DATED 4 April 2014

BARNSLEY METROPOLITAN BOROUGH COUNCIL

and

SITE 4 INVESTMENTS LIMITED

AGREEMENT

under Section 106 of the Town and Country Planning Act 1990 (as amended) relating to development at Hill Top Farm Gawber in the County of South Yorkshire

A.C. Frosdick, LL.B. DipLG,
Borough Secretary,
Town Hall,
Barnsley S70 2TA.

THIS DEED OF AGREEMENT is made the 4 day of April Two Thousand and Fourteen

BETWEEN

(1) **BARNSLEY METROPOLITAN BOROUGH COUNCIL** of Town Hall Barnsley South Yorkshire S70 2TA ("the Council") of the first part and

(2) **SITE 4 INVESTMENTS LTD** of 12, Victoria Road, Barnsley, South Yorkshire S70 2BB ("the Owner and Developer") of the second part

RECITALS

(1) The Council is the Local Planning Authority for the purposes of this Agreement for the area within which the Land is situated and is the authority by whom the obligations contained in this Agreement are enforceable

(2) The Owner is the registered proprietor with Title Absolute of the Land under Land Registry Title Number SYK547700.

(3) The Developer has submitted the Application to the Council, the Council has granted the Planning Permission and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this deed.

NOW THIS DEED WITNESSETH AS FOLLOWS:-

DEFINITIONS

1 For the purposes of this Deed the following expressions shall have the following meanings

"**the 1990 Act**" means the Town and Country Planning Act 1990 (as amended)

"**the Application**" means the application for residential development of 23 dwellings registered on 17th May 2013 with the reference number 2013/0528 submitted to the Council

"the Commencement of Development" means the actual date upon which the Development is begun by the carrying out of any material operation as defined by Section 56(4) of the Town and Country Planning Act 1990 and "Commence Development" is to be construed accordingly

"Costed Template" means a pre-determined house plan with total build costs calculated at current materials and labour prices.

"Current Index Figure" means in the event of a sale or resale of a Dwelling within three years of completion of the Dwelling the figure given in the Index for the month immediately preceding the date of such sale or resale

"the Development" means the development of the Land for the purposes set out in the Application.

"Dwelling" means any dwelling to be constructed pursuant to the Planning Permission;

"Index" means the Land Registry House Price Index for the Barnsley Borough of South Yorkshire (HPI) (or any identical index under a different title) officially published from time to time by the Land Registry or any other Government Department, Ministry or other body upon which the duties in connection with such index may have devolved

"Index Linked Resale Value" or **"ILRV"** means the Open Market Value of a Dwelling as set out below and Indexed Linked and adjusted for the sale or resale of a Dwelling within three years of completion of the same by reference to the formula ILRV = 0MV x (C÷I) and where:-

OMV is the Open Market Value as set out below

I = the Initial Index Figure; and

C = the Current Index Figure

Provided that the Indexed Linked Resale Value shall never be lower than the Open Market Value of the Dwelling as set out below

"Index Linked" means the Open Market Value of a Dwelling adjusted according to movement in the Index to the Index Linked Resale Value by applying the formula ILRV = OMV x (C÷I)

"Initial Index Figure" means in relation to the sale or resale of any Dwelling within three years of completion of the Dwelling 176.58 and being the figure given in the Index for the month of September 2013

"The Land" means the land described in the First Schedule.

"Open Market Value" means the agreed open market value for each dwelling Index Linked, as follows:

Plot Number & Type	Estimated Open Market Value September 2013

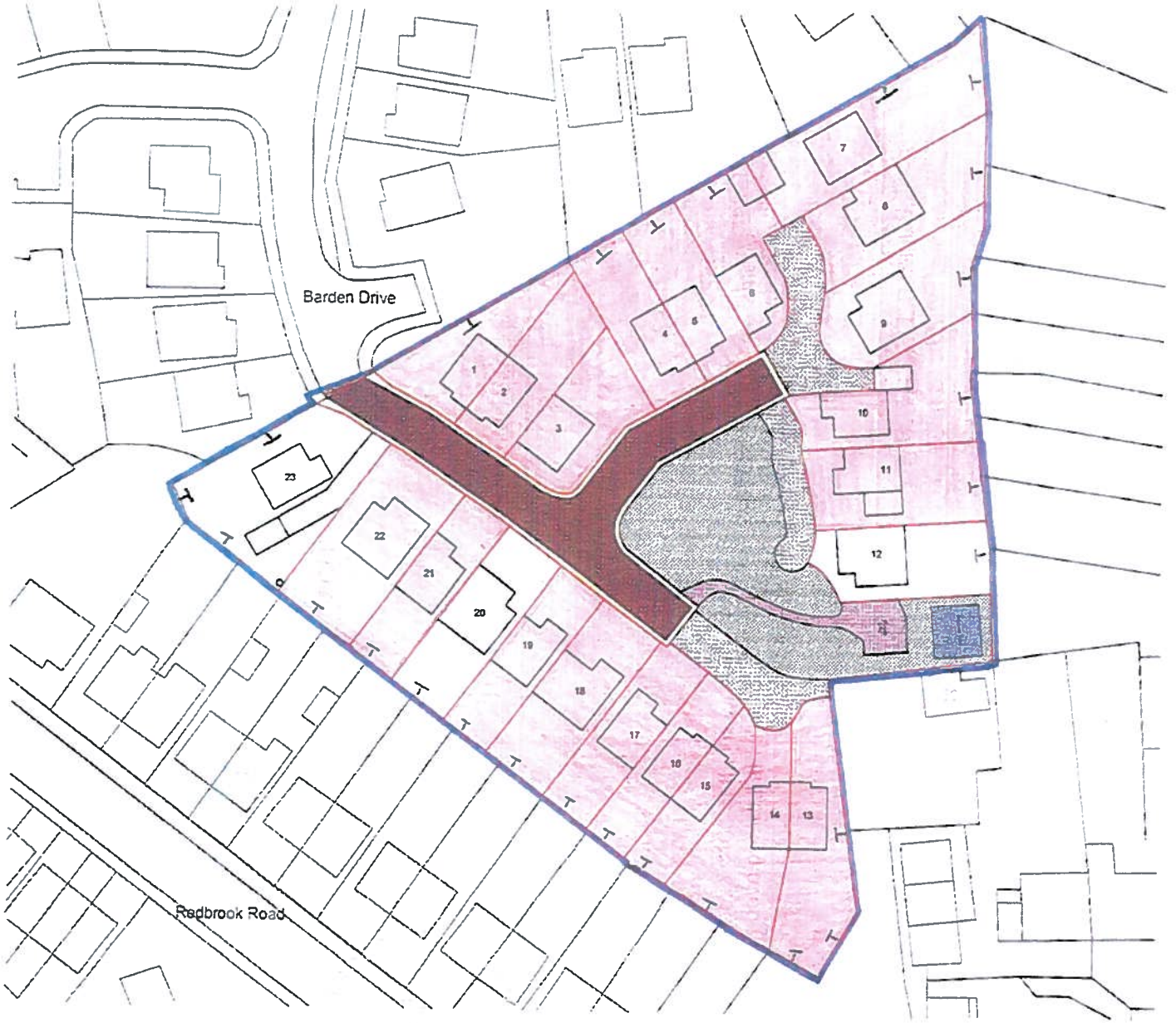
1 FIR	£135,000
2 FIR	£135,000
3 DAGWOOD	£160,000
4 FIR	£125,000
5 FIR	£125,000
6 BEECH	£150,000
7 DAGWOOD	£170,000
8 ASH	£155,000
9 ASH	£155,000
10 BEECH	£150,000
11 BEECH	£150,000
12 ASH	£155,000
13 FIR	£135,000
14 FIR	£135,000
15 FIR	£125,000
16 FIR	£125,000
17 BEECH	£150,000
18 CHESTNUT	£170,000
19 BEECH	£150,000
20 ASH	£155,000
21 BEECH	£150,000
22 ASH	£160,000
23 BEECH	£150,000

"**The Plan**" means the plan annexed hereto

"**Planning Permission**" means the planning permission granted by the Council pursuant to the Application.

