

DATED

202

THE KENT COUNTY COUNCIL (1)

- and -

[NAME OF SCHEME EMPLOYER] (2)

- and -

[NAME OF ADMISSION BODY] (3)

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LOCAL GOVERNMENT PENSION SCHEME CLOSED ADMISSION AGREEMENT FOR GUARANTEE

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Ref:  
Draft No.  
Dated:

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Our legal expertise, your peace of mind



THIS AGREEMENT is dated this                      day of                      202

**BETWEEN**

- (1) **THE KENT COUNTY COUNCIL** of County Hall, Maidstone, Kent ME14 1XQ in its capacity as administrator of the Scheme (the 'Administering Authority');
  - (2) **[INSERT] of [ADDRESS]** (the 'Scheme Employer'); and
  - (3) **[INSERT NAME AND COMPANY DETAILS WHERE APPLICABLE] of [INSERT]** (the 'Admission Body')
- (together 'the Parties').

**WHEREAS**

- (A) In this Agreement the 'Regulations' means the Local Government Pension Scheme Regulations 2013 (as amended from time to time).
- (B) The Administering Authority is an administering authority within the meaning of the Regulations. It administers and maintains the Kent County Council Pension Fund (the Fund).
- (C) The Scheme Employer is the relevant Scheme Employer within the meaning of the Regulations. OR The Administering Authority is also the relevant Scheme employer within the meaning of the Regulations.
- (D) The Admission Body is a body within meaning of Paragraph 1(a) OR 1(b) OR 1(c) OR 1(d)(i) of Part 3 of Schedule 2 of the Regulations.
- (E) With effect from the Admission Date, the Admission Body will provide Services or assets in connection with the functions of the Scheme Employer as a result of a transfer of Services or assets by means of the Contract.
- (F) The Parties have agreed to enter into this admission agreement to allow the Admission Body to be admitted to the Scheme and to participate in the Fund so that the Eligible Employees can be or remain members of the Scheme with effect from on and after the Admission Date.
- (G) The Admission Body has applied to the Administering Authority to admit certain employees of the Admission Body as members of the Scheme administered by the Administering Authority and to participate in the Fund.
- (H) These terms and conditions of admission have been agreed so as to regulate the terms of admission of the Eligible Employees and constitutes an admission agreement under the Regulations.

**IT IS NOW AGREED AND DECLARED BY** the parties to this Agreement as follows:

**1. INTERPRETATION AND DEFINITIONS**

**1.1** In this Agreement:

- 1.1.1 the expressions shall have the same effect and meaning as in the Regulations (unless otherwise defined herein or the context otherwise requires).
- 1.1.2 reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated and all statutory instruments or orders made pursuant to it;

- 1.1.3 words denoting the masculine gender include the feminine gender;
- 1.1.4 words in the singular include the plural and vice versa;
- 1.1.5 headings are for reference only and shall not inform the interpretation of the Agreement;
- 1.1.6 persons includes natural persons, corporate bodies, unincorporated associations and partnerships;
- 1.1.7 reference to a clause, sub-clause or to a schedule is to clause, sub-clause or to a schedule in and to this Agreement;
- 1.1.8 a reference to a regulation by number is (unless otherwise stated) a reference to the Local Government Pension Scheme Regulations 2013 as amended;
- 1.1.9 all the relevant provisions and definitions of the Regulations shall apply as if the same were set out in this Agreement;
- 1.1.10 except as set out in this Agreement interpretation of words shall have the meaning given to them in the Regulations and shall have effect as if the same were set out in this Agreement.

1.2 In this Agreement the following definitions shall apply:

<b>“Admission Date”</b>	[insert TUPE transfer date] being the TUPE transfer date of Eligible Employees from the Scheme Employer to the Admission Body arising under the Contract;
<b>“Agreement”</b>	this admission agreement;
<b>“Bond”</b>	a bond or indemnity with a person or firm described in paragraph 7 of Part 3 of Schedule 2 of the Regulations;
<b>“Business Day(s)”</b>	any day other than a Saturday, Sunday or a public bank holiday in England;
<b>“Closed Admission Agreement”</b>	an agreement under which only those employees identified in Schedule 2 of this Agreement can be admitted to the Scheme providing that those employees are Eligible Employees.
<b>“Commencement Date”</b>	the date of this agreement;
<b>“Contract”</b>	the contract dated [INSERT] made between the Scheme Employer and the Admission Body including all relevant extensions made to the Contract;
<b>“Data Protection Legislation”</b>	Data Protection Act 2018 including the GDPR as retained in the United Kingdom;
<b>“Eligible Employee”</b>	employees who are employed in connection with the provision of Services or assets referred to in the Contract, as listed in Schedule 2 of this Agreement;

and provided that:

a) the employee is and remains employed by the Admission Body in connection with the provision of the Services; and

b) the employee otherwise satisfies the requirements of the Regulations relating to eligibility for and membership of the Scheme;

