

DATED 2015

NORTH YORK MOORS NATIONAL PARK AUTHORITY (1)

and

YORK POTASH LIMITED (2)

and

BARCLAYS BANK PLC (3)

and

VICTORIA FARM GARDEN CENTRE LIMITED (4)

and

**MARGARET ANN PARKER
MICHAEL LESLIE PARKER (5)**

and

**JANE ANNABEL ADAMSKI
ALISTAIR PAUL JACKSON
FIONA GILLIAN CLACHERTY (6)**

PLANNING AGREEMENT

Pursuant to Section 106 Town and Country Planning Act 1990
relating to land at Doves Nest Farm and Lady Cross Scarborough, North Yorkshire

**Eversheds
1 Wood Street
London
EC2V 7WS**

File Ref: MET 902946.2

THIS AGREEMENT is made the day of Two
Thousand and Fifteen

BETWEEN:

1. **NORTH YORK MOORS NATIONAL PARK AUTHORITY** of The Old Vicarage, Bondgate, Helmsley, York, YO62 5BP (“NYMNPA”)
2. **YORK POTASH LIMITED** (Company Registration Number 07251600) whose registered office is situate at 3rd Floor Greener House, 68 Haymarket, London, SW1Y 4RF (“YPL”)
3. **VICTORIA FARM GARDEN CENTRE LIMITED** (Company Registration Number 04917198) whose registered office is 2 Hall Garth Pickering North Yorkshire YO18 7AW (“the First Owner”)
4. **MARGARET ANN PARKER and MICHAEL LESLIE PARKER** of Knaggy House Farm Sneatonthorpe Whitby North Yorkshire YO22 5HZ (“the Second Owners”)
5. **JANE ANNABEL ADAMSKI and ALISTAIR PAUL JACKSON and FIONA GILLIAN CLACHERTY** all of Finkle House Farm Great Fryupdale Lealholm Whitby North Yorkshire YO21 2AS (“the Third Owners”)
6. **BARCLAYS BANK PLC** (Company Registration Number 01026167) whose registered office is situate at 1 Churchill Place London E14 5HP (“the Mortgagee”)

RECITALS:

- A. NYMNPA is a local planning authority for the purposes of Section 106 of the 1990 Act
- B. YPL is the registered proprietor of the freehold interest in those parts of the DNF Obligation Land registered at HM Land Registry under title numbers NYK403401 NYK211933 NYK288512 NYK211934 NYK351074 and NYK217353

“Application”	the application submitted to NYMNPA and RCBC allocated reference numbers NYM/2014/0676/MEIA and R/2014/0627/FFM respectively applying for the winning and working of polyhalite by underground methods including the construction of a mine head at DNF involving access, maintenance and ventilation shafts, the landforming of associated spoil, the construction of buildings, access roads, car parking and helicopter landing site, attenuation ponds, landscaping, restoration and aftercare and associated works. In addition, the construction of an underground tunnel between DNF and land at Wilton that links to the mine below ground, comprising 1 no. shaft at DNF, 3 no. intermediate access shaft sites, each with associated landforming of associated spoil, the construction of buildings, access roads and car parking, landscaping, restoration and aftercare, and the construction of a tunnel portal at Wilton comprising buildings, landforming of spoil and associated works
“Approved Provider”	a security provider approved by NYMNPA which may include one or more of the following: Barclays Bank Plc; Royal Bank of Scotland; HSBC; BNP Paribas; and Societe Generale or such other security provider agreed between YPL and NYMNPA
“Archaeological Data Contribution”	the sums set out in paragraph 5.1 of Schedule 1 to facilitate incorporation of archaeological project data into existing archaeological records
"Certified Transaction Report"	means a report certified by CCAB qualified accountant providing details of the expenditure by NYMNPA of monies paid to NYMNPA pursuant to the obligations in this Agreement and certifying that the expenditure referred to in the report has been properly incurred by NYMNPA

“Commencement of Construction”

the earliest date on which any of the material operations (as defined by Section 56(4) of the 1990 Act) pursuant to the implementation of the Development is begun save that irrespective of the provisions of Section 56(4) of the 1990 Act none of the following operations shall constitute a material operation for the purposes of constituting Commencement of Construction

- i. trial holes or other operations to establish the ground conditions, site survey work, or works of remediation
- ii. archaeological investigations
- iii. any works of demolition or site clearance (but not including soil stripping other than that in iv below)
- iv. minor soil stripping for the purposes of the creation of the temporary access and lay down areas and preparation of drill pads
- v. any structural planting or landscaping works
- vi. ecological or nature conservation works associated with the Development
- vii. construction of boundary fencing or hoardings
- viii. any other preparatory works agreed in writing with the NYMNPA or RCBC according to the administrative area within which the preparatory works concerned are to be undertaken

and Commence and Commenced shall be construed accordingly

“Construction Period”

the period from the Commencement of Construction until the latest of the following dates to occur:

- i. the removal of the temporary winding towers at DNF and at Lady Cross
- ii. one year after the completion of the tree planting, shrub planting and seeding of the bunds at DNF and Lady Cross pursuant to Conditions 57 and 71 of the NYMNPA Planning Permission;
- iii. the MTS becoming operational;
- iv. the date that the movement of polyhalite by road finally ceases;
- v. the removal of the temporary right hand turn lane at the shaft entrance to DNF

“Construction Year

the period of twelve months starting on the Commencement of Construction and each twelve month period starting on the anniversary thereof throughout the Construction Period

“Core Policy D Contribution” the sums to be paid pursuant to paragraph 3 of Schedule 1 to contribute towards the planting of mixed deciduous woodland in accordance with the strategy set out in Figure 2 of the current Management Plan or equivalent strategy in any successor plan

“Core Policy D Notice” the notice in the form contained in Schedule 5 and completed as directed therein being used by NYMNPAs to demand the payment of any Core Policy D Contribution

“Default Event” any of the following:

- insolvency of YPL; or
- during the Construction Period cessation of construction for a period of 12 months (unless it can be evidenced that there is a strong prospect of construction resuming within the following 2-year period); or
- cessation of production at the Mine for a period of 12 months (unless it can be evidenced that there is a strong prospect of production recommencing within the following 2-year period); or
- notwithstanding there being any prospect of construction resuming or production recommencing in accordance with this definition, any cessation of construction or production for a period of 5 years

and in the absence of agreement as to whether construction or production has either ceased, or has no reasonable prospect of resuming in accordance with this definition, the matter is to be determined by an expert under the provisions of clause 2.9

“Default Reinstatement Works” the works at any point in time which would be required to restore the physical characteristics of the Surface Sites to a condition consistent with their previous use for agriculture and / or forestry or woodland or such other use or landform agreed by NYMNPAs which is appropriate within the National Park and which for the avoidance of doubt shall include all of the following:

- the capping of the mine and intermediate shafts;
- the infilling of all surface voids; and
- removal of hardstanding and buildings constructed as part of the Development

