DATED 28th February 2013

BARNSLEY METROPOLITAN BOROUGH COUNCIL

and

STRATA HOMES LIMITED

BLOOR HOMES LIMITED

JOHN REAVLEY CLARK and DAVID TIMOTHY ADRIAN SCOURFIELD and JOHN ANTHONY WALKER

AGREEMENT

under Section 106 of the Town and Country Planning Act 1990 (as amended) relating to development on land off Bamford Close Dodworth Barnsley in the County of South Yorkshire

A.C. Frosdick, LL.B. DipLG,
Assistant Chief Executive
(Legal and Governance)
Town Hall,
Barnsley S70 2TA.

THIS DEED OF AGREEMENT is made the 28th day of February Two Thousand and Thirteen

BETWEEN

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

(2) **JOHN REAVLEY CLARK** of Britannic House, Regent Street, Barnsley, South Yorkshire, S70 2EQ **DAVID TIMOTHY ADRIAN SCOURFIELD** of 6a Eastgate, Barnsley, South Yorkshire, S70 2EP and **JOHN ANTHONY WALKER** of The Old Coach House, Kelling, Holt, Norfolk, NR25 7EQ as executors of the estate of the late EDWARD JOHN THORNLEY TAYLOR ("the First Owner") of the second part

(3) **BLOOR HOMES LIMITED** (Company Number 2162561) whose registered office is situate at Ashby Road Measham Swadlincote Derbyshire DE12 7JP ("the Second Owner") of the third part

(4) **STRATA HOMES MIDLANDS LIMITED** (Company Number 04327879) whose registered office is situate at Quay Point Lakeside Doncaster DN4 5PL ("the Third Owner") of the fourth part

RECITALS

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

(2) The First Owner is the registered proprietor with Title Absolute of the Land under Land Registry Title Number SYK533147

(3) The Second Owner has entered into an agreement for sale of the Land with the First Owner dated 31st January 2012

(4) The Third Owner has entered into an agreement for the sale of the Land with the Second Owner dated 8th May 2012

(5) The Second Owner and the Third Owner have submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed

(6) The parties agree that the obligations within this Agreement comply with the requirements of regulation 122 of the Community Infrastructure Levy Regulations 2010

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)

"**Affordable Housing**"- has the meaning given to it in annex 2 of the National Planning Policy Framework as published by the Department for Communities and Local Government 2012

"**Affordable Housing Units**- that part of the Development comprising three Shared Ownership or Intermediate Rent units shown as plots 4, 5 and 6 on the Plan

"**Affordable Housing Commuted Sum**" means £310,000 (three hundred and ten thousand pounds) to be used towards the provision or improvement of affordable housing within the administrative ward of Dodworth

"**the Application**" means the application for planning permission submitted to the Council for residential development with the reference number 2012/0861

"**the Chargee**" means any mortgagee or chargee of the Registered Provider of Social Housing or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925

"**the Chargee's Duty**" means the tasks and duties set out in paragraph 2.4 of the Second Schedule

"**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

"**the Development**" means the development of the Land for residential development in accordance with the Planning Permission

"**Index**" means the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or if that Price Index ceases to exist such index as the Council reasonably nominates

"**Interest**" means interest at 4 per cent above the base lending rate of Barclays Bank Plc from time to time or should this rate cease to exist such other bank lending rate as the Council may reasonably nominate

"**Intermediate Rent**" Has the meaning given to it in annex 2 of the National Planning Policy Framework as published by the Department for Communities and Local Government 2012

"**the Market Housing Units**" means that part of the Development which is general market housing for sale on the open market and which is not the Affordable Housing Units

"**the Owners**" means the First Owner the Second Owner and the Third Owner

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

"the Planning Permission" means the planning permission granted or to be granted pursuant to the Application

"Practical Completion" means either the issue of the Council of Mortgage Lender's completion certificate or the issue of a certificate of practical completion by the Owner's architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party's architect;

"Protected Tenant" – any tenant who:

a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit

b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit

c) has been granted a shared ownership lease by a Registered Provider of Social Housing (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant or a share is owned by the Registered Provider of Social Housing) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Provider of Social Housing all the remaining shares so that the tenant owns the entire Affordable Housing Unit

"the Public Open Space Commuted Sum" means the sum of £77,643.66 (seventy seven thousand six hundred and forty three pounds and sixty six pence) to be used to provide or improve and maintain such provision or improvement of public open space projects that are used or likely to be used by those affected by the development or living in the new development

"Registered Provider of Social Housing" means a registered provider of social housing as defined in Part 2 of the Housing and Regeneration Act 2008 ("the 2008 Act") who is registered with the regulator of social housing called the Office for Tenants and Social Landlords in the 2008 Act, referred to as the Regulator of Social Housing in other enactments or instruments, and known as the Tenant Services

Authority pursuant to section 3 of the Housing Act 1996 ("the 1996 Act") or section 116 of the 2008 Act and has not been removed from the register pursuant to section 4 of the 1996 Act or section 118 of the 2008 Act who is approved by the Council (such approval not to be unreasonably withheld or delayed)

"**Shared Ownership**" Has the meaning given to it in annex 2 of the National Planning Policy Framework as published by the Department for Communities and Local Government 2012

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.