**“Employer’s Contribution Rate”** is the applicable rate of contributions to the Fund payable by the Admission Body in respect of the Eligible Employees, as defined by Regulation 62 of the Regulations and as assessed by the Fund’s actuary and as reviewed by the Fund’s actuary from time to time in accordance with the Regulations;

**“Expiry Date”**

the date the Contract expires (or the date the Contract is terminated by the Scheme Employer);

**“Fund”**

the Kent County Council Pension Fund;

**“Fund Actuary”**

an Actuary appointed by the Administering Authority;

**“Guarantee”**

A guarantee with a person or firm described in and subject to the requirements of paragraph 8 of Part 3 of Schedule 2 of the Regulations and in the form set out in Schedule to this Agreement;

**“member”**

is restricted to a person who is an Eligible Employee admitted to the Fund by virtue of this Agreement;

**“Regulations”**

the Local Government Pension Scheme Regulations 2013 (as amended or supplemented from time to time);

**“Scheme”**

the Local Government Pension Scheme;

**“Services”**

the [DESCRIPTION] services which are to be provided to the Scheme Employer by the Admission Body under the Contract;

**“Termination Date”**

the date this Agreement terminates;

**“TUPE”**

the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended from time to time) implementing the Acquired Rights Directive 77/187 (as amended from time to time).

1.3 For the purposes of this Agreement, the expression "employed in connection with the provision of the Services" shall mean working for at least 50% of normal working time on the Services.

## **2. ADMISSION**

- 2.1 From the Admission Date, the Administering Authority shall permit the Eligible Employees identified in Schedule 2 of this Agreement to be or to remain members of the Scheme and to participate as active members of the Fund.
- 2.2 This is a Closed Admission Agreement and the Administering Authority shall admit only those Eligible Employees identified in Schedule 2 of this Agreement to become or remain members of the Scheme and to participate as active members of the Fund in accordance with this Agreement.

## **3. ELIGIBLE EMPLOYEES TO BE COVERED BY THIS AGREEMENT**

- 3.1 The Admission Body designates the Eligible Employees (listed in Schedule 2 of this Agreement) to the Scheme.
- 3.2 A person shall not qualify to be an active member under this Agreement if he is not, or was but ceases to be, employed in connection with the provision of the Services in accordance with the Contract by the Admission Body and benefits shall cease to accrue from the date that he ceased to be so employed.
- 3.3 Where a person appearing in Schedule 2 of this Agreement gives notice to the Admission Body that he does not wish to participate (or continue to participate) as an active member of the Fund, the Admission Body shall notify the Administering Authority and the Scheme Employer not later than 5 working days of the date upon which it receives such a notice.
- 3.4 The Scheme Employer and Admission Body shall notify the Administering Authority not later than 5 working days after the date of this Agreement of any employee within Schedule 2 to whom Regulation 3(4) applies.

## **4. CONTRIBUTIONS AND OTHER ADMISSION BODY OBLIGATIONS**

- 4.1 The Admission Body shall pay to the Administering Authority for credit to the Fund such contributions and payments as are due under the Regulations as required by the Administering Authority in respect of the Eligible Employees.
- 4.2 The Admission Body shall pay to the Administering Authority for credit to the Fund:
- 4.2.1 the employee pensions contributions from time to time deducted from the pay of the Eligible Employees under the Regulations;
  - 4.2.2 the employer contributions due under the Regulations based on the Employer's Contribution Rate. These contributions will be payable on a monthly basis in arrears; and
  - 4.2.3 any sums calculated as arising on termination of the Agreement; and
  - 4.2.4 any other payments required by the Regulations or by any other legislation.
- 4.3 The payment must be paid to the Administering Authority no later than the date specified in the Regulations.
- 4.4 Where the Admission Body certifies that immediate benefits are payable under the Regulations due to the occurrence of the following events:
- 4.4.1 an Eligible Employee who is an active member of the Scheme aged 55 or more is being dismissed by reason of redundancy or is leaving the employment of the Admission Body on grounds of business efficiency;

- 4.4.2 an Eligible Employee who is an active member of the Scheme is retiring voluntarily with the consent of the Admission Body on or after age 55 and before normal pension age;
- 4.4.3 it is permitting an Eligible Employee who is an active member of the Scheme to retire on the grounds of ill health or infirmity of mind or body;
- 4.4.4 the deferred benefit of an Eligible Employee is brought into payment with the consent of the Admission Body on or after age 55 and before normal pension age;
- 4.4.5 the deferred benefit of an Eligible Employee is brought into payment on the grounds of ill health or infirmity of mind or body; or
- 4.4.6 the Admission Body has exercised a discretion under the Regulations

the Admission Body shall make a payment to the Administering Authority of an amount representing the actuarial strain on the Fund of the immediate payment of benefits as certified by the Fund Actuary appointed by the Administering Authority.