“Development”	the development described in the Application and to be carried out pursuant to the Planning Permissions
“DNF”	Doves Nest Farm being the location of the proposed minehead
“DNF Obligation Land”	the land shown edged red on Plan 1
“Escrow Account”	a bank account under the control of an entity with Investment Grade Rating within which monies are to be deposited as security for payments due under this Agreement in accordance with paragraph 13 of Schedule 1 and the entirety of Schedule 2
“Geological Data Contribution”	the sum payable pursuant to paragraph 6.1 of Schedule 1 to facilitate incorporation of geological project data into existing geological records
“Independent Surveyor”	the person appointed pursuant to paragraph 3 of Schedule 2
“Index”	the All Items Retail Prices Index as published by the Office of National Statistics (or any successor thereof)
“Index Linked”	adjusted in accordance with clause 2.21
“Intermediate Shaft Site”	the site upon which an intermediate shaft is to be sunk at Lady Cross as identified on Plan 2
“Investment Grade Rating”	being an investment rating of BBB or higher as applied by Standard and Poor’s or Moody’s or an equivalent credit-rating agency agreed by NYMNPA
“Lady Cross”	the area known as Lady Cross Plantation being the location of an intermediate shaft site
“Lady Cross Obligation Land”	the land shown edged red on Plan 2 (but excluding any land forming part of the public highway)
“Landscape and Ecology Compensation Contribution”	the sums to be paid pursuant to paragraph 2 of Schedule 1 being a contribution towards mitigation and compensation for landscape, ecology and associated impacts
“Landscape and Ecology Notice”	the notice in the form contained in Schedule 5 completed as directed therein being used by NYMNPA to demand the payment of any Landscape and Ecology Contribution

“Liaison Group”	means the parties that will be invited to attend the Liaison Group Forum meetings to include the following: <ul style="list-style-type: none">a) three representatives of YPLb) three representatives of NYMNPAc) up to 3 local councillors andd) a representative of each of the local parish councilse) any other person which NYMNPA and YPL agree should be invited to join the group from time to time
“Liaison Group Forum”	a forum for liaison about the construction and delivery of the Development and the compliance with this Agreement and to inform members of the Liaison Group of relevant local issues
“Local Businesses Tourism Contribution”	the sums payable pursuant to paragraph 4.7 of Schedule 1 for the purposes of assisting local businesses related to tourism
“Local Supply Chain Engagement Strategy”	the document entitled “York Potash Limited Supply Chain Transport Strategy” dated September 2014 and included as an appendix to the Economic Impact Report submitted as part of the Application
“Management Plan”	the ‘North York Moors National Park Management Plan’ dated 2012 detailing the strategic framework for the future management and protection of the special qualities of the national park or such successor or replacement plan as may be notified by NYMNPA from time to time
“Management Plan Policies”	the policies set out in Schedule 4
“Mine”	the mine which is to be developed as part of the Development
“Monitoring Contribution (Initial)”	the sums set out in paragraph 14.1 of Schedule 1 for the purposes of ensuring compliance with this Agreement and the requirements of the NYMNPA Planning Permission
“Monitoring Contribution (Ongoing)”	the sums set out in paragraph 12.1 of Schedule 1 for the purposes of ensuring compliance with this Agreement and the requirements of the NYMNPA Planning Permission
“MTS”	the mineral transportation system described in the application for the Planning Permissions
“National Park”	the North York Moors National Park (NYMNPA)

“Noise Mitigation Contribution”	the sum agreed with NYMNPA to be maintained by YPL to meet the cost of additional noise mitigation if identified as being required as a consequence of the construction or operation of the Development
“Noise Mitigation Notice”	the notice in the form contained in Schedule 5 completed as directed therein being used by NYMNPA to demand the payment of any Noise Mitigation Contribution
“NYCC”	North Yorkshire County Council
“NYCC Agreement”	the Planning Agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated the same date as this Deed and made between North Yorkshire County Council (1) YPL (2) and Barclays Bank PLC (3)
“NYCC Payments”	the monetary contributions to be paid by virtue of the NYCC Agreement
“NYCC Security”	security arrangements to be put into place to secure the monetary contributions to be paid by virtue of the NYCC Agreement
“NYMNPA Planning Permission”	the planning permission granted by NYMNPA pursuant to the Application under reference number NYM/2014/0676/MEIA
“NYMNPA Tourism Contribution (Construction)”	the sums payable pursuant to paragraph 4.3 and 4.4 of Schedule 1 for the purposes of marketing the North York Moors
“NYMNPA Tourism Contribution (Operations)”	a sum equivalent to the amount of the last of the NYMNPA Tourism Contributions (Construction) payable to the NYMNPA in the Post Construction Period identified by the application of paragraphs 4.3 and 4.4 of Schedule 1 for the purposes of marketing the North York Moors
“Operating Framework”	the provisions setting out how the Liaison Group Forum will be established and operated by YPL contained in Schedule 7 of this Agreement
“Operational Period”	the period commencing at the end of the Post Construction Period and continuing for the operational life of the Mine
“the Owners”	YPL and the First Owner and the Second Owners and the Third Owners (and “Owner” shall be interpreted in this Agreement as meaning all and any of the individual Owners as the case may be)

“Payment Year”	the period of twelve months starting on the Commencement of Construction and each twelve month period starting on the anniversary thereof until the end of the Operational Period
“Performance Standards”	the minimum performance criteria that the NYMNPA must achieve to secure the continued payment of the Monitoring Contribution as detailed in Schedule 8 of this Agreement
“Plan 1”	the Plan attached hereto and marked as such identifying DNF
“Plan 2”	the Plan attached hereto and marked as such identifying Lady Cross
“Plan 3”	the plan attached hereto and marked as such identifying the proposed bridleway
“Planning Permissions”	the planning permissions granted pursuant to the Application being the NYMNPA Planning Permission and the RCBC Permission
“Post Construction Period”	the period of time of equivalent length to the Construction Period commencing at the end of the Construction Period
“Principal Contributions”	the contributions relating to landscaping and ecology; Core Policy D and tourism payable pursuant to paragraphs 2, 3 and 4 of Schedule 1
“RCBC”	Redcar and Cleveland Borough Council
“RCBC Permission”	the planning permission granted by RCBC pursuant to the Application under reference R/2014/0627/FFM
“Review Date”	the date being each anniversary of the Commencement of Construction until the end of the Construction Period
“SBC Local Opportunities Contribution”	the sum payable pursuant to paragraph 9 of Schedule 1
“Scarborough Borough Council”	The Borough Council of the Borough of Scarborough in North Yorkshire (SBC)
“Security Arrangements”	the arrangements as set out in Schedule 2 to secure performance and satisfaction of specified obligations contained in this Agreement and the NYCC Agreement

“Settled Matter”	any of the following
	<ol style="list-style-type: none">i. the reasonableness, purpose and quantum of those contributions and payments the amount and purpose of which is identified by the time of entering into this Agreement and set out in this Agreement, and the mechanism for defining the levels of those contributionsii. the duration and timing of any payment or contribution the date for which is specifically set out in or governed by this Agreementiii. the requirement of any payment or contribution to be index linkediv. the type, form and purpose of any security to be provided pursuant to this Agreement, and the mechanism for defining the levels of that security
“Signage Tourism Contribution”	the sum payable pursuant to paragraph 4.10 of Schedule 1 for the provision of directional brown signs associated with the National Park
“Surface Sites”	surface development land at DNF and the Intermediate Shaft Site at Lady Cross identified on Plan 1 and Plan 2
“Tourism Contributions”	the sums set out in paragraphs 4.2 to 4.11 of Schedule 1
“Tourism Impact Review”	the review mechanism for assessing tourism impacts of the Development contained in Schedule 6
“VisitBritain”	the organisation titled as such or any successor organisation
“VisitBritain Tourism Contribution”	the sum payable pursuant to paragraph 4.9 of Schedule 1 for the purposes of promotion by VisitBritain of the North York Moors as a tourist destination
“VisitEngland”	the organisation titled as such or any successor organisation
“VisitEngland Tourism Contribution”	the sum payable pursuant to paragraph 4.8 of Schedule 1 for the purposes of promotion by VisitEngland of the North York Moors as a tourist destination

