

**DATED**

**2022**

**EMMA HARRISON AND JAMES HARRISON**

**AND**

**ANDROMEDA PARK LIMITED**

**AND**

**BARCLAYS BANK PLC**

**To**

**THE PEAK DISTRICT NATIONAL PARK AUTHORITY**

**UNILATERAL UNDERTAKING**

**A Unilateral Undertaking under Section 106 of the Town & Country  
Planning Act 1990 relating to land at Thornbridge Hall Estate**

Planning Appeal reference: APP/M9496/C/21/9072

**An Undertaking dated**

**2022 and given**

**by:**

- (1) **Emma Harrison** and **James Harrison** both of Thornbridge Hall, Ashford-In-The-Water, Bakewell DE45 1NZ ("the Owner");
- (2) **Andromeda Park Limited** (company number 04352247) whose registered office is situated at Thornbridge Hall Estate, Longstone Lane, Great Longstone, Derbyshire DE45 1NZ ("the Company"); and
- (3) **Barclays Bank PLC** (company number 9740322) care of Barclays Mortgages, PO Box HK444, Leeds LS11 8DD ("the Chargee");

**to**

- (4) **The Peak District National Park Authority** of Aldern House, Baslow Road, Bakewell, Derbyshire DE45 1AE("the Authority" ).

### **Recitals**

- A The Authority is a local planning authority as defined in the Act for the purposes of planning obligations imposed pursuant to the provisions of Section 106 of the Act in respect of the Site.
- B The Owner is registered as the proprietor of the freehold interest in the Site at the Land Registry under Title No. DY470820 and as the proprietor of leasehold interests in the Site under Title Nos. D4470820 and DY492109.
- C The Company is registered as the proprietor of a leasehold interest in part of the Site under Title No. DY470816.
- D The Chargee has a registered charge dated 1 May 2002 on Title No. DY470820.
- E The Authority served an enforcement notice dated 15 June 2021 in relation to the Site and the Owner has appealed against the enforcement notice.
- F The Owner has submitted the Appeal and this Undertaking is to be considered as part of the Appeal.
- G The Company is the company set up to run all trading activities operated at the Site within the Estate and has the objective of restoring, preserving and developing the Estate for public benefit and to promote the study and appreciation of the Estate as a place of historic and architectural interest and natural beauty.

**The Owner and the Company with the consent of the Chargee undertake as follows:**

## 1 Definitions and interpretation

In this Undertaking including the recitals the following words and expressions in column 1 shall unless the context entails otherwise have the meanings respectively ascribed thereto in column 2:

Column 1	Column 2
"Act"	the Town & Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004) or any re-enactment or modification for the time being in force.
"Appeal"	the appeal which has been submitted against the enforcement notice dated 15 June 2021 and allocated reference APP/M9496/C/21/9072.
"Bank Account"	a bank account in the name of the Company and which is held at a reputable clearing bank in England, Wales or Northern Ireland.
"Conservation Management Plan"	a plan formulated by appropriate conservation professionals in consultation with Historic England and the Authority which assesses the significance of the Site, identifies risks and opportunities and creates conservation management policies to cover the parkland, gardens, Hall and other buildings on the Estate. The Conservation Management Plan will include a condition survey to provide a detailed assessment of the current condition of features within the garden and estate to identify the features most at risk. For those features considered most at risk, the condition survey must set out the repairs required, the priority of the repairs and the timescales for the works. The plan should include a timetable for its revision.
"Estate"	the Site which comprises Thornbridge Hall, all related buildings and structures, gardens, woodlands and park.
"Ground A Permission"	the planning permission which may be issued pursuant to Ground A of the Appeal.
"Inspector"	the Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities to determine the Appeal.
"Management Accounts"	the annual accounts for the Company which will cover the period 1 February to 31 January.