- 4.5 The amount of the payment in clause 4.4 will be notified to the Admission Body in writing by the Administering Authority. It will be due within 30 days of receipt of the written notification or by such other arrangement as may be agreed between the Parties within that period.
- 4.6 Any financial penalty incurred by the Fund arising from the failure of the Admission Body to comply with the terms of this Agreement shall be repaid to the Fund by the Admission Body within 30 days of receiving a written request from the Administering Authority.
- 4.7 If any sum payable under the Regulations or this Agreement by the Admission Body to the Administering Authority or to the Fund remains unpaid one month after the date on which it becomes due under the Agreement or the Regulations, the Admission Body will pay interest calculated in accordance with the Regulations on the amount remaining unpaid.

## **5. ADMISSION BODY'S WARRANTIES AND OBLIGATIONS**

- 5.1 The Admission Body undertakes that it will:-
  - 5.1.1 observe and perform all its duties and obligations under this Agreement and the Regulations;
  - 5.1.2 comply with the reasonable requests of the Administering Authority to enable it to comply with the requirements of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (SI 2013/2734) or any replacement provisions;
  - 5.1.3 promptly distribute relevant information to the Eligible Employees about the Scheme and the Fund as may be directed by the Administering Authority;
  - 5.1.4 promptly provide to the Administering Authority any documents and information which the Administering Authority may reasonably require for the purpose of carrying out its duties in respect of Eligible Employees pursuant to this Agreement and in complying with the Regulations;
  - 5.1.5 maintain and keep up to date records relating to the Eligible Employees so as to enable the Parties to properly and simply perform their duties under the Regulations and this Agreement;

- 5.1.6 adopt the practices and procedures relating to the operation of the Scheme and the Fund set out in the Regulations and in any employer's guide or other guidance notes, including web-based information services, published by the Administering Authority and provided or notified to the Admission Body;
- 5.1.7 not do anything to prejudice the status of the Scheme as a registered scheme in accordance with Part 4 of the Finance Act 2004;
- 5.1.8 allow the Administering Authority, the Fund Actuary, auditors and other properly instructed persons to inspect and reconcile all records and information relating to the Eligible Employees as is relevant to their admission to the Scheme pursuant to this Agreement;
- 5.1.9 in the event of any future transfer of any of the Eligible Employees to a sub-contractor or separate organisation for the delivery of the Services or assets provided for in the Contract, to secure that such sub-contractor or organisation complies with the obligations set out in this Agreement in so far as they may otherwise cease to be the obligations of the Admission Body;
- 5.1.10 within 14 days notify the Administering Authority in writing of any material change in the terms and conditions of employment which affect entitlement to benefits under the Scheme of Eligible Employees who are members of the Scheme and of any terminations of employment by virtue of redundancy or in the interests of business efficiency;
- 5.1.11 within 14 days notify the Administering Authority and the Scheme Employer on each occasion on which the Admission Body exercises a discretion under the Regulations and the manner in which it exercises that discretion;
- 5.1.12 promptly notify the Administering Authority and the Scheme Employer of any matter which may affect the Admission Body's participation in the Scheme; and
- 5.1.13 give a minimum of 2 months' notice to the Administering Authority and to the Scheme Employer of any actual or proposed change in its status including a take-over, reconstruction or amalgamation, insolvency, winding up, receivership or liquidation and a material change to the Admission Body's business or constitution.

## **6. SCHEME EMPLOYER'S WARRANTIES AND OBLIGATIONS**

- 6.1 Any sums as are permitted to be charged to the Scheme Employer under the Regulations may be charged to the Scheme Employer under this Agreement.
- 6.2 The Scheme Employer shall be liable for and indemnify the Administering Authority and the Fund against any failure on the part of the Admission Body to comply with its obligations under this Agreement.
- 6.3 Where the Administering Authority has carried out an actuarial valuation described in Regulation 64(2), and it is not possible for any reason to obtain all or part of the exit payment due from the Admission Body, or from an insurer or any person providing an indemnity, bond or guarantee on behalf of that Admission Body, the Administering Authority may obtain a further revision of any rates and adjustment certificate for the Fund, showing the revised contributions due from the Scheme Employer and the Scheme Employer shall pay that amount to the Fund.
- 6.4 The Scheme Employer shall not less than three months before the Expiry Date advise the Administering Authority as to whether in its understanding the Contract is likely to end, be extended in accordance with its terms, or re-let to the same or another provider.

- 6.5 The Scheme Employer shall pay to the Administering Authority such additional costs as may arise by virtue of the Regulations and this Agreement.
- 6.6 Except to the extent that the Regulations or this Agreement expressly provide, or the Administering Authority and Scheme Employer otherwise agree in writing, all payments due under this Agreement shall be paid by the Scheme Employer within 28 days of service of a demand for payment.
- 6.7 The Scheme Employer shall make a copy of this Agreement available for public inspection at its offices during usual business hours.

