

**DATED** 15 April **2019**

**NORTH YORK MOORS NATIONAL PARK AUTHORITY**

**and**

**STEPHEN AGAR**

**And**

**CLYDESDALE BANK PLC**

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**AGREEMENT**

**pursuant to Section 106 and 106A  
of the Town and Country Planning Act 1990 (as amended)  
relating to  
land at Egton Lane, Glaisdale, Whitby**

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THIS DEED is made the 15<sup>th</sup> day of April 2019

**BETWEEN: -**

- (1) **NORTH YORK MOORS NATIONAL PARK AUTHORITY** of The Old Vicarage, Bondgate, Helmsley, York, YO62 5BP ("**National Park Authority**");
- (2) **STEPHEN AGAR** of 2 Esk View, Egton, Whitby YO21 1UD ("**Owner**"); and
- (3) **CLYDESDALE BANK PLC** (Scottish company number SC001111) whose registered office is at Business Lending Services, 20 Merrion Way, Leeds, LS2 8NZ ("**Chargee**").

**WHEREAS**

- A. The National Park Authority is the local planning authority for the purposes of this Deed for the area within which the Land is situated and by whom the obligations contained in this Deed are enforceable.
- B. The Owner is registered at the Land Registry as proprietor of the Land with title absolute under titles NYK287334, NYK185726 and NYK232712.
- C. The Chargee is registered at the Land Registry as proprietor of a charge dated 1 December 2016 over the parts of the Land contained in titles NYK287334 and NYK185726.
- D. The Owner has applied to the National Park Authority for the Planning Permission.
- E. The National Park Authority is minded to grant the Planning Permission subject to the prior completion of this Deed to ensure the obligations herein bind the Planning Permission and the Land.
- F. The Owner and the Chargee by entering into this Deed do so to create planning obligations in favour of the National Park Authority pursuant to Section 106 and Section 106A of the Act and agree that the Planning Permission and the Land shall be bound by the obligations in this Deed
- G. The National Park Authority, Owner and Chargee entered into a Section 106 Agreement dated 20 May 2009 which is not affected by this Deed and remains in full force and effect.

**NOW THIS DEED WITNESSES** as follows:

**DEFINITIONS AND INTERPRETATION**

1.1. In this Deed the following words and expressions shall where the context so requires have the following meanings: -

<b>“Act”</b>	means the Town and Country Planning Act 1990 (as amended);
<b>“Land”</b>	means the land against which this Agreement may be enforced shown edged red on the Plans;
<b>“Planning Permission”</b>	means planning permission granted by the National Park Authority pursuant to application NYM/2017/0469/FL;
<b>“Plans”</b>	means the three plans in the Second Schedule.

**CONSTRUCTION OF THIS DEED**

- 1.2. For the purposes of this Deed the singular includes the plural and vice versa.
- 1.3. The expression “person” means any person, firm, authority or company or other legal entity.
- 1.4. Unless otherwise stated, references to clause numbers are references to the clauses in this Deed.
- 1.5. Unless otherwise stated, references to schedules and paragraph numbers are references to the schedules and paragraphs of schedules in this Deed.
- 1.6. Any covenant by the Owner not to knowingly do any act or thing shall be deemed to include a covenant not to cause permit or suffer the doing of that act or thing.

**LEGAL BASIS**

- 2. This Deed is a planning obligation made pursuant to Section 106 and Section 106A of the Act and all other powers so enabling and may be enforced by the National Park Authority against the Owner and the Chargee and, where the obligation binds their land, any persons deriving title from them.

## **PARTIES COVENANTS**

- 3.1 The Owner covenants with the National Park Authority to perform the obligations contained in the First Schedule and that the Planning Permission and the Land shall be subject to those obligations.
- 3.2 The Chargee acknowledges and declares that this Deed has been entered into by the Owner with the Chargees consent so that the obligations in this Deed shall bind the Planning Permission and the Land and the interest of the Chargee in the Land shall be subject to the obligations in is Deed and from the date of this Deed the obligations in this Deed shall take precedence over the interest of the Chargee in the Land.

## **MISCELLANEOUS**

4. The planning obligations contained in this Deed shall not become effective until the earliest date on which the following conditions are satisfied: -
  - (a) the Planning Permission has been granted; and
  - (b) save where otherwise stated in this Deed, the commencement of development pursuant to the Planning Permission.
5. This Deed shall have effect as from the date specified in clause 4 until discharged but shall cease to have effect if the Planning Permission shall lapse or expire or be revoked or modified without the consent of the Owner or for any reason cease to have effect before the commencement of development and save that clause 10 shall come into effect without cessation on completion of this Deed
6. Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted after the date of this Deed.
7. This Deed is a Local Land Charge and shall be registered as such.
8. This Deed does not nor is intended to confer a benefit on a third party within the meaning of the Contracts (Rights of Third Parties) Act 1999.

