

THIS AGREEMENT is made on

2009

BY

- (1) BATH AND NORTH EAST SOMERSET COUNCIL of The Guildhall, High Street, Bath BA1 5AW (the "Administering Authority");
- (2) [] of [] (the "Transferor Scheme Employer");
- (3) [] whose registered address is at [] (the "Transferee Admission Body"); and
- (4) [] (the "Guarantor").

BACKGROUND

- (A) The Administering Authority is an administering authority within the meaning of the Regulations and administers the Scheme and maintains the Fund.
- (B) The Transferee Admission Body is a transferee admission body within the meaning of the Regulations.
- (C) The Transferor Scheme Employer is Scheme employer within the meaning of the Regulations.
- (D) The Transferee Admission Body provides services in connection with the exercise of a function of the Transferor Scheme Employer pursuant to the Contract and employs the Eligible Employees.
- (E) The Guarantor is [a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect and carry out contracts of general insurance] or [an EEA firm for the purposes of the Financial Services and Markets Act 2000 and has permission pursuant to Schedule 3 of the Financial Services and Markets Act 2000 to accept deposits or to effect and carry out contracts of general insurance].
- (F) The Administering Authority, the Transferor Scheme Employer and the Transferee Admission Body entered into an Admission Agreement on [] subject to the provision of a bond/indemnity in an approved form.
- (G) The Guarantor has agreed at the request of the Transferee Admission Body to enter into this Agreement as a bond in a form acceptable to the parties to this Agreement.

OPERATIVE PROVISIONS

1. INTERPRETATION

Save as defined below unless the context requires otherwise words and expressions used in this Agreement shall have the same meanings as in the Regulations.

2. DEFINITIONS

"Admission Agreement"	the admission agreement dated [] between the Administering Authority, the Transferor Scheme Employer and the Transferee Admission Body, which allows the Eligible Employees to be members of the Scheme and participate in the Fund;
"Bond Amount"	[] pounds or such other amount as may from time to time be amended by an Extension Notice;
"Business Day"	any day other than a Saturday or Sunday or a public or bank holiday in England;
"Contract"	the contract dated [] made between the Transferor Scheme Employer and the Transferee Admission Body;
"Eligible Employees"	the employees of the Transferee Admission Body specified in the Admission Agreement as being eligible to be members of the Scheme;
"Expiry Date"	[] or such other date as may be extended by an Extension Notice;
"Extension Notice"	a notice substantially in the form of the notice at Schedule 1;
"Fund"	means The Avon Pension Fund;
"Payment Notice"	a notice substantially in the form of the notice at Schedule 2;

"Regulations"	The Local Government Pension Scheme (Administration) Regulations 2008, the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 and the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (as amended from time to time);
"Relevant Event"	<p>either of:</p> <ul style="list-style-type: none"> (a) the termination of the Admission Agreement; or (b) the failure by the Transferee Admission Body to procure not less than 30 days before the Expiry Date the delivery to the Administering Authority of a Replacement Bond; or (c) the failure by the Transferee Admission Body to procure not less than 30 days after the results of an actuarial re-assessment of the Bond Amount have been notified to the Transferee Admission Body in writing by the Administering Authority the delivery to the Administering Authority of either an Extension Notice or a Replacement Bond covering the revised Bond Amount;
"Replacement Bond"	a bond or an indemnity in a form approved by the Administering Authority and the Transferor Scheme Employer to secure the payment of the Scheme Liabilities;
"Scheme Liabilities"	all employer and employee contributions, payments and other sums due from the Transferee Admission Body to the Administering Authority under the Admission Agreement or the Regulations in respect of the current or former Eligible Employees;
"Scheme"	the Local Government Pension Scheme

2.1 In this Agreement where the context so admits words denoting the singular shall include the plural and vice versa and words denoting the masculine gender shall include the feminine gender and vice versa.

- 2.2 Reference to any statute or statutory instrument shall be deemed to include reference to any such statute or statutory instrument as from time to time amended varied replaced extended or re-enacted and any orders or regulations under such provisions unless the context otherwise requires.
- 2.3 Reference to clauses or schedules shall be deemed to be references to a clause or schedule to this Agreement and references to a sub-clause shall be deemed to be a reference to a sub-clause of the clause in which the reference appears.
- 2.4 Headings are included for ease of reference only and shall not affect this Agreement or its interpretation.

3. CLAIMS AND PAYMENT

- 3.1 Where following the occurrence of a Relevant Event the Transferee Admission Body has failed to pay all Scheme Liabilities (in whole or in part) to the Administering Authority within 30 days of receiving a written demand from the Administering Authority the Guarantor shall pay to the Administering Authority such sum or sums (not exceeding in the aggregate the Bond Amount) as the Administering Authority claims in respect of the unpaid Scheme Liabilities.
- 3.2 Any claim by the Administering Authority pursuant to the terms of this Agreement shall be made by the service of a Payment Notice and shall be accepted by the Guarantor as conclusive evidence for all purposes that the amount claimed, is due to the Administering Authority. The Guarantor shall pay the sum so demanded within 7 days of receipt of the Payment Notice.