"Net Profits"	the annual profit after tax of the Company as accounted for in the Management Accounts
"Proceeds"	50% of the Net Profits from the previous 12 month accounting period (being 1 February to 31 January) up to a maximum of £200,000 per annum
"Site"	land at Thornbridge Hall Estate, Longstone Lane, Great Longstone, Derbyshire DE45 1NZ and shown edged red for identification only on the plan attached to this Undertaking at the Appendix.
"Statement"	a statement to be provided by the Company to the Authority on an annual basis setting out how the Proceeds have been utilised at the Estate over the previous 12 month accounting period in line with the Whole Estate Plan and supported by details from the Management Accounts.
"Temples"	the three Grade II listed temples on the Estate shown [ ] on the Plan;

## 2 Interpretation

For the purposes of this Undertaking:

- 2.1 The singular includes the plural and vice versa.
- 2.2 The masculine gender includes the feminine and neuter genders and vice versa.
- 2.3 References to persons shall include firms companies corporations authorities or other bodies and vice versa.
- 2.4 References to Acts of Parliament statutory instruments or Government circulars or sections or paragraphs of such Acts statutory instruments or government circulars include any re-enactments amendments or replacements of them.
- 2.5 The references to the parties named in this Undertaking unless the context otherwise requires include their successors-in-title and assigns and in the case of any local authority shall also include any successor to the relevant statutory functions of that local authority.
- 2.6 The headings in this Undertaking are for convenience only and shall not be taken into account in the construction and interpretation of this Undertaking.
- 2.7 Where in this Undertaking any approval or consent or a certificate is required to be given by the Authority as appropriate then such approval or consent or certificate shall unless otherwise stated be given by such duly authorised officer as the Authority shall from time to time notify in writing to the Owner.
- 2.8 All payments in accordance with the terms of this Undertaking shall be exclusive of any value added tax or any substituted tax ("VAT") payable in respect thereof. If at any time VAT is or becomes chargeable in respect of any supply made in

accordance with this Undertaking then to the extent that VAT had not previously been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly and the Owner indemnifies the Authority against any such liability for VAT.

### **3 Statutory Provisions and Covenants**

- 3.1 This Undertaking is entered into pursuant to the provisions of sections 106 of the Act and the obligations in Clause 4 are planning obligations in respect of the Site and all the Owner's and the Company's interests in the Site for the purposes of section 106 of the Act but without prejudice to all and any other means of enforcing them at law or in equity or by statute.
- 3.2 The restrictions and obligations created by Clause 4 of this Undertaking are enforceable by the Authority as the local planning authority.
- 3.3 A person will not be liable for any breach of this Undertaking occurring in any period during which he no longer has an interest in the Site or the part of the Site in respect of which such breach occurs provided that such person shall remain liable for any antecedent breach.

### **4 Obligations**

The Owner and the Company covenant with the Authority to comply with the obligations set out in the Schedule.

### **5 Notices**

- 5.1 Any notice or consent required or permitted under this Undertaking shall be in writing and shall be sent by first class registered post or hand delivery only. There shall be no automatic right to serve notices or consents by e-mail but if a party wishes to do so and the other party agrees that e-mail may be used then e-mail may be used only with the prior written consent of both parties.
- 5.2 Subject to Clause 5.4 below any such notice, consent or other document shall be deemed to have been duly received:
  - (a) if despatched by first class, registered post or e-mail - 48 hours from the time of posting or sending to the relevant party; or
  - (b) if despatched by hand delivery – at the time of actual delivery
- 5.3 Unless otherwise notified by one party to the other in writing from time to time, for the purposes of this Clause the postal addresses of each party are those set out at the beginning of this Undertaking.
- 5.4 In proving service by post it will be sufficient (unless any relevant part of the postal service is affected by industrial action) to prove that the envelope containing the notice was duly stamped addressed and posted to the addresses specified herein. In proving service by e-mail it shall be sufficient to prove that it

was properly addressed and dispatched to the numbers or address specified herein.