## **7. REVISION OF EMPLOYER'S CONTRIBUTION RATE, EXIT PAYMENT AND EXIT CREDIT**

- 7.1 The Administering Authority shall periodically obtain from the Fund Actuary a certificate specifying, in the case of the Admission Body, the percentage or amount by which, in the actuary's opinion, the Employer's Contribution Rate should be increased or reduced. This is with a view to ensuring that, as far as it is reasonably possible, the value of assets of the Fund in respect of the Eligible Employees under this Agreement is neither materially more nor materially less than the anticipated liabilities of the Fund in respect of the Eligible Employees at the date the Contract or this Agreement is due to end. The charges for such actuarial services shall be borne by the Admission Body.

## **8. TERMINATION**

- 8.1 The Admission Body shall:
- 8.1.1 notify the Administering Authority of any matter that may affect, or is likely to affect, its participation in the Scheme; and
  - 8.1.2 give notice to the Administering Authority and the Scheme Employer as set out in clause 5.1.13 above of any actual or proposed change in its status that may give rise to a termination, and for these purposes, a termination includes a take-over, reconstruction or amalgamation, insolvency, winding up, liquidation or receivership and a change in the nature of the Admission Body's business or constitution.
- 8.2 Subject to clause 8.3 and clause 8.4, this Agreement shall terminate on the earlier of the Termination Date (as determined by clause 8.3 and clause 8.4) or at the end of the notice period on any of the Parties hereto giving a minimum of three months' notice to terminate this Agreement to the other Parties.
- 8.3 This Agreement shall automatically terminate on the:
- 8.3.1 Termination Date; or
  - 8.3.2 Expiry Date; or
  - 8.3.3 the date the Admission Body ceases to employ any Eligible Employee; or
  - 8.3.4 the date the Admission Body ceases to be an admission body for the purposes of the Regulations.
- 8.4 This Agreement may be terminated with immediate effect (which shall then be the Termination Date) by the Administering Authority by notice in writing to the Admission Body in the event of:
- 8.4.1 the insolvency, winding up or liquidation of the Admission Body;



- 8.4.2 a material breach by the Admission Body of any of its obligations under this Agreement or the Regulations. However, if the breach can be remedied the Administering Authority shall allow the Admission Body the opportunity to do so on such terms as the Administering Authority reasonably decides;
  - 8.4.3 the failure by the Admission Body to pay any sums due to the Administering Authority or to the Fund within one month of receipt of a notice from the Administering Authority requiring it to do so; or
  - 8.4.4 the failure by the Admission Body to obtain or extend a Guarantee in accordance with clause 9.
- 8.5 When this Agreement terminates, the Administering Authority must obtain:
- 8.5.1 an actuarial valuation as at the Termination Date of the liabilities of the Fund in respect of the Eligible Employees or former Eligible Employees of the Admission Body under the Agreement; and
  - 8.5.2 a revision of any rates and adjustments certificate within the meaning of the Regulations showing the exit payment due from the Admission Body, or the exit credit payable to the Admission Body, in accordance with regulation 64(2) of the Regulations.
- 9. GUARANTEE FROM [SCHEME EMPLOYER/OTHER/SECRETARY OF STATE]**
- 9.1 On or before the Commencement Date, the Admission Body, taking account of actuarial advice provided by the Fund Actuary shall and to the satisfaction of the Administering Authority secure a Guarantee in a form satisfactory to the Administering Authority as an alternative to a Bond to cover the level of risk arising on premature termination of the provision of Service or assets by reason of insolvency, winding up or liquidation of the Admission Body, as notified by the Fund Actuary.
- 9.2 Pursuant to clause 9.1 the Admission Body warrants that, at the Commencement Date there is in place a Guarantee in the sum and level advised by the Fund Actuary.
- 9.3 The Administering Authority *{and the Scheme Employer (as the case may be)}* shall keep under review the level of risk arising on premature termination of the provision of service or assets by reason of insolvency, winding up or liquidation of the Admission Body at no more than annual intervals or as otherwise advised by the Fund Actuary. Following such review, where the risk requires it and within 30 days of notification by the Administering Authority or the Scheme Employer, the Admission Body shall:
- 9.3.1 arrange for the existing Guarantee to be extended to cover the revised amount of assessed risk; or
  - 9.3.2 if required by the Administering Authority secure a new Guarantee to cover the revised amount of the assessed risk.
- 10. SET OFF**
- 10.1 This clause applies when-
- 10.1.1 One or more of employer contributions, employee contribution and other payments (including interest) are due from the Admission Body under or in connection with these Regulations whether to the Administering Authority or the Scheme Employer.

- 10.1.2        Payments are due to the Admission Body from the Scheme Employer or Administering Authority (whether in relation to the Scheme and/or otherwise).
- 10.2        When the conditions in clause 10.1 are satisfied, the Scheme Employer (or the Administering Authority (as the case may be) may set off such sums specified in clause 10.1.1 against such sums specified in clause 10.1.2.
- 10.3        The Scheme Employer shall pay any sums set off under clause 10.2 to the Administering Authority in respect of any sums recoverable by or payable to the Administering Authority.
- 10.4        This clause is without prejudice to any other rights of the Scheme Employer and/or the Administering Authority whether under the Agreement, the Regulations, the Contract or otherwise.
- 10.5        This clause shall be valid and enforceable notwithstanding any provision to the contrary in the Contract.