## **FIRST SCHEDULE**

### **(OBLIGATIONS)**

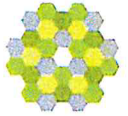
1. The Owner covenants that in the event that they cease to occupy and actively operate the running of an agricultural holding of at least 42.76 hectares as a reasonable farm unit, including all or part of the Land, and within such proximity to the Land as would be reasonable for a farm unit, then within 6 months of the cessation the development carried out pursuant to the Planning Permission shall be removed from the Land and within 12 months thereafter the site of the development shall be returned to grassland.

**SECOND SCHEDULE**

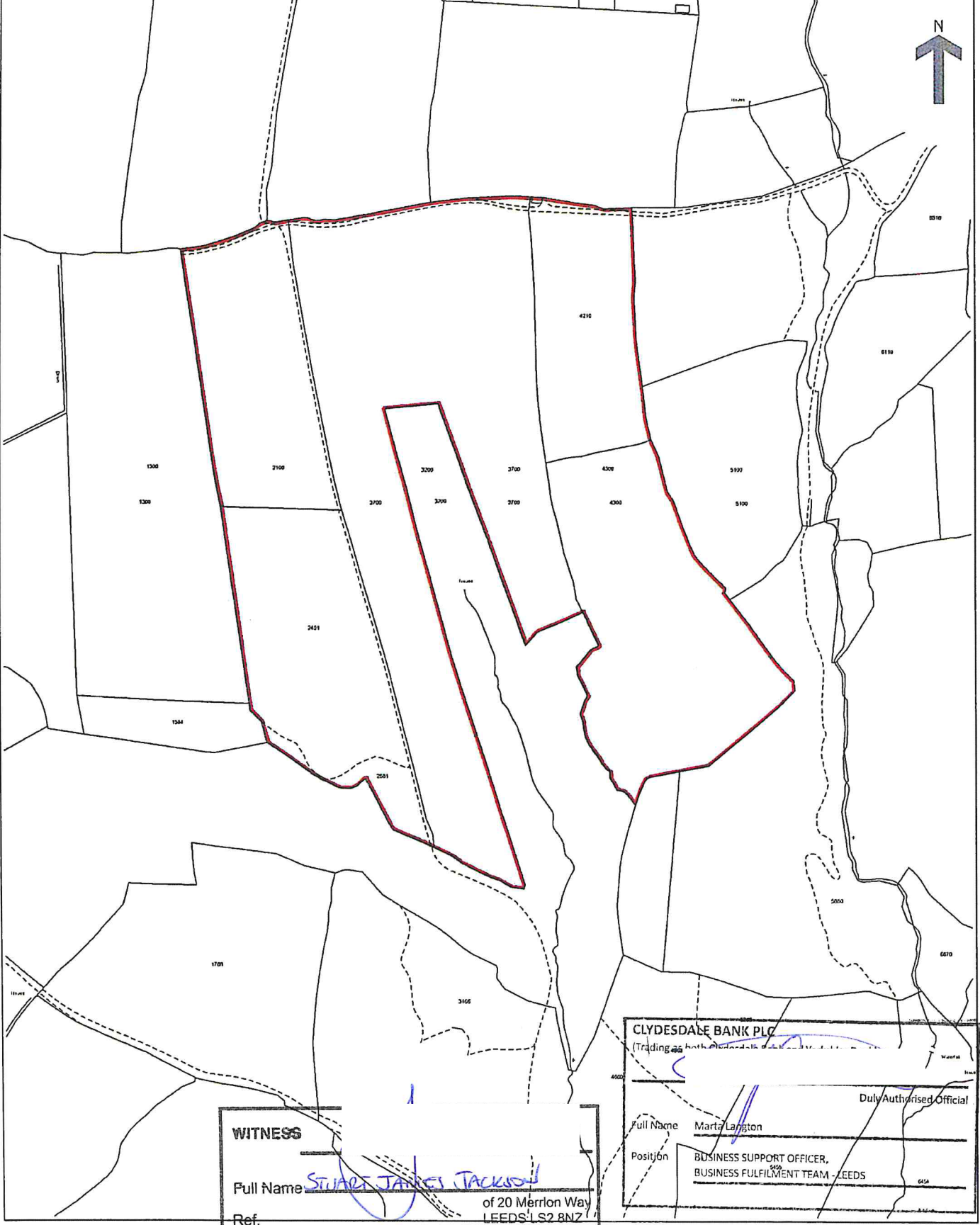
**(PLANS)**

HM Land Registry  
Official copy of  
title plan

Title number NYK287334  
Ordnance Survey map reference NZ8005NW  
Scale 1:2500  
Administrative area North Yorkshire : Scarborough



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**WITNESS**  
Full Name SWARE JAMES JACKSON  
Ref. \_\_\_\_\_  
of 20 Merrion Way  
LEEDS LS2 8NZ

**CLYDESDALE BANK PLC**  
(Trading as both Clydesdale Bank and Clydesdale Business Bank)  
Duly Authorised Official  
Full Name Marta Langton  
Position BUSINESS SUPPORT OFFICER,  
BUSINESS FULFILMENT TEAM - LEEDS

