council**); and
- (2) [\*\* ] (company registration number [\*\* ]) whose registered office is situated at [\*\* ] (the **Owner**); [and
- (3) [\*\* ] (company registration number [\*\* ]) whose registered office is situated at [\*\* ] (the **Mortgagee**)].

**Mortgagee Drafting Note:** If including a Mortgagee, include this text.

## Recitals

- A The Council is the Local Planning Authority for the purposes of the 1990 Act for the area in which the Development is situated;
- B The Owner is registered as the freehold owner of the Site at the Land Registry under Title Number [\*\* ]; and
- C [The Mortgagee is the beneficiary of a charge dated [\*\* ] in respect of the [freehold/ leasehold] title registered at the Land Registry under title number [\*\* ].]

**Mortgagee Drafting Note:** If including a Mortgagee, include recital C.

## 1 Definitions and Interpretation

- 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).

**Biodiversity Gain Plan** means the plan submitted to, and approved by the Council, to satisfy the development's biodiversity net gain requirements pursuant to Schedule 7A of the 1990 Act.

**Biodiversity Gain Land Monitoring Contribution** means the sum of £[\*\* ] (*[number to be written out]*) Index Linked to be paid by the Owner to the Council under 4 of this Deed to be applied by the Council as a financial contribution towards the Council's costs of monitoring compliance with [as required by condition [\*\* ] of the Planning Permission] and approved by the Council.

**Drafting Note:** ~~Review the proposed conditions and amend this definition as needed so it reflects what the Local authorities should consider whether it is justified and appropriate to seek a monitoring contribution will fund to monitor compliance with a condition (being compliance with either the whole condition or just the maintenance period secured by the conditions). Councils may apply different monitoring contributions or fee schedules to different habitat bank types. If this element is included, the trigger for payment should be considered.~~

~~The contribution could be a single lump sum, an annual payment, or some other sum, where justified. Please review the drafting for the payment of the Biodiversity Gain Land Monitoring Contribution and consider whether this definition needs to be amended and whether the contribution needs to be Index Linked.~~

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