## **11.        NOTICES**

- 11.1        Save where delivered to the addresses referred to below by hand or by courier in which case a notice is deemed to have been received on the date it was delivered, a notice to be served under this Agreement shall be deemed to have been served if sent by first class pre-paid post:
- 11.1.1        by the Administering Authority to the Admission Body at its office address on the day of despatch and shall be deemed served the second day after posting; and
- 11.1.2        by the Admission Body and Scheme Employer to the Administering Authority addressed to the Treasury and Investments Manager, The Kent County Council Pension Fund, Kent County Council, Sessions House, ME14 1XQ or such other address as shall have been notified to those parties in writing and shall be deemed served the third day after posting.
- 11.2        For convenience the parties may provide information demanded under this Agreement by email but that shall only be good service if the recipient expressly confirms by email or in writing that such a communication will be (if confirmed in advance of despatch) or has been (if confirmed after despatch) accepted in lieu of formal notice under clause 11.1. The obligation to effect good service falls upon the Party giving notice and delay in receiving confirmation that email communication has been accepted, or refusal to provide such confirmation, shall not displace the obligation to effect formal notice under clause 11.1.

## **12.        WAIVER**

Failure or neglect by the Administering Authority or the Scheme Employer to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of the Administering Authority's or the Scheme Employer's rights hereunder (as the case may be) nor in any way affect the validity of the whole or any part of this Agreement nor prejudice the Administering Authority's or the Scheme Employer's rights to take subsequent action

## **13.        CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

Save that the Administering Authority may enforce this Agreement on its own behalf and that of the Fund, 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 not a party to it other than the Eligible Employees.

#### **14. AMENDMENT**

14.1 This Agreement may be modified from time to time in such manner as the parties may all agree in writing, PROVIDED THAT:

14.1.1 such variation of the terms must be by deed and executed by all parties;  
and

14.1.2 no amendment may be made that would:

- (a) breach the Regulations or any requirement of law as it applies to the Scheme; or
- (b) prejudice the registered status of the Scheme as regards HM Revenue & Customs.

#### **15. SEVERANCE**

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

#### **16. DATA PROTECTION AND GDPR**

The Parties shall (to the extent applicable to this Agreement) comply with their respective obligations under the provisions of the Data Protection Legislation as if the same were set out in this Agreement. For the avoidance of doubt and pursuant to Article 6 of the GDPR, the parties agree that the processing of the data set out in Schedule 2 of this agreement is lawful processing and compliant with the law.

#### **17. DISPUTE**

If any dispute or difference of any kind whatsoever shall arise between the Parties and the respective authorised representatives of the Parties (after notification of the dispute to the other Parties) fail to reach agreement within fourteen (14) Business Days (or within such other timescale agreed between them) the dispute shall be referred by either Party to mediation or to such other medium agreed between the Parties.

#### **18. JURISDICTION**

This Agreement shall be governed by the laws of England and the parties hereby submit to the exclusive jurisdiction of the English Courts.

**IN WITNESS** whereof this Agreement has been duly executed as a deed.

THE COMMON SEAL of THE KENT COUNTY )  
COUNCIL was hereunto affixed in the )  
presence of: )  
)  
)

Authorised Signatory

EXECUTED as a DEED by the )  
SCHEME EMPLOYER )  
and signed by )

[INSERT RELEVANT PROVISION HERE]

EXECUTED as a DEED by )  
ADMISSION BODY )  
and signed by: )  
)

Director

Director/Secretary

## SCHEDULE 1

### Form of Guarantee

THE KENT COUNTY COUNCIL (1)

and

[NAME OF ADMISSION BODY] 2)

and

[GUARANTOR] (3)

---

### GUARANTEE

---

THIS GUARANTEE is made the                      day of                      202

#### BETWEEN

- (1) **THE KENT COUNTY COUNCIL** of County Hall, Maidstone, Kent ME14 1XQ (the “Administering Authority”);
- (2) **[ADMISSION BODY]**, a [private limited company whose company number is [INSERT] and whose registered office is at [INSERT]] [OR AS THE CASE MAYBE] (the “Admission Body”); and
- (3) **[GUARANTOR]**, Incorporated in [INSERT] under registration number [INSERT] whose registered office is at [INSERT] and whose address for service for the purpose of this Guarantee is [INSERT] OR **[SCHEME EMPLOYER]** of [address] OR **[SECRETARY OF STATE]** (the “Guarantor”).

and is executed and delivered pursuant to the provisions of the Local Government Pension Scheme Regulations 2013 as amended, consolidated or substituted from time to time (the “Regulations”).

#### WHEREAS

- (A) In this Guarantee words and expressions used shall unless defined herein or the contrary is stated bear the meaning set out in the Regulations or the Admission Agreement.

