

DATED

13th August

2018

HALLAM LAND MANAGEMENT LIMITED

- and -

AVIVA INSURANCE LIMITED

-to-

EAST DEVON DISTRICT COUNCIL

BOND

relating to the Planning Obligations under the
Section 106 Agreement dated 29 October 2010 for the land north of Rockbeare, Devon
(Cranbrook)

THIS BOND dated 13th August 2018

is made BY:

- (1) **HALLAM LAND MANAGEMENT LIMITED "Hallam"** Company No. 02456711 whose registered office is at Banner Cross Hall Sheffield S11 9PD
- (2) **AVIVA INSURANCE LIMITED "the Surety"** Company No. SC002116 whose registered office is at Pitheavlis, Perth, Scotland, PH2 0NH

TO:

- (3) **EAST DEVON DISTRICT COUNCIL "EDDC"** of Knowle Sidmouth Devon EX10 8HL

WHEREAS:

- (1) The words and phrases within this Bond are to be interpreted in accordance with the definitions contained in the Definitions section of the Agreement dated 29 October 2010 and made under *Section 106 of the Town and Country Planning Act 1990* between EAST DEVON DISTRICT COUNCIL, DEVON COUNTY COUNCIL, TAYLOR WIMPEY DEVELOPMENTS LIMITED, HALLAM LAND MANAGEMENT LIMITED, PERSIMMON HOMES (SOUTH WEST) LIMITED, REDROW HOMES LIMITED, THE OWNERS and THE CHARGEES who are collectively referred to hereafter as "the Owners" ("the Agreement")
- (2) By the Agreement the Owners undertook various obligations listed in Appendix 3 to the Agreement and more fully set out as the relevant schedules to the Agreement and this Bond is provided in respect of the Part 3 EDDC Secured Item of Appendix 3 to the Agreement Only (the Obligations)
- (3) Subject to clause 4 by clause 18.2 of the Agreement the Owners joint and severally contracted to enter into a Bond in favour of EDDC in the total sum of £1,500,000 (One Million Five Hundred Thousand Pounds) in order to secure the discharge of the obligations on its part referred to at recital (2) above
- (4) At the time of entering into this Bond and on the faith thereof the Surety has agreed to concur with Hallam in this Bond for the due performance and fulfilment of the Obligations by Hallam

NOW THIS DEED WITNESSES:

- 1 Hallam and the Surety are jointly and severally bound to EDDC in the sum **£450,000.00** (Four Hundred and Fifty Thousand Pounds) ("the Bond Figure")
- 2 **WITHOUT** prejudice to the right of EDDC to exercise any of their rights and powers under Section 106 of the Town and Country Planning Act 1990 the Surety irrevocably and unconditionally guarantees to EDDC that in the event of any breach or non-observance of any of the Obligations the Surety shall subject to the conditions of this Bond pay to EDDC within 5 (five) business days of receipt of EDDC's written demand (and waiving all rights of objection and defence) the sum or sums up to the maximum of the Bond Figure of this Bond (but not

beyond) required to enable EDDC to secure the fulfilment of the Obligations. The demand must be in the form of a statement signed by the EDDC that:

- 2.1 The Owners have failed to perform the Obligations
- 2.2 as a result of such failure, the amount claimed is due to EDDC
- 2.3 specifies the amount claimed
- 2.4 the amount so claimed does not exceed the Bond Figure (either itself or in aggregate)
- 2.5 EDDC has observed the requirements of clause 18.4 of the Agreement

The Surety shall accept such demand as evidence, for the purpose of this Bond, that the amount claimed is due to EDDC under this Bond.

- 3 **THE** Surety shall not be discharged or released by any alteration of any of the terms conditions and provisions of the Agreement as the result of any allowance or forbearance by EDDC under or in respect of the Agreement which shall not in any way release reduce or affect the liability of the Surety under this Bond

- 4 **THIS** Bond is a continuing guarantee and shall remain in force until released and discharged in accordance with this clause 4. Whether or not this Bond shall be returned to the Surety the obligations of the Surety under this Bond shall be released and discharged absolutely upon the earlier of 5 (Five) years from hereof or upon the confirmation by the EDDC that the Obligations have been fulfilled pursuant to clause 18 of the Agreement

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- 5.1 **NOTWITHSTANDING** the provisions of clause 4 upon the confirmation referred to in clause 5.2 that any of the Obligations have been complied with the Bond Figure shall be reduced by such amount as is the equivalent of the value of the Obligation so discharged and the new reduced figure shall thereafter be the Bond Figure for the purposes of this Bond Provided That the remaining part of the Bond Figure shall be released in accordance with clause 4 once all Obligations have been discharged

- 5.2 For the purposes of clause 5.1 any written confirmation provided by EDDC pursuant to clause 18.6 of the Agreement shall be conclusive evidence of the reduction of the Bond Figure

- 6 This Bond and the benefits thereof shall not be transferred or assigned without the prior written consent of the Surety and Hallam

- 7 This Bond shall not confer any benefit upon and no term hereof shall be enforceable by any person under or by virtue of the Contracts (Rights of Third Parties) Act 1999

- 8 This Bond shall be governed by and construed in accordance with the laws of England and Wales and only the Courts of England and Wales shall have jurisdiction hereunder