## **6 Non-waiver**

It is hereby agreed by the parties hereto that failure by the Authority to enforce the provisions of this Undertaking or to require performance strictly or otherwise by the Company or the Owner of any of the conditions, covenants, agreements or obligations of this Undertaking or any failure or delay by the Authority to exercise any act right or remedy shall not be construed as a waiver of or as creating an estoppel in connection with any such condition, covenant, agreement or obligation or as giving rise to any legitimate expectation in connection with the same and shall not affect the validity of this Undertaking or any part thereof or the right of the Authority to enforce any provision and any variation of this Undertaking agreed between the Company, the Owner and the Authority and which does not affect the liability of the Owner or the Company shall not vitiate the remainder of the Undertaking which shall remain in full force and effect subject to any amendment or amendments agreed.

## **7 Miscellaneous**

- 7.1 The Owner shall pay to the Authority upon completion of this Undertaking its proper and reasonable legal costs incurred in connection with this Undertaking to a maximum of [ ].
- 7.2 Nothing in this Undertaking is intended to fetter or restrict the exercise by the Authority of any of its powers.
- 7.3 The Owner and the Company hereby consent to the registration of this Deed as a Local Land Charge.
- 7.4 If any provision in this Undertaking shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired.
- 7.5 The Owner and the Company hereby warrant to the Authority that they have not leased, mortgaged, charged or otherwise created any interest in the Site at the date of this Undertaking other than as disclosed in the aforesaid titles
- 7.6 This Undertaking has been executed by the parties hereto as a Deed
- 7.7 Without prejudice to the statutory rights of the Authority the Owner and the Company hereby covenant to permit the Authority and its authorised employees and agents to enter the Site at all reasonable times for the purpose of verifying whether or not any obligation arising hereunder has been performed or observed.

## **8 Third parties**

Nothing in this Undertaking shall give any third party (not being a party in this Undertaking) any right to enforce any of the obligations, rights or covenants on the part of the Owner or the Company under this Undertaking whether in accordance with the Contract (Rights of Third Parties) Act 1999 or otherwise. For the avoidance of doubt the successors-in-title and Assignees to the Owner or the Company and the successors to the Authority's statutory functions shall have the right to enforce any of the obligations rights or covenants within this Undertaking.

## **9 Chargee's Consent**

The Chargee consents to the completion of this Deed and declares that its interest in the Site shall be bound by the terms of this Deed as if it had been executed and registered as a land charge prior to the creation of the interest of the Chargee in the Site PROVIDED THAT the Chargee shall have no liability under this Deed inless it takes possession of the Site (or any part of it) in which case it too woll (in respect of that part of the Site) be bound by the obligations as if it were a person deriving title from the Owner.

## **10 Enforceability**

The covenants and obligations on the part of the Owner and the Company in this Deed shall not apply and shall not be enforceable by the Authority in the event that the Inspector states clearly in the decision letter granting the Ground A Permission that such obligations, or any of them, are unnecessary to make the development acceptable in planning terms or otherwise fail to meet the statutory test set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as may be amended from time to time) and those so identified by the Inspector shall be deemed to have been revoked and be of no legal effect.

IN WITNESS whereof this Deed has been duly executed by the Owner, the Company and the Chargee the day and year first before written.

**EXECUTED** (but not delivered until the date hereof) as a **DEED** by  
**ANDROMEDA PARK LIMITED**

acting by

Director

WITNESSED BY

Signature: .....

Name (in block capitals) .....

Address: .....

.....

**EXECUTED** (but not delivered until the date hereof) as a **DEED** by  
**EMMA HARRISON**

acting by

Director

WITNESSED BY

Signature: .....

Name (in block capitals) .....

Address: .....

.....

**EXECUTED** (but not delivered until the date hereof) as a **DEED** by

**JIM HARRISON**

acting by

Director

**WITNESSED BY**

Signature: .....

Name (in block capitals) .....

Address: .....

.....

**EXECUTED** (but not delivered until the date hereof) as a **DEED** by

**BARCLAYS BANK PLC**

acting by

Director

**WITNESSED BY**

Signature: .....