“Welcome to Yorkshire Tourism Contribution”	the contribution payable pursuant to paragraph 4.2 of Schedule 1 for the purposes of promotion by Welcome to Yorkshire of the North York Moors as a tourist destination
“Welcome to Yorkshire”	the organisation titled as such being the official destination management organisation for Yorkshire or any successor organisation
“Whitby (SBC) Tourism Contribution”	the sum payable pursuant to paragraph 4.11 of Schedule 1 for the purposes of promotion of Whitby as a tourist destination
“York Potash Undergraduate Programme”	the programme set out in the Skills Strategy submitted in support of the Application

- 1.2 The expressions “NYMNPA” “YPL” “the Mortgagee” “the First Owner” “the Second Owners” and “the Third Owners” shall where the context so admits include its respective successors and assigns and in the case of NYMNPA any successor to its statutory functions
- 1.3 References in this Agreement to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force
- 1.4 Words in this Agreement importing the singular meaning shall where the context so admits include the plural meaning and vice versa
- 1.5 Words in this Agreement of the masculine gender shall include the feminine and neuter genders and vice versa and words denoting natural persons shall include corporations and vice versa
- 1.6 Where in this Agreement reference is made to a Clause or Schedule such reference (unless the context otherwise requires) is a reference to a Clause or Schedule of this Agreement
- 1.7 References to clauses schedules and paragraphs are to clauses schedules and paragraphs of this Agreement unless otherwise stated

2 GENERAL PROVISIONS

Statutory Authority

- 2.1 The obligations in this Agreement are planning obligations and are made pursuant to Section 106 of the 1990 Act and the Agreement is entered into by the parties hereto pursuant to Section 106 of the 1990 Act
- 2.2 All obligations are entered into pursuant to Section 1 of the Localism Act 2011 and Section 111 of the Local Government Act 1972
- 2.3 In order to satisfy the tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, NYMNPA is satisfied that the planning obligations in this Agreement are necessary to make the Development acceptable in planning terms, are directly related to the Development and fairly and reasonably relate in scale and kind to the Development
- 2.4 The obligations in Schedule 1 and Schedule 2 of this Agreement bind the DNF Obligation Land and the obligations in paragraph 13 of Part 1 of Schedule 1 in respect of security for Default Reinstatement Works at Lady Cross also bind the Lady Cross Obligation Land
- 2.5 All the obligations in Schedules 1, 2, 6 and 7 are enforceable by NYMNPA

Liability

- 2.6 The parties hereto agree that:
- 2.6.1 Subject to clause 2.29 no person shall be liable for breach or non-performance of any covenant contained in this Agreement after he shall have parted with all interest in the DNF Obligation Land or the Lady Cross Obligation Land or the part of them in respect of which such breach or non-performance occurs but without prejudice to liability for any subsisting breach prior to parting with such interest; and
- 2.6.2 Nothing in this Agreement shall prohibit or limit the right to develop

any part of the DNF Obligation Land and/or the Lady Cross Obligation Land in accordance with a planning permission (other than the Planning Permissions as defined herein or any renewal thereof or any reserved matters approval with respect thereto) granted (whether or not on appeal) after the date of this Agreement in respect of which development this Agreement will not apply

Contingencies

2.7 With the exception only of the obligations contained in clauses 1 to 3, paragraphs 1, 7.1, 8.1, 8.2, 12.1, 13 and 14.1 of Schedule 1 and the whole of Schedule 2 of this Agreement, the terms contained in his Agreement shall take effect only on the Commencement of Construction

2.8 In the event of either of the Planning Permissions expiring or in the event of NYMNPA revoking the NYMNPA Planning Permission prior to Commencement of Construction the obligations under this Agreement which remain to be discharged at the date of such expiry or revocation shall cease absolutely and NYMNPA shall procure that any entries referring to this Agreement in the Register of Local Land Charges shall be removed forthwith

Determination by Expert

2.9 Subject to clause 2.10 below, in the event of a dispute between the parties hereto concerning any matter that matter may at the written option of any relevant party (notice of which shall be given to the other party or parties) be referred to such expert as they may agree or (in default of agreement within 20 working days of the date of giving of the notice) appointed by the Chairman for the time being of the Planning and Environment Bar Association whose appointment shall be conducted on the following terms:

2.9.1 The person to be appointed pursuant to Clause 2.9 shall be a person having fifteen years or more relevant post-qualification experience of the issue in dispute and projects comprising works of the scale and nature of the Development and of the particular issue in dispute

- 2.9.2 The reference to the expert shall be on terms that:
- 2.9.2.1 the expert shall afford the parties to the dispute an opportunity to make representations to him/her in writing and if he/she so directs to make submissions on one another's representation;
 - 2.9.2.2 the expert shall be able to stipulate periods of time for the making of such submissions and representations;
 - 2.9.2.3 the expert shall be bound to have regard to the said submissions and representations;
 - 2.9.2.4 the expert shall have the power to award the costs of the determination in favour of either party at the expense of the other in the event that the expert shall consider that the said other party has acted unreasonably and the extent of the costs awarded shall reflect the extent and effect of said unreasonable behaviour;
 - 2.9.2.5 the expert shall be limited in his findings to the proposals put by either party or a proposal falling between both of them; and
 - 2.9.2.6 the findings of the expert shall save in the case of manifest material error be final and binding on the Owners and NYMNPA save that the parties retain the right to refer to the Courts on a matter of law
- 2.10 No disputes may be referred to an expert pursuant to clause 2.9 where the relevant matter of that dispute was a Settled Matter.

VAT

- 2.11 In the event that the provision by the Owners to NYMNPA or other body of any land or buildings or infrastructure or matters pursuant to this Agreement is a taxable supply for the purposes of the legislation relating to Value Added Tax in respect of which any Value Added Tax should become payable then NYMNPA if in receipt of such supply shall pay to the Owners all such Value Added Tax upon receipt from the Owners of a Value Added Tax invoice therefore and the Owners shall endeavour to ensure that the timing of such invoice or invoices within any four week period shall be such as to minimise the period between settlement of the invoice and recovery of the tax

Time Periods

- 2.12 It is agreed between the parties that any of the periods specified in the Agreement may be extended by mutual agreement in writing between YPL and NYMNPA SAVE THAT any party to this Agreement who requires time to be of the essence in respect of any period extended shall serve notice on any other relevant party stating that time is of the essence in relation to any time period so extended

Approvals

- 2.13 For the purposes of this Agreement where a party is required to make a request give confirmation approval or consent express satisfaction with agree to vary or to give notice of any matter such request confirmation approval consent expression of satisfaction agreement to vary or notice shall be deemed to have not been given or expressed unless given or expressed in writing and shall not be unreasonably withheld or delayed

