

DATED 20/06/2013 2013

HANNAH RACHEL IRENE ARNOLD and OLIVER WILLIAM ARNOLD

**FUTURE BIOGAS (SF) LIMITED
and**

DOWNING CORPORATE FINANCE LIMITED

**PLANNING OBLIGATION by way of UNILATERAL UNDERTAKING
Under Section 106 of the TOWN AND COUNTRY PLANNING ACT 1990**

**relating to land to the West of Fir Covert Road, at Spring Farm, Felthorpe,
Norwich**

James Stallard & Co
Central Court
25 Southampton Buildings
London
WC2A 1AL
0333-123-5100 (t)
0333-123-5200 (f)

THIS DEED is made this 20th day of June 2013

BETWEEN

HANNAH RACHEL IRENE ARNOLD and **OLIVER WILLIAM ARNOLD** both of Spring Farm, Fir Covert Road, Felthorpe, Norwich NR10 4DT (together "Owner")

FUTURE BIOGAS (SF) LIMITED (Company number 00054170) whose registered office is situated at 10-12 Frederick Sanger Road, Guildford, Surrey GU2 7YD ("Developer") and

DOWNING CORPORATE FINANCE LIMITED (Company number 02053006) whose registered office is at 10 Lower Grosvenor Place, London SW1W 0EN ("Mortgagee")

RECITALS

- (1) The Owner is the freehold owner of the land shown edged red (the "Land") on the attached plan (the "Plan")
- (2) The Developer is the tenant of the Owner and holds the Land under a lease for a term of 50 years which commenced in 2010.
- (3) The Developer has executed and delivered to the Mortgagee a Debenture dated 21st May 2010 containing (inter alia) a floating charge over the undertaking property assets and rights present and future of the Developer.
- (4) Norfolk County Council ("County Council") is a Local Planning Authority within the meaning of the Town and Country Planning Act 1990 (the "Act") and is the Highway Authority for the area within which the Land is situated
- (5) The Developer has developed the Land by the construction of a renewable energy facility (the "Development") in accordance with the planning decision of Broadland District Council (planning application number 20090884) ("Planning Permission").
- (6) The Planning Permission was granted subject to conditions ("Conditions").
- (7) The Developer has made application to the County Council to vary the Conditions by appeal reference APP/K2610/A/2195382.
- (8) The obligations created by this Deed are planning obligations within the meaning of Section 106 of the Act (as amended) and are enforceable by the County Council

NOW THIS DEED WITNESSETH as follows:-

- 1.1 This Unilateral Undertaking is made in pursuance of Section 106 of the Act Section 111 of the Local Government Act 1972 and all other enabling powers
- 1.2 In this Unilateral Undertaking the following words and expressions shall have the meanings respectively ascribed to them below:
 - "Excepted Vehicle" means any vehicle trailer or machinery transported by road used or to be used for conducting agricultural operations;
 - "Restricted Route" means the route coloured blue on the Plan.
2. The Owner and the Developer hereby jointly and severally covenant with the County Council that with effect from the date on which the Conditions are varied in the manner and to the extent specified in the Developer's application

- to vary them by appeal reference APP/K2610/A/2195382, the Land shall not be used for the purposes authorised by the Planning Permission unless:-
- 2.1 all vehicles connected with the Development operated by the Owner the Developer or their employees or otherwise under their direct control do not use the Restricted Route unless they are Excepted Vehicles travelling to or from land adjacent to the Restricted Route in connection with the conduct of agricultural operations on such land
 - 2.2 in relation to vehicles connected with the Development but not under the direct control of the Owner or the Developer all reasonable endeavours shall be used to ensure that such vehicles do not use the Restricted Route unless they are Excepted Vehicles
 - 2.3 there are affixed and displayed and maintained on the Land such signs approved by the County Council in writing as to locations numbers size and legend and as shall be required from time to time by the County Council (including any modifications, additions or subtractions to those first or subsequently approved by the County Council)
3. It is hereby agreed and declared for the purposes of clause 2.2 that the requirement to use reasonable endeavours:
- 3.1 requires the Owner and the Developer to incorporate in all contracts with persons likely to visit the Land for the purposes of the Development a term having the same effect as clause 2.1
 - 3.2 requires the Owner and the Developer to communicate in writing with persons whose vehicles from time to time regularly visit the Land for the purposes of the Development informing them of the Restricted Route and requesting that their vehicles do not use the Restricted Route when visiting the Land and adopting a method and frequency as shall be reasonably likely to secure their co-operation such method and frequency to be determined by the Owner and / or the Developer as the case may be and disclosed to the County Council as requested or at the County Council's discretion shall be as reasonably determined by the County Council
 - 3.3 requires the Owner and / or the Developer as the case may be on receiving information that any driver of a vehicle connected with the Development shall have used the Restricted Route to take all necessary and lawful action possible against the driver to ensure future compliance
 - 3.4 will be breached if an employee of the Owner or the Developer uses the Restricted Route for the purposes of the Development
- 4.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Unilateral Undertaking promptly through negotiations between the respective senior executives of the parties who have authority to settle the same
- 4.2 If the matter is not resolved through negotiation the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution ("ADR") procedure as recommended to the parties by the Centre for Dispute Resolution
- 4.3 If the matter has not been resolved by an ADR procedure within 28 days of the initiation of such procedure or if either party will not participate in an ADR procedure the dispute may be referred by either party to arbitration for decision by a person appointed by agreement between the parties or in

default of agreement by the President for the time being of the Institute of Civil Engineers who shall act as an expert and not as an arbitrator and whose decision shall be final and binding upon the parties.