H.M. LAND REGISTRY

TITLE NUMBER

NYK 185726

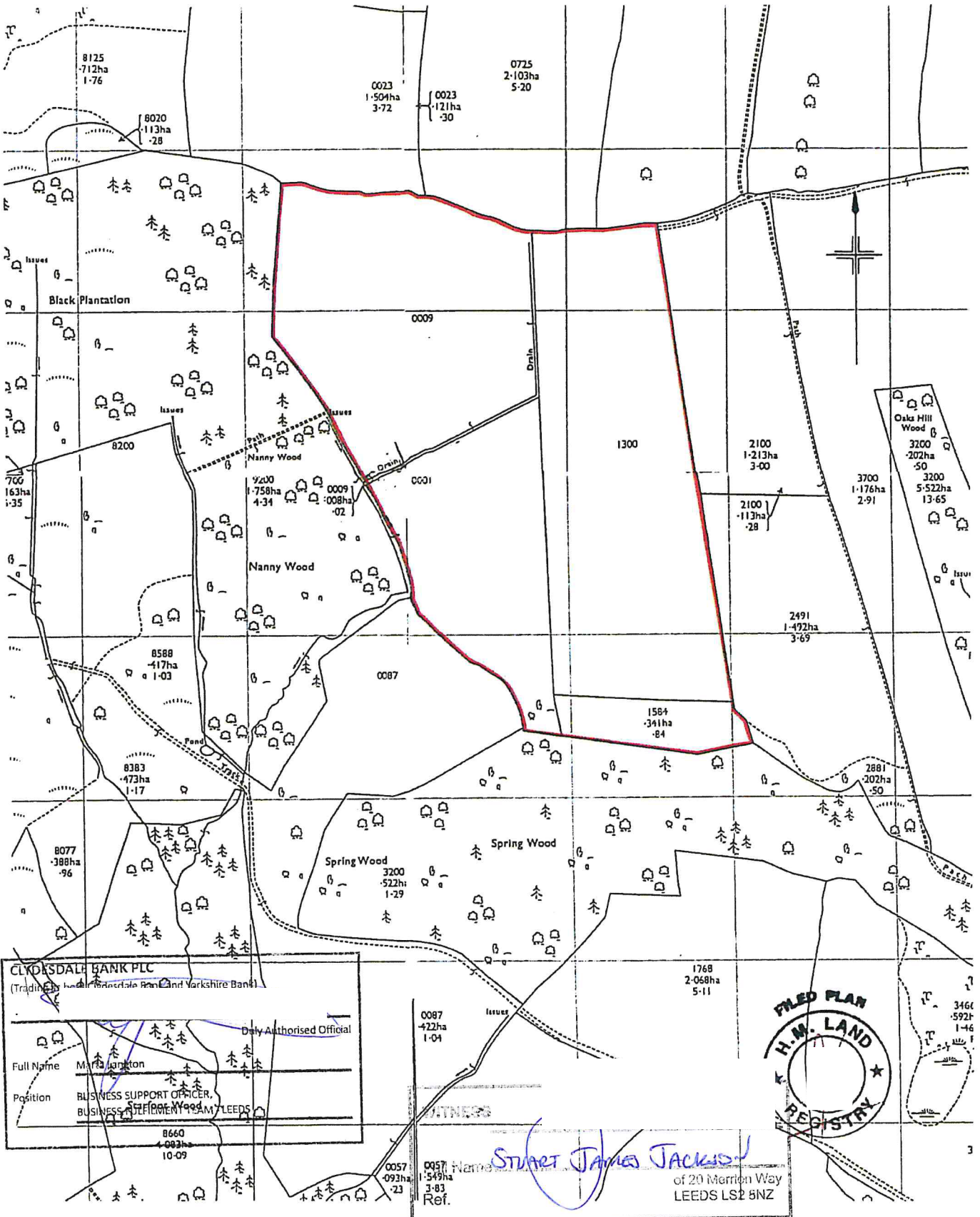
ORDNANCE SURVEY  
PLAN REFERENCE

NZ 7905 NZ 7906 NZ 8005 NZ 8006

Scale  
1/2500

COUNTY NORTH YORKSHIRE DISTRICT SCARBOROUGH

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2020



THE COMMON SEAL OF  
THE NATIONAL PARK AUTHORITY  
was affixed in the presence of:

Authorised Signatory:

*(Richard Smith)*

EXECUTED AS A DEED BY

THE OWNER

*[Signature]*

In the presence of

Neil Duffield

Witness signature

Name

Address

*BHD Partnership  
Airedale Hill Manor  
Whitby YO21 1QB*

EXECUTED AS A DEED BY

affixing the Common Seal of

THE CHARGE

in the presence of:

Authorised Signatory

CLYDESDALE BANK PLC <small>(Trade as both Clydesdale Bank and Yorkshire Bank)</small>	
Duly Authorised Official	
Full Name	<i>Marta Langton</i>
Position	BUSINESS SUPPORT OFFICER, BUSINESS FULFILMENT TEAM - LEEDS

WITNESS	
Full Name	<i>Stuart James Jackson</i>
Ref.	of 20 Meriton Way LEEDS LS2 8NZ