Notices

- 2.14 The service of notices and communications pursuant to this Agreement shall be sent to the addressee at the address stated in this Agreement or at such other address as the addressee shall have notified to the others in writing
- 2.15 Notices and communications under this Agreement may be sent by personal delivery or by Recorded Delivery or ordinary First Class Post (recorded delivery) and any notice or communication sent by ordinary First Class Post and correctly addressed shall be conclusively deemed to have been received by the addressee on the second business day following the date of posting

Exclusion of the Contracts (Rights of Third Parties) Act 1999

- 2.16 Nothing herein contained or implied shall give or be construed as giving rights, privileges, powers or enforceability other than to the specific parties executing this document and their successors (if any)

as defined herein and the provisions of the Contracts (Rights of Third Parties) Act 1999 and any benefits or rights which could arise therefrom are expressly excluded with the intent that no third party within the meaning of that Act shall have any rights of enforcement in respect of any matter herein contained

Void Provisions

- 2.17 If any provision of this Agreement is declared by any judicial or other competent authority to be void voidable illegal or otherwise unenforceable the remaining provisions of this Agreement shall continue in full force and effect and the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality provided that any party may seek the consent of the other or others to the termination of this Agreement on such terms as may in all the circumstances be reasonable if the effect of the forgoing provisions would be to defeat the original intention of the parties

No Fetter of Discretion

- 2.18 Save as permitted by law nothing contained or implied in this Agreement shall prejudice or affect the rights powers duties and obligations of NYMNPA in their rights powers duties and obligations under all public and private statutes bylaws and regulations which may be as fully and effectually exercised as if NYMNPA were not a party to this Agreement

Effect of any Waiver

- 2.19 No waiver (whether express or implied) by NYMNPA of any breach or default by the Owners in performing or observing any of the terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent NYMNPA from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Owners

General Requirement to Co-operate

- 2.20 Without prejudice to its statutory duties NYMNPA and the Owners

shall all act in good faith and shall co-operate with each other to facilitate the discharge and performance of the obligations of the other contained within this Agreement within the timescales specified

Indexation

- 2.21 Where payments are identified as being Index Linked in this Agreement then such sums shall be adjusted by applying the Index from the date of this Deed to the date of payment

Interest

- 2.22 Where any payment or part payment which the parties hereto are obliged to pay or repay pursuant to the provisions of this Agreement is not paid on the date upon which the obligation to make such a payment falls due then interest at 4% above the base rate of HSBC Bank Plc from time to time calculated on a daily basis shall be added to the outstanding balance of the payment from the date on which the payment or part payment became due until the date of receipt of the payment or part payment

The Mortgagee's Consent

- 2.23 The Mortgagee consents to this Agreement being entered into with the intent that its interest in the DNF Obligation Land will be bound by the terms of this Agreement as if this Agreement had been executed and registered as a local land charge before execution of its legal charge.
- 2.24 Notwithstanding clause 2.23 the Mortgagee will not incur any liability for any breach of the obligations contained in this Agreement unless and until it becomes a mortgagee in possession of the DNF Obligation Land or part thereof for which it appoints a receiver or administrative receiver under the charge

Statutory Undertakers

- 2.25 The covenants contained in this Agreement shall not be enforceable against statutory undertakers in relation to any parts of the DNF Obligation Land or the Lady Cross Obligation Land acquired by them

for electricity sub-stations gas governor stations or pumping stations or against anyone whose only interest in the DNF Obligation Land or the Lady Cross Obligations Land or any part thereof is in the nature of a benefit of an easement or covenant

Local Land Charge

- 2.26 This Agreement shall be registerable as a local land charge by NYMNPA

Restriction

- 2.27 Following the Commencement of Construction the Owners shall not sell, transfer, lease, grant licences pursuant to, or make similar dealings with, their interest in the DNF Obligation Land or the Lady Cross Obligation Land without first requiring any transferee, lessee or other interest holder to provide the Security Arrangements to the reasonable satisfaction of NYMNPA on the same terms as those set out in Schedules 1 and 2 to this Agreement or alternative terms acceptable to NYMNPA

- 2.28 Prior to the Commencement of Construction each of the Owners shall apply for the entry of the following restriction against each of its titles at HM Land Registry and shall procure that the restriction(s) have priority over any mortgage or charge entered into by them or any other party:

“No disposition, sale, transfer lease, licence or other similar dealings associated with the registered estate by the proprietor of the registered estate is to be registered without a certificate signed by the North York Moors National Park Authority that the provisions of clause 2.28 of the Planning Agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated _____ and made between North York Moors National Park Authority (1) York Potash Limited (2) Barclays Bank plc (3) Victoria Farm Garden Centre Limited (4) Margaret Ann Parker and Michael Leslie Parker (5) and Jane Annabel

Adamski, Alistair Paul Jackson and Fiona Gillian Clacherty (6) have been complied with”

Notification

- 2.29 The Owners shall give NYMNPA immediate written notice of any change in ownership of any of their interests in the DNF Obligation Land and the Lady Cross Obligation Land occurring before all the obligations under this Agreement have been discharged 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 land purchased by reference to a plan

Jurisdiction

- 2.30 This Agreement is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-executive jurisdiction of the courts of England and Wales

Legal Costs

- 2.31 Upon the Completion of this Deed the Owners shall pay the legal costs of NYMNPA

3 THE OWNERS’ PLANNING OBLIGATIONS

- 3.1 The Owners covenant with NYMNPA to jointly and severally comply with the obligations contained in Part 1 of Schedule 1 save that the owners of the Lady Cross Obligation Land shall only be liable for the obligations in paragraph 13 of Part 1 of Schedule 1 in respect of security for Default Reinstatement Works at Lady Cross

- 3.2 YPL covenants with NYMNPA to comply with the obligations contained in Part 2 of Schedule 1

4 NYMNPA’S COVENANTS

- 4.1 NYMNPA covenant with the Owners to comply with the obligations set

out in Schedule 3

SCHEDULE 1

PART 1

The Owners covenant with NYMNPA to jointly and severally observe and perform the following obligations:

1. Notifications

1.1 To serve notice upon NYMNPA within 7 days of the advent of each of the following dates:

- i. the Commencement of Construction
- ii. the end of the Construction Period and commencement of the Post Construction Period (which will be the same date)
- iii. the end of the Post Construction Period and commencement of the Operational Period (which will be the same date)
- iv. the end of the Operational Period

2. Landscape and Ecology Compensation Contribution

General obligation

2.1 To make available and pay the Landscape and Ecology Compensation Contribution to NYMNPA (Index Linked on an annual basis) in accordance with the payment mechanism at paragraph 2.3 below

2.2 For the purposes of this Schedule 1, the Landscape and Ecology Compensation Contribution is an annual contribution comprising the sum of One Hundred and Eighteen Thousand Five Hundred pounds (£118,500) plus One Hundred and Eighteen Thousand Five pounds (£118,500) for each year of the Construction Period that has been completed up to an annual maximum of Five Hundred and Ninety Two Thousand Five Hundred pounds (£592,500), (Index Linked) on an annual basis and payable throughout the Construction, Post

Construction and Operational Periods

Payment mechanism

2.3 Within twenty eight days of receipt of an Landscape and Ecology Notice from NYMNPA requesting payment of any Landscape and Ecology Contribution to pay the monies specified in that notice to NYMNPA provided that:

- i. no Landscape and Ecology Notice can be served prior to the Commencement of Construction; and
- ii. the monies requested in any Landscape and Ecology Notice when added to the other monies paid pursuant to any Landscape and Ecology Notices issued in the same Payment Year shall not exceed the Landscape and Ecology Contribution for that year