- 3.3 All sums paid by the Guarantor pursuant to clause 3.1 shall be held and applied by the Administering Authority for the purpose of paying and discharging the Scheme Liabilities.
- 3.4 Following any payment by the Guarantor pursuant to clause 3.1, the Administering Authority shall provide to the Guarantor within 6 months of receipt of payment a written account in respect of the application of the payment. If any payment made by the Guarantor exceeds the amount required to discharge the Scheme Liabilities the Administering Authority shall refund any overpayment to the Guarantor.
- 3.5 The obligations and liabilities of the Guarantor under this Agreement shall not be reduced discharged impaired or affected by the giving of time or any other indulgence, forgiveness or forbearance by the Administering Authority.
- 3.6 The service of a Payment Notice by the Administering Authority under the terms of this Agreement shall not (subject only to the provisions of clause 4.1) preclude the service of any further Payment Notice.

4. BOND AMOUNT

- 4.1 The maximum aggregate liability of the Guarantor under this Agreement shall not exceed the Bond Amount.

5. EXPIRY DATE

- 5.1 This Agreement shall expire and the obligations and liabilities of the Guarantor shall cease and determine absolutely on the Expiry Date save in respect of any obligation and liability arising as a result of a Relevant Event occurring on or before the Expiry Date in respect of which a Payment Notice has been received by the Guarantor within 12 months of the Expiry Date.
- 5.2 If the Transferee Admission Body procures the service of an Extension Notice by the Guarantor the provisions of this Agreement shall remain

and continue in full force and effect subject only to the amendment of the Expiry Date to the date set out in such Extension Notice and/or to the amendment of the level of the Bond Amount to the level set out in such Extension Notice.

- 5.3 This Agreement shall remain in operation notwithstanding any variation made in the terms of the Admission Agreement the Regulations or the Contract or the Sub-Contract and notwithstanding the insolvency winding-up or liquidation of the Transferee Admission Body (compulsorily or otherwise) or it otherwise ceasing to exist or function. This Agreement shall not be affected by any disclaimer of the Transferee Admission Body's contracts or liabilities by a liquidator.

6. NOTICES

- 6.1 Any notice to be given under this Agreement shall be in writing and shall be deemed to be sufficiently served if delivered by hand or sent by prepaid first class post to the addresses of the parties stated at the beginning of this Agreement (unless a party notifies the others in writing of a different address for service) and shall be deemed to have been given or made:

6.1.1 if delivered by hand upon delivery at the address unless such delivery occurs on a day which is not a Business Day or after 4pm on a Business Day in which case it will be deemed to have been given at 10am on the next Business Day; or

6.1.2 if sent by prepaid first class post on the second Business Day after the date of posting.

7. EXECUTION

This Agreement may be executed on a separate counterpart by each party which documents when taken together shall constitute one original.

8. APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with English law and the parties submit to the jurisdiction of the English courts.

9. RIGHTS OF THIRD PARTIES

The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

THIS DOCUMENT is executed as a deed and delivered on the date started at the beginning of this deed.

DRAFT

SCHEDULE 1

Specimen Extension Notice

To: Bath and North East Somerset Council

From: [Guarantor]

[DATE]

BOND NUMBER: []

We refer to the Agreement which is due to expire on [date].

We have been instructed by [] Limited to [renew/amend] the Agreement. We now accordingly give notice that the Agreement shall be treated as renewed for a further period of [one] year and so that [date] shall become the Expiry Date.

[We [also] confirm that the Bond Amount shall be amended and from the date of this Extension Notice the new level shall be [[amount] pounds sterling (£)].

Save as amended by this Extension Notice, the Agreement shall remain in full force and effect.

Duly authorised for and on behalf of

[Guarantor]

SCHEDULE 2

Specimen Payment Notice

To: [Guarantor]

From: Bath and North East Somerset Council

[DATE]

BOND NUMBER: []

We refer to the above Agreement and certify that a Relevant Event has occurred in relation to

[] Limited.

The sum of [] pounds sterling (£) is properly due in respect of the Scheme Liabilities and remains unpaid after 30 days from the receipt of a written demand by the Transferee Admission Body. We attach a copy of a certificate signed by [fund actuary] stating that such sum is now due.

We demand payment of the above amount within seven days of receipt of this notice.

The above amount should be paid to us by transfer to the following account:

Account Number

Sort Code

Account

Name

Bank

Bank Address

Duly authorised for and on behalf of

Bath and North East Somerset Council

THE COMMON SEAL of)
BATH AND NORTH EAST)
SOMERSET COUNCIL)
was affixed in the presence of:)

Authorised Officer

THE COMMON SEAL of)
[])
COUNCIL was affixed in the)
presence of:)

Authorised Officer

SIGNED as a deed by)
[])
acting by a director and its secretary)
or two directors)

Director

Director/Secretary

SIGNED as a deed by)
[])
acting by a director and its secretary)
or two directors)

Director

Director/Secretary

DRAFT