- (B) The Administering Authority is an administering authority of the Local Government Pension Scheme (the “**Scheme**”) within the meaning of the Regulations.
- (C) By an agreement (the “**Contract**”) entered into between the Administering Authority OR NAME OF SCHEME EMPLOYER (the “**Scheme Employer**”) OR the Guarantor as Scheme Employer and the Admission Body dated [DATE], the [Administering Authority OR Scheme Employer OR Guarantor as Scheme Employer] transferred services or assets (the “**Services**”) in connection with its functions to the Admission Body.
- (D) The Admission Body and the Administering Authority have entered into an agreement (the “**Admission Agreement**”) pursuant to the Contract being an admission agreement for the purpose of the Regulations, to regulate the participation of Eligible Employees in the Scheme subject to the provision of a guarantee in the form of this Guarantee.
- (E) The Guarantor has agreed with the Administering Authority at the request of the Admission Body to provide this Guarantee to the Administering Authority in the amount assessed by the Fund Actuary to secure the payment to the Administering Authority of the Scheme Liabilities as defined in this Guarantee.
- (F) The Guarantor hereby confirms that it falls within the categories of bodies described in paragraph 8 of Part 3 of Schedule 2 of the Regulations.

**NOW THIS DEED** witnesses as follows:-

1. In this Guarantee:

<b>“Accrual Date”</b>	means [insert] <sup>i</sup> being the first or third anniversary of the Commencement Date of the Guarantee.
<b>“Guarantee Amount”</b>	the single total guarantee limit figure or each of the non-cumulative guarantee limit figures set out in clause 2 below.
<b>“Commencement Date”</b>	{insert first day of the period to be covered by the Guarantee}.
<b>“Expiry Date”</b>	shall be [insert] <sup>ii</sup> being 12 months after the Accrual Date.
<b>“Fund”</b>	means the Kent County Council Pension Fund.
<b>“Fund Actuary”</b>	means an actuary appointed from time to time by the Administering Authority.
<b>“Regulations”</b>	means the Local Government Pension Scheme Regulations 2013, as amended, consolidated or substituted from time to time.
<b>“Relevant Institution”</b>	means 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  a person who does not require permission under that Act to accept deposits, by way of business, in the United Kingdom.
<b>“Scheme Liabilities”</b>	shall mean the amount assessed by the Fund Actuary as representing the exit and other payments arising on termination, employer and employee contributions and associated benefits, cessation deficits, other deficits or

losses to the Fund; all other sums (including interest payable under the Regulations) which are due and payable by the Admission Body and which arise from the admission of persons to the Fund under the Admission Agreement and in each case whether they arise under the express provisions of the Admission Agreement, the Regulations or subsequent governing regulations.

## **2. GUARANTEE AMOUNT**

This Guarantee is for:

[Select appropriate clause i.e. either clause 2.1, 2.2 or 2.3 and delete all others]

2.1 the total sum of £ [insert total specific sum]

OR

2.2 the sum of £(insert) for a fixed term of one (1) year

OR

2.3 the following variable sums:

2.3.1 For the first year the sum of [£insert] where the Relevant Event is before or on [insert end date of first year];

2.3.2 [For the second year the sum of [£insert] where the Relevant Event is on or between [insert start date year 2] and [insert end date year 2] inclusive;

2.3.3 [For the third year the sum of [£insert] where the Relevant Event is on or after [insert start date year 3];

2.3.4 For subsequent years, the sum of [£insert third year sum set out in clause 2.3.3 above] which shall be retained until revised following any subsequent actuarial valuation.

(“The Guarantee Amount”).

2.4 The Administering Authority and Scheme Employer (as the case may be) shall with regard to the Admission Body keep under review the level of risk arising on premature termination of the provision of service or assets by reason of insolvency, winding up or liquidation of the Admission Body at no more than annual intervals or as otherwise advised by the Fund Actuary. Following such review, where the risk requires it and within 30 days of notification by the Administering Authority or the Scheme Employer, the Admission Body shall:

2.4.1 arrange for the existing Guarantee to be amended to cover the revised amount of assessed risk; or

2.4.2 if required by the Administering Authority secure a new Guarantee to cover the revised amount of the assessed risk.

2.5 Pursuant to the provisions of this clause 2.2, where the Guarantee Amount is revised by the Fund Actuary, the parties shall comply fully with the provisions of clause 14 of this Guarantee.

2.6 This Guarantee shall continue until the Guarantor is released from all liability under it in accordance with clause 8.

**3. WARRANTY**

- 3.1 The Admission Body warrants to the Administering Authority that no Relevant Events have occurred prior to the Commencement Date.