2.4 Should a Landscape and Ecology Notice not be served by NYMNPA pursuant to paragraph 2.3 of this Schedule, the relevant Landscape and Ecology Compensation Contribution for each year within the Construction Period, Post Construction Period or Operational Period must in any event be paid by the Owners on each anniversary of the Commencement of Construction during the Construction Period, Post Construction Period and Operational Period

3. Core Policy D Contribution

General obligation

3.1 To make available and pay the Core Policy D Contribution to NYMNPA (Index Linked on an annual basis) in accordance with the payment mechanism at paragraph 3.3 below

3.2 For the purposes of this Schedule 1, the Core Policy D Contribution means an annual contribution comprising the sum of One Hundred and Thirty Five Thousand pounds (£135,000) plus One Hundred and Thirty Five Thousand pounds (£135,000) (Index Linked) for each Construction Year that has been completed up to an annual maximum of Six Hundred and Seventy Five Thousand pounds (£675,000), which

is payable throughout the Construction, Post Construction and Operational Periods

Payment mechanism

3.3 Within twenty eight days of receipt of a Core Policy D Notice from NYMNPA requesting payment of any Core Policy D Contribution to pay the monies specified in that notice to NYMNPA provided that:

- i. no such Notice can be served prior to the Commencement of Construction; and
- ii. the monies requested in any Core Policy D Notice when added to the other monies paid pursuant to any Core Policy D Notices issued in the same Payment Year shall not exceed the Core Policy D Contribution for that year

3.4 Should a Core Policy D Notice not be served by NYMNPA pursuant to paragraph 3.3 of this Schedule, the relevant Core Policy D Contribution for each year within the Construction Period, Post Construction Period or Operational Period must in any event be paid by the Owners on each anniversary of the Commencement of Construction during the Construction Period, Post Construction Period and Operational Period

4. Tourism Contribution

4.1 To pay the Tourism Contributions as provided in paragraphs 4.2 to 4.11 below

4.2 To pay the Welcome to Yorkshire Tourism Contribution of Two Hundred Thousand Pounds (£200,000) (Index Linked) to NYMNPA within 28 days of the Commencement of Construction and on each anniversary of the Commencement of Construction until the end of the Post Construction Period for use by Welcome to Yorkshire or the NYMNPA in accordance with paragraph 5 of Schedule 3

4.3 Subject to the application of paragraph 4.4 below to pay the NYMNPA Tourism Contribution (Construction) of One Hundred Thousand Pounds (£100,000) (Index Linked) to NYMNPA within 28 days of the

Commencement of Construction and on each anniversary of the Commencement of Construction until the end of the Post Construction Period

- 4.4 To participate in the Tourism Impact Review as provided for in Schedule 6 and to increase the payment referred to in paragraph 4.3 above if required by the provisions of Schedule 6 during the Construction Period and the Post Construction Period as a result of the Tourism Impact Review (and for the avoidance of doubt the sum as increased shall be payable during the remainder of the Operational Period)
- 4.5 To pay the NYMNPA Tourism Contribution (Operations) (Index Linked) (and any increase as a result of the provisions of Schedule 6) to the NYMNPA within 28 days of the end of the Post Construction Period and then annually on each anniversary of the end of the Post Construction Period until the end of the Operational Period
- 4.6 To pay for the costs of the Tourism Impact Review (Index Linked) throughout the Construction Period and Post Construction Period subject to a maximum of One Hundred Thousand Pounds (£100,000) payable each Construction Year or Post Construction Year (as the case may be)
- 4.7 To pay the Local Businesses Tourism Contribution of Fifty Thousand Pounds (£50,000) (Index Linked) to NYMNPA within 28 days of the Commencement of Construction and on each anniversary of the Commencement of Construction until the end of the Post Construction Period
- 4.8 To pay the VisitEngland Tourism Contribution of Fifty Thousand Pounds (£50,000) (Index Linked) to NYMNPA within 28 days of the Commencement of Construction and on each anniversary of the Commencement of Construction until the end of the Post Construction Period
- 4.9 To pay the VisitBritain Tourism Contribution of Fifty Thousand Pounds (£50,000) (Index Linked) to NYMNPA within 28 days of the Commencement of Construction and on each anniversary of the

Commencement of Construction until the end of the Post Construction
Period

4.10 To pay the Signage Tourism Contribution of Four Hundred Thousand Pounds (£400,000) (Index Linked) on the date which is 28 days after the third anniversary of the Commencement of Construction or the date on which a scheme for provision of tourism signage is agreed between the Owners and NYMNPA, whichever is earlier

4.11 To pay the Whitby (SBC) Tourism Contribution of Fifty Thousand Pounds (£50,000) (Index Linked) to the NYMNPA within 28 days of Commencement of Construction and on each anniversary thereof until the expiry of a period of ten years from the end of the Construction Period

5. Archaeological Data Contribution

5.1 To pay the Archaeological Data Contribution of Twenty Two Thousand Five Hundred pounds (£22,500) (Index Linked) to NYMNPA within 28 days of the Commencement of Construction and on each anniversary thereof until the end of the Construction Period

6. Geological Data Contribution

6.1 To pay the Geological Data Contribution of Twenty Two Thousand Five Hundred Pounds (£22,500) (Index Linked) to NYMNPA payable within 28 days of the Commencement of Construction and on each anniversary thereof until the end of the Construction Period

7. Liaison Group

7.1 To establish and operate the Liaison Group Forum prior to the Commencement of Construction to facilitate discussion and liaison with interested parties in relation to aspects of the development which impact upon them in accordance with the Operating Framework

8. Police

8.1 To pay prior to the Commencement of Construction a contribution of a maximum of One Hundred and Fifty Thousand Pounds (£150,000) (Index Linked) towards policing costs relating to the Development to the NYMNPA

8.2 To use reasonable endeavours to enter into an agreement with North Yorkshire Police as to the mechanism for, and specific purposes of, payment of the contribution envisaged by paragraph 8.1 above

9. Scarborough Employment Opportunities

9.1 To pay the SBC Local Opportunities Contribution of Forty Thousand Pounds (£40,000) (Index Linked) to the NYMNPA within 28 days of Commencement of Construction and on each anniversary of the Commencement of Construction until the end of the Construction Period

9.2 To use reasonable endeavours to implement the ongoing and outstanding actions in the Action Plan specifically to achieve:-

- i. the creation of 50 apprenticeship opportunities within the first five years following the Commencement of Construction and maintenance of an ongoing apprenticeship programme
- ii. the continued delivery of the York Potash Undergraduate Programme
- iii. the training of at least 250 workers in preparation for mining operations
- iv. the delivery of a re-skilling programme for at least 50 potential tradespeople with transferrable skills
- v. delivering quarterly employment opportunity information sessions targeted at the local unemployed
- vi. establishing a local supply engagement group to develop and implement the York Potash Local Supply Chain Engagement Strategy

9.3 To provide a report on the implementation and satisfaction of the outstanding actions of the Action Plan at such intervals as NYMNPA may reasonably require but no more than twice each year

10. Bridleway at DNF

10.1 To use reasonable endeavours to provide a new length of bridleway in the vicinity of DNF, as indicated on Plan 3, such bridleway to be dedicated to the public in perpetuity and recorded on the definitive map of public rights of way