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 be a reference to is as enacted as at the date of this Agreement.

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.

LEGAL BASIS

3 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 Owners herein are enforceable by the Council as local planning authority against the Owners

COMMENCEMENT

4 The provisions of this Deed shall not have effect until the Commencement of Development other than the obligations in Clauses 6.1 and 6.2 which shall have immediate effect upon the completion of this Deed

OWNER COVENANTS

5 The Owners covenant with the Council as set out in the Second Schedule

MISCELLANEOUS

6.1 The Third Owner shall pay to the Council on completion of this Deed the sum of £1,000 (on which no VAT shall be payable) in respect of the legal costs of the Council incurred in the negotiation, preparation and execution of this Deed.

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 Owners from the Council or by the Council from the Owners 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 Assistant Director of Planning and Regulatory Services 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 This Deed shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them.

6.9 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.

6.10 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.

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

INDEXATION

7 Any sum payable under this deed by the Owners shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.

INTEREST

8 If any payment due by the Owners under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

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 off Bamford Close Dodworth Barnsley for the purpose of identification shown edged red on the Plan

SECOND SCHEDULE

The Owners covenants with the Council to observe and perform the following obligations:

Public Open Space

1 The Owners shall pay to the Council upon Commencement of Development the Public Open Space Commuted Sum

Affordable Housing

2.1 No more than 50% of the Market Housing shall be occupied until all the Affordable Housing Units have been constructed in accordance with the Planning Permission and this Schedule and transferred to a Registered

Provider of Social Housing on terms that accord with the Homes and Communities Agency funding requirements current at the date of this Agreement

2.2 The Affordable Housing Units shall be constructed to a standard and quality at least equal to the Market Housing Units and must be constructed to a minimum of Code 3 of the Code for Sustainable Homes and meet Housing Quality Indicator standards unless otherwise agreed in writing by the Council

2.3 The Affordable Housing Units shall not be used for any purposes other than Affordable Housing save that this obligation shall not be binding on:

2.3.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees;or
2.3.2 any Chargee provided that the Chargee shall have first complied with the Chargee's Duty ;or
2.3.3 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor

2.4 The Chargee shall prior to seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge give not less than six months' prior notice to the Council of its intention to dispose and:
2.4.1 in the event that the Council responds within six months from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and shall use its best endeavours to secure such transfer
2.4.2 if the Council does not serve its response to the notice served under paragraph 2.4 within two months then the Chargee shall be entitled to dispose free of the restrictions set out in this Schedule
2.4.3 if the Council or any other person cannot within six months of the date of service of its response under paragraph 2.4.1 secure such transfer then provided that the Chargee shall have complied with its obligations under

paragraph 5 the Chargee shall be entitled to dispose free of the restrictions set out in this Schedule

PROVIDED THAT at all times the rights and obligations in this paragraph 2.4 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give consideration to protecting the interest of the Chargee in respect of monies outstanding under the charge or mortgage

2.5 If any of the Affordable Housing Units shall not have been transferred to the Registered Provider of Social Housing within eighteen calendar months of the date of Practical Completion of all the Affordable Housing Units or such earlier date agreed in writing by the Council and the Owners have produced evidence in writing to the reasonable written satisfaction of the Council that they have made all reasonable endeavours to secure a transfer of the Affordable Housing Units to a Registered Provider of Social Housing then the Owners will be free to offer such dwellings for sale on the open market free from the obligations in this Schedule subject to paragraph 2.6 below

2.6 In the event that the Owners are free to offer all of the Affordable Housing Units for sale on the open market pursuant to the provisions of paragraph 2.5 above, the Owners shall forthwith pay to the Council £208,200 (two hundred and eight thousand two hundred pounds only) in lieu of all the Affordable Housing Units.