**4. RELEVANT EVENT**

- 4.1 In this Guarantee a **Relevant Event** shall occur on or following any of the following events set out below:

- 4.1.1 the Admission Body's insolvency, winding up or liquidation; or
- 4.1.2 the Admission Body's breach of any of its obligations under the Admission Agreement (but where the breach is capable of remedy, only where it has not been remedied within a reasonable time); or
- 4.1.3 the Admission Body's failure to pay any sums due to the Fund within a reasonable period of a notice from the Administering Authority requiring payment; or
- 4.1.4 the termination of the Commercial / Outsourcing Contract referred to in recitals C and D above; or
- 4.1.5 the date the Admission Body ceases to employ any Eligible Employee; or
- 4.1.6 the date the Admission Body otherwise ceases to be an admission body for the purposes of the Regulations

and in any such case, the Admission Body fails to pay or discharge the Scheme Liabilities in the manner set out in this Guarantee or the Admission Agreement.

5. The Guarantor shall, following the occurrence of any of the Relevant Events set out in clause 4 above and upon the Administering Authority making a demand and certifying that the amount demanded is due from the Admission Body pursuant to the Admission Agreement or the Regulations in respect of Scheme Liabilities, pay to the Administering Authority such sum or sums (not exceeding the Guarantee Amount) as shall be demanded by the Administering Authority.
6. Any demand served by the Administering Authority pursuant to the terms of this Guarantee shall be in the form of the template set out in Appendix 1 of this Guarantee and the Guarantor shall pay the sum so demanded within twenty one days of receipt of the same, in default of which, interest will be payable calculated at one per cent (1%) above the Bank of England base rate, per annum calculated daily at the "Prescribed Rate" from the date payment is due from the Guarantor until payment is made by the Guarantor.
7. The maximum liability of the Guarantor under this Guarantee shall not exceed the Guarantee Amount.
8. The obligations and liabilities of the Guarantor under this Guarantee shall cease and determine absolutely:
- 8.1 on the day immediately following the day on which the Guarantor shall have paid to the Administering Authority a sum equal to the Guarantee Amount.
  - 8.2 where any of the events in clause 4 has occurred, on the date specified in the written notice of discharge issued by the Administering Authority to the Guarantor confirming that the Admission Body has discharged all its liabilities under the Admission Agreement



and the Regulations. This notice of discharge shall be in the form of the template set out in Appendix 3 of this Guarantee.

9. All sums paid by the Guarantor under the terms of this Guarantee shall be held and wholly applied by the Administering Authority for the purpose of paying and discharging the Scheme Liabilities. The Administering Authority shall not be obliged to repay or release the same (or any part thereof not so applied as the case may be) to the Guarantor or (if the Admission Body has repaid such sum to the Guarantor in full) the Admission Body unless all Scheme Liabilities have been discharged in full following the Relevant Event.
10. Following any payment by the Guarantor under the terms of this Guarantee the Administering Authority shall provide to the Guarantor as soon as reasonably practicable an account in respect of the application of such sums and if any payment made by the Guarantor/Admission Body pursuant to such demand shall exceed the amount required to discharge the Scheme Liabilities, the Administering Authority shall refund such overpayment to the Guarantor/Admission Body together with interest at the Prescribed Rate from the date of payment by the Guarantor to the date of repayment.
11. The service of any claim or demand by the Administering Authority under the terms of this Guarantee shall not (subject only to the Guarantee Amount) preclude the service of any other or further demand.
12. The obligations and liabilities of the Guarantor under this Guarantee shall not be reduced, discharged, impaired or affected by:
  - 12.1 the giving of time or any other indulgence, forgiveness or forbearance by the Administering Authority; nor by
  - 12.2 any amendment or variation of the Regulations or the Admission Agreement or the rules applicable to the administration thereof or the payment and calculation of benefits under the Scheme; nor by
  - 12.3 the insolvency of the Admission Body or any disclaimer of its contracts and liabilities by a liquidator.
13. Save as provided for at clause 14 below, no variation of this Guarantee shall have effect unless it is by deed and duly executed by the parties.
14. Where the Fund Actuary revises the level of guarantee that the Administering Authority should require:
  - 14.1 the Admission Body shall instruct the Guarantor to vary the current guarantee levels to reflect the revised levels prescribed by the Fund Actuary in their report.
  - 14.2 The Administering Authority shall notify the Admission Body of the revised levels by completing the template attached to this Guarantee as Appendix 2A or 2B as the case may be. Once completed, Appendix 2A or 2B must be signed by the Guarantor and returned to the Administering Authority within 14 days of receipt.
  - 14.3 The parties agree that no such variation shall be of effect unless it is at least the amount prescribed by the Fund Actuary. For the avoidance of doubt no such variation may have the effect of modifying the termination provisions of the Guarantee.
15. The Admission Body shall, before the Expiry Date of this Guarantee, procure the Guarantor's service of a notice ("Extension Notice") extending the period of validity of this Guarantee, by reference to the Accrual Date, to the new date set out in the Extension Notice. Any Extension Notice shall be in the form of the template appended to this Guarantee at Appendix 2B.