11. Noise Mitigation

11.1 Within twenty eight days of receipt of a completed Noise Mitigation Notice from NYMNPA to pay the monies specified in that notice to NYMNPA provided that:

- i. no valid Noise Mitigation Notice can be served prior to the commencement of the Construction Period and after the end of the Operational Period;
- ii. the precise noise mitigation measures for which the monies are required are identified in the Noise Mitigation Notice and
 - a) do not relate to measures which YPL are separately contracted to fund or compensate for in direct legal arrangements with the owners of the premises concerned;
 - b) are measures which have been identified by the Environmental Health Officer of Scarborough Borough Council as being required to mitigate the noise impact of construction at the Surface Sites on residential properties in the vicinity of the Surface Sites; and:
- iii. the monies requested in any Noise Mitigation Notice when added to the monies paid pursuant to other Noise Mitigation Notices issued shall not exceed the Noise Mitigation Contribution

12. Monitoring Contribution

12.1 To pay the Monitoring Contribution (Ongoing) to the NYMNPA for the purposes of monitoring compliance within this Agreement and the requirements of the NYMNPA Planning Permission including the development of and approval of plans and schemes associated with its conditions as set out in paragraphs 12.1(i.) and (ii.) below

- i. One Hundred Thousand Pounds (£100,000) (Index Linked) payable annually on the anniversary of the issue of the NYMNPA Planning Permission until two years after the end of the Construction Period
- ii. Fifty Thousand Pounds (£50,000) (Index Linked) payable annually on the anniversary of the last payment payable pursuant to paragraph 12.1(i). above for the remainder of the Post Construction and Operational Periods

13. Security

13.1 Not to carry out the Commencement of Construction until the Security Arrangements have been put in place to the reasonable satisfaction of NYMNPA which shall include the appointment of the Independent Surveyor pursuant to paragraph 3 of Schedule 2

13.2 Not at any time to carry out or continue with the Development without complying with the Security Arrangements

PART 2

YPL covenants with NYMNPA to observe and perform the following obligations:

14. Monitoring Contribution

14.1 To pay the Monitoring Contribution (Initial) of One Hundred and Fifty Thousand Pounds (£150,000) (Index Linked) to NYMNPA within 28 days of the issue of the NYMNPA Planning Permission, for the purposes of monitoring compliance with this Agreement and the

requirements of the NYMNPA Planning Permission including the development of and approval of plans and schemes associated with its conditions

SCHEDULE 2

Security Arrangements

General

1. For the purposes of this schedule, the security arrangements:
 - 1.1 will provide security to cover the reasonable costs (including legal, administrative costs (both external and internal), consultants', engineers', other professional fees, contract fees or other associated costs or expenses) of the Default Reinstatement Works on the Surface Development Land at DNF and the Intermediate Shaft Site (Lady Cross), termed "Reinstatement Security";
 - 1.2 will provide security for the Principal Contributions, and NYCC Payments, termed "Payment Security"; and
 - 1.3 includes the NYCC Security

Type of Security

2. The Reinstatement Security, Payment Security and NYCC Security will be provided by or administered by an Approved Provider with Investment Grade Rating and will be in the form of a bond, guarantee, surety (or similar instrument) or comprise the deposit of monies into an Escrow Account and which will be on terms agreed by NYMNPA to the effect that upon the occurrence of a Default Event NYMNPA (or its nominee) may call on the funds secured by Reinstatement Security, Payment Security and NYCC Security

Independent Surveyor

3. NYMNPA and YPL shall jointly appoint an appropriately experienced independent surveyor to perform the role set out in this Schedule and in the absence of agreement on the appointment of such surveyor the appointment will be referred to the President of the Royal Institution of Chartered Surveyors or the President or equivalent officer of another appropriate body who shall nominate the person to be appointed

Reinstatement Security

4. Prior to the Commencement of Construction, the Reinstatement Security will be provided to cover the reasonably and properly anticipated costs of the Default Reinstatement Works as provided for below from the Commencement of Construction until the end of the Operational Period
5. The Reinstatement Security provided in respect of the Default Reinstatement Works prior to Commencement of Construction will secure a sum equal to an assessment of the costs of the Default Reinstatement Works on the basis of the construction work programmed to take place on the Surface Sites throughout the 12 month period following Commencement of Construction having been completed such sum to be assessed by the Independent Surveyor
6. The amount of Reinstatement Security for the Default Reinstatement Works will be reviewed following the Commencement of Construction by the Independent Surveyor as provided for in paragraphs 7, 8 and 9 below
7. Prior to each Review Date the Independent Surveyor will identify the amount to be secured under the Reinstatement Security which shall have regard to the following :
 - 7.1 the surface works already undertaken at the Surface Sites at the time of assessment;
 - 7.2 the surface works programmed to be undertaken at the Surface Sites up to the Review Date concerned; and
 - 7.3 the surface works that are programmed to be undertaken on the Surface Sites during the 12 month period following the Review Date concerned
8. Prior to each the Review Date the Independent Surveyor shall advise YPL and NYMNPA of the amount of the Reinstatement Security calculated in respect of that Review Date according to paragraph 7 above and YPL shall provide Reinstatement Security for that amount prior to the Review Date concerned

9. Subject to paragraph 10 below the amount of Reinstatement Security from the end of the Construction Period to the end of the Operational Period will be calculated on each anniversary of the last Review Date to cover the cost of undertaking the Default Reinstatement Works at the Surface Sites as assessed by the Independent Surveyor on the first anniversary of the last Review Date, and adjusted by the application of the Index from the first anniversary of the last Review Date to the relevant anniversary of the Review Date
10. In the event that either NYMNPA or YPL can reasonably demonstrate that there is good reason why the sum identified in paragraph 9 above will result in either insufficient security for the Default Reinstatement Works concerned or would result in an excessive amount of security to cover the Default Reinstatement Works concerned then the Independent Surveyor will be jointly appointed YPL and NYMNPA to carry out a review of the sum identified as a result of paragraph 9 and if the Independent Surveyor feels that the said sum is insufficient or is excessive then the Independent Surveyor shall identify the alternative sum of money to be secured and that figure will be substituted for the figure in paragraph 9 and thereafter that figure shall be substituted for any figure calculated in accordance with paragraph 9
11. The review pursuant to paragraph 10, of the figure to be secured pursuant to paragraph 9, may not be carried out more than once per annum
12. NYMNPA may at any time demand from the Owners, on 7 days' prior notice, written evidence of the amount of the Reinstatement Security, to ensure that the Reinstatement Security provides sufficient funds for the Default Reinstatement Works and that the Reinstatement Security is protected from lower priority debtors in the event of a Default Event

Reinstatement Requirements and Default Events

13. On a Default Event occurring NYMNPA will be entitled to call on the Reinstatement Security and carry out the Default Reinstatement Works thereby secured save that before doing so NYMNPA must give YPL a reasonable opportunity to carry out the Default Reinstatement

Works at their own cost (unless the Default Event concerned is the insolvency of YPL, at which time NYMNPA may immediately call upon the Reinstatement Security and undertake the Default Reinstatement Works themselves).