CONSTRUCTION OF THIS DEED

2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.



Site4SelfBuild.co.uk

HILL TOP FARM

Site Plan

Date: Oct 2013

Scale: 1:500 @ A3

Drawing Nr. SP16 (2013/0528)
Revision "C"

Site 4 Self Build, BBIC, Innovation Way
Barnsley. S75 1JL Tel: 01226 249590

AUTHORISED SIGNATORY

No. 707 REGISTER

Section 106 Agreement Plan

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to its statutory functions.

3 LEGAL BASIS

This Agreement is made pursuant to section 106 of the Town and Country Planning Act 1990 section 111 of the Local Government Act 1972 section 2 of the Local Government Act 2000 and all other enabling powers and is a planning obligation for the purposes of and as defined in the said Section 106 and the covenants restrictions and requirements imposed on the Owner herein are enforceable by the Council as local planning authority against the Owner

4 COMMENCEMENT

The provisions of this Deed shall have immediate effect upon the completion of this Deed.

5 OWNERS' AND DEVELOPER'S COVENANTS

The Owner and the Developer jointly and severally covenant with the Council as set out in the Second Schedule

6 MISCELLANEOUS

6.1 The Owner shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed being £1000.

6.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

6.3 This Deed shall be registrable as a local land charge by the Council.

6.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council or by the Council from the Owner under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Head of Planning, Building control and Sustainability and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

6.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall upon receipt of a written request by the Owner effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

6.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

6.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

6.8 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

6.9 No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

6.10 This Deed is governed by and interpreted in accordance with the law of England and Wales.

IN WITNESS whereof these presents have been duly executed as a Deed by the parties hereto the day and year first before written

FIRST SCHEDULE

All that land at Hill Top Farm, Redbrook Road, Gawber for the purpose of identification shown edged blue on the Plan.

SECOND SCHEDULE

The Owner and the Developer jointly and severally covenant with the Council as follows:

1. Sales and re-sales of at least 20 of the Dwellings shall be subject to the following restrictions to operate for a period of three years following completion and the first sale of the Dwelling.

1.1 Dwellings shall only be sold to individual owner occupiers.

1.2 No one person shall be permitted to purchase more than one Dwelling.

1.3 Not more than one Dwelling shall be owned/occupied by a relative or relatives of either the Owner or the Developer.

The above restrictions shall cease to apply or have any effect to a Dwelling three years following the completion and first sale of the Dwelling.

2. Purchasers of at least 20 of the Dwellings shall not pay more than 75% of the Open Market Value when they purchase the plot in accordance with the Costed Template

3. If any of these 20 Dwellings are sold on within 3 years of completion and the first sale of the Dwelling, they shall be sold at no more than:
80% of the Index Linked Re-sale Value if sold within one year
85% of the Index Linked Re-sale Value if sold within two years
90% of the Index Linked Re-sale Value if sold within three years
After three years there shall be no restriction on the price at which the Dwellings may be sold on for but the three year period of restrictions set out above shall apply to any sale within the three year period and the said restrictions shall not merely apply to the first sale.

4. In the event of a mortgage provider enforcing a repossession and sale of any of the 20 dwellings during the three year period, they shall not be prevented from recovering their full debt by the conditions of paragraph 3, immediately above.

5. Plots 12, ~~20~~ & 23 are exempt from the terms of this Section 106 agreement and the covenants numbered 1, 2, 3 and 4 above shall apply only to plots 1, 2, 3, 4, 5, 6, ~~7~~, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21 and 22 which plots are shown edged red and coloured pink on the Plan. (save for Plot 12 and 23 which is not coloured pink on the Plan).

SL 4/04/14

8. The terms of this Agreement shall not be binding upon the Homes and Communities Agency.

THE COMMON SEAL of Barnsley)
Metropolitan Borough Council was)
hereunto affixed to this Deed in the)
presence of:-)

Borough Secretary/Authorised signatory

No. 707
IN REGISTER

EXECUTED AS A DEED by the said)
Site 4 Investments Limited acting)
by:-)

Director .....

~~Secretary~~ DIRECTOR .....