- 15.1 The Admission Body shall ensure that at all times while the Admission Agreement subsists, there shall be in place a guarantee either from the Guarantor or from a Relevant Institution in substantially the form of this instrument/guarantee as shall be acceptable to the Administering Authority to secure the payment by the Admission Body of the Scheme Liabilities.
- 15.2 If the Admission Body procures the Guarantor's service (on the instructions of the Administering Authority) for the provision of an Extension Notice not less than 30 days before the Accrual Date, the provisions of this Guarantee Agreement shall remain and continue in full force and effect until the Extension Notice takes effect.
16. Any demand under this Guarantee shall be in writing addressed to the Guarantor at its address for service as set out above or to such other address as the Guarantor shall advise to the Administering Authority by not less than seven days prior notice in writing and shall be deemed to be served upon actual delivery to the Guarantor.
17. A person who is not a party to this Guarantee shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Guarantee. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
18. This Guarantee is personal to the Administering Authority and is not assignable or transferable.
19. This Guarantee shall be governed by and construed in accordance with the laws of England and only the courts of England shall have jurisdiction in relation to it.

**IN WITNESS** whereof the parties have executed and delivered this Guarantee as a deed the date and year first before written

THE COMMON SEAL of THE KENT COUNTY )  
COUNCIL was hereunto affixed in the )  
presence of: )

Authorised Signatory

EXECUTED AS A DEED by )  
[ADMISSION BODY] )  
acting by )

Director

Director/Secretary

Executed as a Deed by )  
INSERT GUARANTOR'S RELEVANT )  
ATTESTATION  
CLAUSE



**APPENDIX 2A  
TEMPLATE FOR VARIATION OF ACTUARIAL GUARANTEE VALUES/REVISIONS**

Dear

Pursuant to the Guarantee executed on [ ] ("Original Guarantee") the revised Guarantee Amount is set out below:

**ADMINISTERING AUTHORITY: KENT COUNTY COUNCIL**

**GUARANTOR:**

**ADMISSION BODY:**

**NAME AND TITLE OF MATTER:**

**FILE REFERENCE:**

**GUARANTEE REFERENCE:**

**DATE OF GUARANTEE:**

**PREVIOUS GUARANTEE AMOUNT:**

**REVISED / NEW GUARANTEE AMOUNT:**

**EFFECTIVE DATE OF REVISED / NEW GUARANTEE AMOUNT:**

Save as specifically amended by this variation letter the Original Guarantee shall remain in full force and effect.

.....

**SIGNATURE**

Name

Position

Date

**APPENDIX 2B  
EXTENSION NOTICE**

From: [Name and Address of Guarantor]

To: Kent County Council (as Administering Authority of the Kent County Council Pension Fund) (Treasury and Investments), of County Hall, Maidstone, Kent. ME14 1XQ.

**Re: Guarantee Reference Number [ ] dated [ ] in favour of Kent County Council as Administering Authority in respect of the obligations of [insert details of the Admission Body] (the “the Guarantee”)**

We refer to the Guarantee in which the Accrual date of [ ] is currently due to expire on the [ **insert Expiry Date as set out in the Guarantee** ] day of [ ].

We have been requested by [ insert details of the Admission Body] Limited, the Admission Body, to extend the Guarantee for a further period of [ ] year/s as and from the Accrual Date. We now accordingly give notice pursuant to and in accordance with clause 14 of the Guarantee that the Guarantee shall be treated as amended and extended upon the terms and conditions therein by the addition to the Guarantee of the following wording :

[tba] (£[tba]) for a claim relating to the period from [next year start date (which should be the anniversary of the date of the guarantee)] to [next year end date] and [next year end date] shall now be the Accrual Date.

Save as specifically amended by the terms of this Extension Notice the Guarantee shall not be deemed to be amended or varied and shall remain in full force and effect in accordance with its terms.

[INSERT APPLICABLE PROPER EXECUTION PROVISIONS]

**APPENDIX 3  
NOTICE OF DISCHARGE OF GUARANTOR**

DATE OF NOTICE:

GUARANTEE REFERENCE:

DATE OF GUARANTEE:

NAME AND ADDRESS OF ADMISSION BODY:

NAME AND ADDRESS OF GUARANTOR:

TO WHOM IT MAY CONCERN

This is to confirm that due to [ insert in summary the reasons why the guarantee now needs to be discharged and refer to the relevant clauses of the guarantee for assistance especially the clause relating to the Termination ], the Guarantor's obligations/ Scheme Liabilities under the above-mentioned Admission Agreement and Guarantee pursuant to the Regulations and any later governing regulations are hereby discharged and terminated with effect from the date of this notice.

Signed for and on behalf of Kent County Council as Administering Authority by:

.....

Name in full

.....

Signature

.....

Position

.....

Date:

**SCHEDULE 2**  
**Eligible Employees**

Part A: Active Eligible Employees:

DoB	Gender	Nino
		Etc.

Part B: Non-Active Eligible Employees: :

DoB	Gender	Nino
		Etc.

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<sup>i</sup> insert end date of year 1 or the end date of year 3 of the guarantee as set out in clause 2

<sup>ii</sup> [insert date Which is 12 months after the end date of year 1 or year 3 of the guarantee]