

DATE: 5 February

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DEED OF CONFIRMATION OF AN ESCROW AGREEMENT

Between

(1) BARCLAYS BANK PLC
(as Escrow Bank)

(2) YORK POTASH LTD
(as YPL)

(3) NORTH YORK MOORS NATIONAL PARK AUTHORITY
(as NYMNPA)

CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place
78 Cannon Street
London EC4N 6AF

cms.law

THIS DEED is made on

5 February

2018

BETWEEN:

- (1) **BARCLAYS BANK PLC** (registered in England and Wales with registration number 01026167) and whose registered office is at 1 Churchill Place, London, E14 5HP (the "**Escrow Bank**");
 - (2) **YORK POTASH LTD** (registered in England and Wales with registration number 07251600) and whose registered office is at 3rd Floor, Greener House, 68 Haymarket, London, SW1Y 4RF ("**YPL**"); and
 - (3) **NORTH YORK MOORS NATIONAL PARK AUTHORITY** of The Old Vicarage, Bondgate, Helmsley, York, YO62 5BP ("**NYMNPA**"),
- together, the Escrow Bank, YPL and NYMNPA being the ("**Escrow Parties**").

RECITALS

- (A) By an escrow agreement dated 26 April 2017 between (1) the Escrow Bank, (2) YPL and (3) NYMNPA (the "**Escrow Agreement**") YPL agreed to deposit into the Escrow Account the Escrow Deposit pursuant to the terms of a S.106 agreement dated 19 October 2015 made between, inter alia, NYMNPA, YPL and Barclays Bank Plc (as chargee) (together with other parties) (the "**S.106 Agreement**") as clarified in a memorandum of understanding entered into by (1) YPL and (2) NYMNPA (the "**MoU**").
- (B) By a supplemental S.106 agreement dated on or about the date of this Deed made between (1) YPL and (2) NYMNPA, YPL and NYMNPA have agreed to vary the terms of the S.106 Agreement, the purpose of which is to ensure that the original obligations of the S.106 Agreement continue to apply to development carried out pursuant to planning permission granted pursuant to planning application reference NYM/2017/0505/MEIA ("**NYMNPA s.73 Permission**") dated on or about the date of this Deed (the "**Supplemental S.106 Agreement**").
- (C) This Deed is required to confirm that the terms of the Escrow Agreement shall apply in respect of the NYMNPA s.73 Permission and to amend the definition of "**Related Agreements**" as defined in the Escrow Agreement.
- (D) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

IT IS AGREED AS FOLLOWS:

1. CONSTRUCTION

- 1.1 Terms defined within in the Escrow Agreement shall, unless otherwise defined in this Deed, have the same meanings when used in this Deed.
- 1.2 "**MoU Confirmation**" means the confirmation dated on or about the date of this Deed between YPL and NYMNPA confirming that the MoU remains in full force and effect notwithstanding the Supplemental S.106 Agreement and that a reference to the S.106 Agreement in the MoU will be a reference to the S.106 Agreement as varied by the Supplemental S.106 Agreement.

2. THIRD PARTY RIGHTS

- 2.1 A person who is not a party to this deed has no right under the Contracts (Right of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

3. CONFIRMATIONS

The Escrow Parties confirm and agree that, without prejudice to the terms of Escrow Agreement:

- 3.1 the Escrow Agreement remains in full force and effect;
- 3.2 each of their obligations respectively under the Escrow Agreement continue to be legal, valid, binding and enforceable in accordance with its terms;
- 3.3 subject to clause 3.4 with effect from the date of the notice of implementation of the NYMNPA s.73 Permission given under the Supplemental S.106 Agreement, reference within the definition of Related Agreements in the Escrow Agreement shall be amended to include reference to:
- (a) the S.106 Agreement as amended by the Supplemental S.106 Agreement; and
 - (b) the MoU as confirmed by the MoU Confirmation; and
- 3.4 in the event of the NYMNPA s.73 Permission expiring or being quashed or in the event of NYMNPA revoking the NYMNPA s.73 Permission prior to its implementation the variation to the S.106 Agreement comprised in the Supplemental S.106 Agreement shall be of no further effect and the S.106 Agreement shall continue in full force and effect and this Deed shall be of no effect.
- 3.5 Notwithstanding the above, Clauses 7.1(b), 7.1(c) and 12.4 of the Escrow Agreement shall continue to apply to the Related Agreements

4. LAW

4.1 Governing law

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

4.2 Jurisdiction

- (c) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including claims for set-off and counterclaim and any dispute regarding the existence, validity or termination of this Deed) (a "Dispute").
- (d) The Parties to this Deed agree that the courts of England are the most appropriate and convenient courts to settle Disputes and no party to this Deed will argue to the contrary.

Executed and delivered as a deed on the date first written above.

THE ESCROW BANK

Signed as a deed by
For and on behalf of
BARCLAYS BANK PLC

Signature

Title: Director

YPL

Executed as a deed by **YORK POTASH LIMITED**)
acting by one director in the presence)
of a witness

Signature of Director:(

Signature of Witness:

Witness Name: W. B. WOODS

Witness Address: RESOLUTION HOUSE

..... LAKE VIEW, SCARBOROUGH YO11 3ZB

Witness Occupation: SURVEYOR

NYMNP

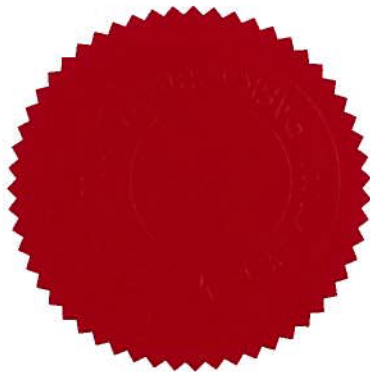
The Common Seal of **NORTH YORK MOORS
NATIONAL PARK AUTHORITY** was hereunto
Affixed in the presence of:

(RUSMITH)

Authorised Signatory

ANDREW WILSON:

CHRIS FRANCE:



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