Name (in block capitals) .....

Address: .....

.....

## SCHEDULE

The Company covenants with the Authority as follows;

### Proceeds

1. Following the grant of the Ground A Permission:
  - (a) to ensure that all Proceeds are paid into the Bank Account; and
  - (b) to provide the Statement to the Authority showing the calculation of the Proceeds on an annual basis within by 31 December.

### Conservation Management Plan

2. To submit the Conservation Management Plan to the Authority within 12 months of the grant of the Ground A Permission.
3. At all times following its submission to comply with the Conservation Management Plan where appropriate in managing the Estate.
4. To review and update the Conservation Management Plan at least every 5 years and to submit the updated Conservation Management Plan to the Authority from time to time.

### Works

5. To use the Proceeds for the purpose of carrying out the following works to the Temples (Historic England listings 1109259 and 1334969) ("Phase 1 Works") on the Estate within the first 12 months of the date of this Undertaking such works to be informed by relevant professional advice and in full compliance with listed building consent and any other consents that might be required:

5.1 **Temple 1** – clean roof of all debris; install a new roof covering to ensure water run-off; clean spalling concrete; investigation into the existing concrete mix to establish appropriate repair strategy; carrying out of repairs in accordance with the repair strategy; gentle clean of cornice and ornamentation; gentle clean of columns to remove algae, moss and salts or back deposits; covering where decay is related to salts coming in; prepare schedule of repairs to columns in conjunction with a stonemason; carry out recommended repairs likely to include descaling loose material, some pinning repairs (to delaminating areas), removal of previous cementitious repairs, mortar repairs or consolidate to face of columns; maintenance of slab and roof and any measures required to ensure ivy growth does not extend to the temple.

5.2 **Temple 2** – carry out a verticality survey to check stability of the temple in its current position; future monitoring of stability in accordance with survey results; clean roof of all debris; install a new roof covering; clean spalling concrete; investigation into the existing concrete mix to establish appropriate repair strategy; carrying out of repairs in accordance with the repair strategy; gentle clean of cornice and ornamentation, removing any loose cement; remove vegetation; clean balustrade of algae, moss etc and repoint joints; carry out full inspection of connections when access available and reinstate stainless steel cramps between stones where missing; gentle clean of columns to remove algae, moss and salts or back deposits; covering where decay is related to salts coming in; prepare schedule of repairs to columns in conjunction with a stonemason; carry out recommended repairs likely to include descaling loose material, some pinning repairs (to

delaminating areas), removal of previous cementitious repairs, mortar repairs or consolidate to face of columns; maintenance of slab.

5.3 **Temple 3** – hoard off from public access; carry out further investigations to establish whether repair or rebuilding appropriate; remove tree stump, infill voids in the ground to ensure stability of foundations including underpinning or new raft if necessary; realign columns and rebuild ashlar wall including further restraints and ties where necessary; install a roof covering; if roof slab to be retained the spalling concrete to be cleaned and repaired; repair specification to be developed through investigation into existing concrete mix; gentle clean and repointing to the cornice and ornamentation; gentle cleaning programme to all stonework; removal of incompatible repairs where these are failing or affecting the stonework and replacement with lime mortar repairs; removal of loose pointing and repointing with lime based mortar; shelter coat to areas of stonework affected by heavy weathering as recommended by stone conservator; realignment of columns as part of overall repair strategy; temporary strapping if required to prevent further slippage; investigation of existing foundations and extent of root growth to inform repair options; carrying out of repairs in accordance with options may include dismantling and rebuilding with new raft slab or root removal and underpinning; rebuild ashlar wall with adequate foundation and buttressing or supporting brick wall where required.

6. To use the Proceeds for the purpose of carrying out further works on the Estate (“Further Phases”) following completion of the Phase 1 Works (or alongside the Phase 1 Works where there are sufficient Proceeds) such works to be delivered in accordance with the Conservation Management Plan.:

**APPENDIX  
PLAN**