2.7 The Owners shall pay to the Council 50% of the Affordable Housing Commuted Sum upon Commencement of Development and 50% upon occupation of the 20th Market Housing Unit

THE COMMON SEAL of **BARNSLEY METROPOLITAN BOROUGH COUNCIL** was hereunto affixed to this Deed in the presence of:-)

Authorised Signatory

No. 20 IN REGISTER

EXECUTED as a **DEED** by **STRATA HOMES MIDLANDS LIMITED**)

Acting by

Director

Director/Secretary

EXECUTED as a **DEED** by **BLOOR HOMES LIMITED**)

Acting by

Director

Authorised Signatory

Authorised Signatory

Director/Secretary

EXECUTED as a **DEED** by **JOHN REAVLEY CLARK** in the presence of)

J. R Clark

Witness

A. Gilberthorpe
Clerk with Bury & Walkers,
Solicitors
Barnsley

EXECUTED as a **DEED** by **DAVID TIMOTHY ADRIAN SCOURFIELD** in the presence of)

T. Scourfield

Witness

A. Gilberthorpe

EXECUTED as a **DEED** by **JOHN ANTHONY WALKER** in the presence of)

J Anthony Walker

Witness J. R Clark

Solicitors
Barnsley



North

pm am noon

All work to be carried out in accordance with the requirements of the Building Regulations,Water Authority and the Construction (Design and Management) Regulations currently in force.

Do not scale from this drawing. Architect to be notified of any discrepancies.

Verify relevant dimensions on site before commencing work or preparing shop drawings. This drawing is copyright.

Rev.	Date:	Action:	Init:
A	04.01.12	Amended to take account of highwall position	ikc
B	08.02.12	replanned with new house types	ikc
C	28.02.12	replanned with new house types	ikc
D	28.02.12	replanned with new house types	ikc
E	20.03.12	replanned with new house types	ikc
F	21.03.12	replanned with new house types	ikc
G	28.03.12	replanned with new house types	ikc
H	15.05.12	amended following pre-app meeting with BMBC	ikc
I	01.06.12	amended following pre-app meeting with BMBC	ikc
J	26.06.12	amended following pre-app meeting with BMBC	ikc
K	28.06.12	amended following engineers comments	ikc
L	10.07.12	Plots 1 - 3 & 15 - 21 amended following community consultation meeting	ikc
M	16.07.12	Plots 11,18,25 & 29 handed following engineers comments	ikc
N	16.08.12	Plots renumbered; Detached to plots 4 % replaced with town houses (plots 4-6).Type 12 replaced with Type 6; Plots 1 & 2 repositioned and garages amended; Plot 17 amended: Plots 39-44 amended; T7 details updated and root protection area added	ikc
O	19.09.12	amended following meeting with BMBC	ikc
P	25.09.12	amended following meeting with BMBC	ikc
Q	04.10.12	Private drives to plots 7-11 & 29-32 amended following highways comments; Garages to plots 7 & 8 and 31 & 32 adjusted to accomodate highways comments	ikc
R	10.10.12	Plots 1-3 amended; Plots 15-18 amended; Type 6 roof amended to plots 13,19,27,31,32.	
S	26.10.12	Plot 3 amended; road adjacent plot 6,15-18 amended;polts 32-34 amended; plot 22 amended	
T	06.11.12	Plot 8,11,20,21,22 & 24 handed; Garage on plot repositioned; plots 26 - 29 amended Plot 35 garage amended to single garage	
U	12.11.12	Schedule updated	

ACCOMODATION SCHEDULE — **SITE:** Bamford Close, Dodworth

DRAWING NUMBER: TEMP — 12.11.12

	House Type	Abbr	No	Bedrooms	Parking	Storey Height	Sqft	Total sqft	%age
2/3Bed Mews	Type 1	Type 1	0	2	PS	2	667	0	0.00
	Type 2	Type 2	3	3	PS	2	883	2649	7.69
4 Bed Detached	Type 6	Type 6	9	4	G	2	1360	12240	23.08
	Type A	Type A	19	4	G	2	1340	25460	48.72
	Type 11	Type 11	6	4	G	2	1207	9656	20.51
		Total	39						100.00

Gross Site Area	14001	m2		
Amenity	355	m2		
Undevelopable	0	m2		
Net Area	13646	m2	3.372	
	1.3646	Ha		
	14830	sq.ft/acre		
Density	28.6	dwellings/Ha		

PS= 2005
G= Dec

Legend

- 1.8m high scre… SD9-01
- 1.8m high screen pier a… panel wall - SD8-01
- 1.2m high railings - SD7-06
- 1.8m high screen gate SD9-01
- AH — Affordable Housing Dwelling

homes by strata

strata homes limited quay point lakeside doncaster DN4 5PL
T 01302 308508 F 01302 308501 www.homesbystrata.co.uk

scale: 1/500 | drawn by: ikc | date: 12-02-12

Project: Bamford Close Dodworth

Drawing: Sketch Layout

Drawing Number: BC/SK01 | Revision U