14. If YPL do not properly or completely carry out Default Reinstatement Works having elected to do so, NYMNPA may in their absolute discretion call on the Reinstatement Security and undertake the Default Reinstatement Works themselves
15. Should the entire sums secured by the Reinstatement Security be fully utilised by NYMPNA in accordance with paragraphs 13 or 14 above, the Reinstatement Security shall be released and shall no longer need to be maintained by YPL
16. In the event of there being either a default under the Security Arrangements resulting in NYMNPA calling on the Reinstatement Security, or a failure by YPL to properly and completely carry out Default Reinstatement Works having elected to do so, then NYMNPA (or its nominee) is hereby granted licence by the Owners to enter onto Lady Cross or DNF as the case may be or any parts thereof to carry out the Default Reinstatement Works

Payment Security

17. Prior to the Commencement of Construction YPL and on a rolling basis until the end of the Post Construction Period will deposit monies into the Escrow Account and shall at all times maintain a balance in the Escrow Account at level which is sufficient to pay all the Principal Contributions and NYCC Payments due to be paid in the following 10 year period
18. In the event that the Principal Contributions or NYCC Payments due to be paid to NYMNPA and NYCC Payments pursuant to the obligations contained this Agreement or due to be paid pursuant to the NYCC Agreement are not paid by YPL by the due date then NYMNPA will be entitled to draw down a sum equivalent to the monies which have not been paid by their due date from the Escrow Account

19. Should NYMNPA draw down any sums in accordance with paragraph 18 above, YPL will forthwith replenish the Payment Security within the Escrow Account until the end of the Post Construction Period to ensure that the sums required to be secured in accordance with paragraph 17 are maintained at those levels

20. NYMNPA may at any time demand from YPL, on 7 days' prior notice, written evidence of the amount of the Payment Security

SCHEDULE 3

The NYMNPA covenants with the Owners as follows:

1. To use reasonable endeavours to serve Core Policy D Notices and/or Landscape and Ecology Notices on the Owners as envisaged by paragraphs 2 and 3 of Schedule 1
2. To approve the form, content and type of the Security Arrangements within 56 days of receipt of details of those Security Arrangements from YPL
3. To apply the Landscape and Ecology Compensation Contribution towards addressing and/or compensating for any residual impacts of the Development on landscape, tranquillity, special qualities or ecology (including any relevant administration and/or facilitation associated with these matters) in line with the relevant Management Plan Policies set out in Schedule 4 for purposes as specified in any Landscape and Ecology Notices issued
4. To apply the Core Policy D Contribution towards the following:
 - 4.1 the planting of mixed deciduous woodland within the North York Moors National Park in accordance with the strategy set out in figure 2 of the Management Plan (or in accordance with the strategy in future Management Plans) which will ensure that:
 - i. 220 hectares of trees in total are planted within the first five years of the Construction Period; and
 - ii. 219 hectares of trees are planted on average within each 3-year rolling period during:
 - a) any part of the Construction Period which falls after the fifth anniversary of the Commencement of Construction; and
 - b) the Post Construction and Operational Periods; and
 - 4.2 any scheme administration and facilitation and/or tree planting

management and maintenance costs associated with the matters governed by this paragraph 4

and in each case for the specific purposes specified in any Core Policy D Notices issued

5. To pay each of payments comprised in the Welcome to Yorkshire Tourism Contribution to Welcome to Yorkshire for the promotion of the North York Moors within 28 days of receipt of such contribution provided that a service level agreement has first been entered into in advance between the NYMNPA and Welcome to Yorkshire governing the use of that contribution. Should the NYMNPA and Welcome to Yorkshire be unable to agree a service level agreement in this respect, the Welcome to Yorkshire Tourism Contribution will instead be applied by the NYMNPA for the overall promotion of the North York Moors
6. To apply the NYMNPA Tourism Contribution for the funding of activities by the NYMNPA for the marketing and promotion of the North York Moors and for no other purposes whatsoever
7. To apply the Local Businesses Tourism Contribution for the purpose of assisting local businesses related to tourism and for no other purposes whatsoever
8. To pay the VisitEngland Tourism Contribution to VisitEngland for the purposes of the promotion of the North York Moors as a tourism destination either within 28 days of receipt thereof, or on confirmation from VisitEngland that they will repay the contribution to NYMNPA in the event of not utilising the monies for the purpose for which they are paid within twelve months of their receipt, whichever is the later
9. To pay the VisitBritain Contribution to VisitBritain for the purposes of the promotion of the North York Moors as a tourism destination either within 28 days of receipt thereof, or on confirmation from VisitBritain that they will repay the contribution to NYMNPA in the event of not utilising the monies for the purpose for which they are paid within twelve months of their receipt, whichever is the later
10. To apply the Signage Tourism Contribution for the provision of

directional brown signs giving advance notice of the North York Moors National Park when approaching from trunk roads including the A1, A1(M) A19 A64 and such other roads as agreed between YPL and NYMNP and for no other purpose whatsoever

11. To pay the Whitby (SBC) Tourism Contribution to Scarborough Borough Council for the purposes of the promotion of Whitby as a tourism destination either within 28 days of receipt thereof, or on confirmation from Scarborough Borough Council that they will repay the contribution to NYMNP in the event of not utilising the monies for the purpose for which they are paid within twelve months of their receipt, whichever is the later
12. To pay the SBC Local Opportunities Contribution to Scarborough Borough Council for the purposes of identifying and preparing local people for opportunities during the construction and operation of the Development either within 28 days of receipt thereof, or on confirmation from Scarborough Borough Council that they will repay the contribution to NYMNP in the event of not utilising the monies for the purpose for which they are paid within twelve months of their receipt, whichever is the later
13. To apply the Archaeological Data Contribution towards the incorporation of project data into existing archaeological records and for no other purpose whatsoever
14. To apply the Geological Data Contribution towards the incorporation of project data into existing ecological records and for no other purpose whatsoever
15. To participate in the Liaison Group Forum
16. To pay the contribution associated with policing costs relating to the Development to North Yorkshire Police
17. To use the Noise Mitigation Contribution solely for the purposes of mitigating noise from the Surface Sites as stated in the Noise Mitigation Notices issued
18. To use the Monitoring Contribution for the purposes of ensuring

compliance with this Agreement and the requirements of the NYMNPA Planning Permission including the development and approval of plans and schemes associated with its conditions

19. To use reasonable endeavours to ensure that the staff employed as a result of payment of the Monitoring Contribution (Initial) or Monitoring Contribution (Ongoing) achieve compliance with the Performance Standards when dealing with the subject matter of this Agreement and the NYMNPA Planning Permission but without fettering the discretion of NYMNPA or its staff in discharging any of their statutory obligations
20. If any of the monies paid to NYMNPA pursuant to the obligations in Schedule 1, and which are to be spent by NYMNPA rather than any other party, remain unspent at the expiration of thirty six months from the date of each payment, NYMNPA shall repay those monies to YPL (including any interest accrued) within two months of the expiry of the aforesaid thirty six month period in respect of each payment and in respect of which period time shall be of the essence
21. To provide Certified Transaction Reports in respect of the expenditure of all monies paid pursuant to each of the obligations in this Agreement, and of any unspent monies pursuant to paragraph 18 above, to YPL which details shall
 - (i) enable YPL to ascertain in respect of each payment made to NYMNPA pursuant to the obligations in this Agreement whether the monies comprised within that payment have been expended within the 36 month period referred to in paragraph 21. above; and
 - (ii) be provided within three months following receipt of a request for the same from YPL provided that no more than 4 requests shall be made in any calendar year