- 4.4 Nothing in clauses 4.1 and 4.2 shall apply to the recovery of a liquidated sum or prevent the parties from commencing or continuing court proceedings
- 5.1 Without prejudice to the enforcement of restrictions and obligations against successors in title no person shall be liable for any breach of this Unilateral Undertaking if at the time the breach occurs they have no interest in the Land
- 5.2 The County Council shall not be liable to any person under this Unilateral Undertaking after that person has parted with all interest in the land but without prejudice to any liability arising prior thereto
- 6. No waiver (whether express or implied) by the County Council of any breach of default by the Owners the Developers or their respective successors in title in performing or observing any of the terms and conditions of this Unilateral Undertaking shall constitute a continuing waiver and no such waiver shall prevent the County Council from enforcing any of the terms and conditions or from acting upon any subsequent breach or default in respect thereof by the Owners the Developers or their respective successors in title
- 7. The Owner hereby covenants that they are the freehold owners of the Land and have full power to enter into this Unilateral Undertaking that the Land is free from all mortgages charges or other encumbrances other than charges contained in a Debenture dated 21st May 2010 executed by the Developer in favour of Downing Corporate Finance Limited ("Debenture") and there is no person having any interest in the Land other than the Developer and those notified in writing to the County Council's Head of Law prior to the date hereof
- 8. The Developer hereby covenants that it holds the Land under a lease for a term of fifty years which commenced on 21st May 2010. and has full power to enter into this Unilateral Undertaking that the Land is free from all mortgages charges or other encumbrances other than those contained in the Debenture and there is no person having any interest in the Land other than the Owner and those notified in writing to the County Council's Head of Law prior to the date hereof
- 9. The Developer hereby covenants with the Owner that it will observe and perform the obligations contained within this Unilateral Undertaking for so long as it has an interest in the Land and is operating the Development and it will indemnify the Owner against all costs claims and demands as a result of non-compliance with this Unilateral Undertaking from the date hereof
- 10.1 The Mortgagee consents to the execution and delivery of this deed and declares that its interest in the Land 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 Mortgagee's interest in the Land.
- 10.2 The Mortgagee shall not be liable for any breach of the obligations in this deed unless committed by it or its servants or agents at a time when the Mortgagee is in possession of all or part of the Land.

11. The expressions "the County Council" and "the Owner" shall include their respective successors and assigns as appropriate within the terms of Section 106 of the Act
12. The parties do not intend that any term of this Unilateral Undertaking shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Unilateral Undertaking
13. The Developer shall pay the County Council's reasonable legal costs on this Unilateral Undertaking
14. This Unilateral Undertaking shall be registered as a local land charge



Handwritten signature and initials.

IN WITNESS WHEREOF the parties hereto have executed and delivered this Deed the day and year first before written

EXECUTED as a DEED by
FUTURE BIOGAS (SF) LIMITED
acting by a Director in the
presence of


.....

Witness's Signature



Name

ALAN PRESSLEE

Address

6 NIGHTINGALE DRIVE, CRINGLEFORD, NORWICH NR4 7UR

EXECUTED as a DEED by
HANNAH RACHEL IRENE
ARNOLD in the
presence of:



Witness's Signature



Name

ALAN PRESSLEE

Address

6 NIGHTINGALE DRIVE, CRINGLEFORD, NORWICH NR4 7UR

EXECUTED as a DEED by
OLIVER WILLIAM
ARNOLD in the
presence of:



Witness's Signature



Name

ALAN PRESSLEE

Address

6 NIGHTINGALE DRIVE, CRINGLEFORD, NORWICH NR4 7UR

EXECUTED as a DEED by
DOWNING CORPORATE FINANCE
LIMITED
acting by a Director in the
presence of

.....

Witness's Signature

EXECUTED as a DEED by

FUTURE BIOGAS (SF) LIMITED

acting by a Director in the

presence of

Witness's Signature

Name

Address

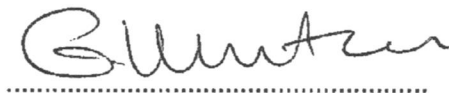
EXECUTED as a DEED by

DOWNING CORPORATE FINANCE

LIMITED

acting by a Director in the

presence of



Witness's Signature



Name

MICHAEL HUGHES

Address

10 LOVELL GROSVENOR PLACE
LONDON
SW10 0DH