SCHEDULE 4

1. Management Plan Policies

- 1.1 targeted landscape improvements (Policy E1);
- 1.2 traditional building skills apprenticeship scheme for reinstatement of traditional farmed landscape and wider conservation of traditional farmed landscapes (Policies E2 and E9);
- 1.3 Conservation and enhancement of archaeological and built heritage features (Policies E5, E7 and E8)
- 1.4 Agri-environment schemes to create additional areas for species rich grasslands (Policy E12)
- 1.5 protection and expansion of tranquil areas (Policies E19 and E20);
- 1.6 woodland enhancements (Policies E36, E37, E38, E39, E40 and E41);
- 1.7 maintenance and improvement of public rights of way and promotion of use (Policies U2 and U7);
- 1.8 promotion of good farming and environmental practices and traditional farming skills (Policies B10 and B11);
- 1.9 improvements to habitat connectivity and wildlife management (Policies E10, E11, E13, E14 and E15)
- 1.10 measures to protect the following special qualities of the North York Moors National Park set out below:
 - Special Quality 1 - diversity of landscape;
 - Special Quality 3 - forest and woodland;
 - Special Quality 6 - mix of habitats;
 - Special Quality 8 - long imprint of human activity;
 - Special Quality 9 - rich diverse countryside for recreation;
 - Special Quality 10 - strong religious past and present;
 - Special Quality 11 - strong feeling of remoteness; and
 - Special Quality 12 - tranquillity and dark night skies and clean air

SCHEDULE 5

NOTICE

Pursuant to paragraph [**insert relevant paragraph**] of Schedule 1 of the agreement under S106 of the Town and Country Planning Act 1990 made between North York Moors National Park and York Potash Limited and others (“the Agreement”) dated [**insert date of the s.106 Agreement**] NYMNPA hereby gives YPL written notice that it requires to be paid the sum of [**insert sum and name of relevant contribution**] to be applied to the purposes set out in the Schedule below in accordance with paragraph [**insert relevant paragraph**] of Schedule 1 and paragraph [**insert relevant paragraph**] of Schedule 3 of the Agreement

SCHEDULE

[**Insert specific details of contribution and items to which the money being requested is to be applied**]

Dated [] of []

.....

Signed on behalf of NYMNPA

SCHEDULE 6

Tourism Impact Review

1. NYMNPA and YPL are agreed that throughout the Construction Period and Post Construction Period there will be an annual review of the impacts on tourism which arise as a result of the construction of the Development.
2. Such a review will enable an understanding of whether impacts on the visitor economy (of the National Park and its influence area) occur despite application of the s.106 contributions and the extent to which these impacts are due to the Development.
3. YPL and NYMNPA will jointly appoint an appropriately experienced consultant to undertake a comprehensive independent research and data gathering function during the Construction Period and Post Construction Period to actively assess tourism data and carry out visitor surveys as described in the following paragraphs. In the event of YPL and NYMNPA being unable to agree a suitable consultant to carry out the review, the matter will be referred to a senior officer of VisitEngland (or its successor tourism body) unless such referral is disputed in which case the appointment shall be determined by following the procedure in clause 2.9 of this Agreement.
4. The Tourism Impact Review will be funded by YPL subject to the maximum contribution provided for in paragraph 4.6 of Schedule 1.
5. The Tourism Impact Review will include:
 - 5.1 Assessment utilising the Scarborough Tourism Economic Activity Monitor involving an enhanced annual assessment including an annual occupancy survey across the National Park and its surrounding area of influence;
 - 5.2 Ongoing visitors' surveys across the National Park and its surrounding area of influence;
 - 5.3 An annual evaluation of macro factors influencing the tourism economy in the National Park; and

- 5.4 An annual assessment of the impact of the Development on the tourism economy of the National Park.

6. The Tourism Impact Review will, utilising these mechanisms and any others recommended by the appointed consultant, seek to establish as accurately as possible the causality of any variations in the tourism economy of the National Park and in particular the extent to which those variations are due to the construction of the Development

7. In the event that the work carried out by the appointed consultant identifies any adverse impact on the visitor economy which in their opinion is due to the Development and which persists despite the application of the Tourism Contributions and any other mitigation, then the NYMNPAs Tourism Contribution to be paid by YPL pursuant to paragraphs 4.3 and 4.4 of Schedule 1 will be increased in the sum of £1 additional payment for every £20 of identified impact which is due to the Development and not mitigated

SCHEDULE 7

Operating Framework

1. The Liaison Group Forum shall meet quarterly or as may otherwise be agreed from time to time between YPL and NYMNPA
2. YPL shall send written (which shall include by email) invitations together with an agenda and details of venue to the Liaison Group not less than 14 days in advance of each proposed meeting
3. A representative of YPL shall chair the Liaison Group Forum
4. The Liaison Group Forum shall not spend time reconsidering or challenging matters established or agreed by the grant of the Planning Permissions or by this Agreement and any matters that remain private and confidential for reasons of safety and security shall only be discussed outside of the Liaison Group Forum between officers of YPL and NYMNPA
5. Following each meeting YPL shall circulate to each member of the proceeding meeting the draft minutes of the meeting and a schedule to monitor compliance with this Agreement and the conditions attached to the NYMNPA Planning Permission
6. The Liaison Group Forum shall operate until the end of the Post Construction Period

SCHEDULE 8

NYMNPA Performance Standards

Activity	Purpose/Objective	Frequency/Scope of Service
1. Meetings	To discuss the planning obligations (including the timing and payment of contributions), and other matters related to the Project.	Monthly meetings (unless otherwise agreed in writing)
2. Written Correspondence	To record any agreement reached on details and to respond to written communications from YPL.	NYMNPA to provide written minutes of any meeting attended with YPL within 7 working days of the meeting taking place. Also, to use reasonable endeavours to respond in full to written communications from YPL within 7 working days of receipt of such communication.
3. Phone Communication	To ensure that YPL has direct and dedicated officer support.	Phone service to be provided on a daily basis, as required.
4. Implementation of the NYMNPA Planning Permission	NYMNPA to take all steps reasonably required to facilitate the efficient implementation of the NYMNPA Planning Permission provided this does not fetter the discretion of NYMNPA.	At all times until the end of the Post Construction Period

IN WITNESS whereof the parties hereto have executed as a Deed on the date first
above written

THE COMMON SEAL OF **THE NORTH**)
YORK MOORS NATIONAL PARK)
AUTHORITY was hereunto affixed)
in the presence of: -)

Authorised Signatory

SIGNED AS A DEED on behalf of)
YORK POTASH LIMITED by two directors)
or one director and its company secretary)

Director

Director/Secretary

SIGNED AS A DEED on behalf of)
BARCLAYS BANK PLC by:-)

Authorised Signatory

SIGNED AS A DEED on behalf of)
VICTORIA FARM GARDEN CENTRE)
LIMITED by two directors or one director)
and its company secretary)

Director

Director/Secretary

EXECUTED AS A DEED by)
MARGARET ANN PARKER in the)
presence of:)

EXECUTED AS A DEED by)
MICHAEL LESLIE PARKER in the)
presence of:)

EXECUTED AS A DEED by **JANE**)
ANNABEL ADAMSKI in the presence of:)

EXECUTED AS A DEED by **ALISTAIR**)
PAUL JACKSON in the presence of:)

EXECUTED AS A DEED by **FIONA**)
GILLIAN CLACHERTY in the presence)
of:)