

Warwickshire Pension Fund

Admission Agreement – Transferee Body

Version: 2

Date Issue: December 2016

Reference: TBC

Team: Warwickshire Pension Fund

Protective Marking: Public

This Deed is made on

between:

- (1) **WARWICKSHIRE COUNTY COUNCIL PENSION FUND** of Shire Hall, Warwick CV34 4RL (the “Administering Authority”).
- (2) [REDACTED] (Company Number: [REDACTED]) whose registered office is at (“the Admission Body”).
- (3) [REDACTED] of [REDACTED] (the “Letting Authority”).

BACKGROUND

- A. The Administering Authority is an administering authority within the meaning of the Regulations. It administers and maintains the Fund.
- B. The Letting Authority is a scheme employer within the meaning of the Regulations.
- C. The Admission Body is an admission body within the meaning of paragraph 1(d) of Part 3 of Schedule 2 to the Regulations.
- D. With effect from the Transfer Date, the Admission Body will provide services or assets in connection with the functions of the Letting Authority as a result of a transfer of services or assets by means of the Contract.
- E. The parties have agreed to enter into this admission agreement (**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 on and after the Transfer Date.
- F. The terms and conditions of such an admission have been agreed between the parties to this Agreement.

The Parties have agreed as follows:

1. Interpretation

- 1.1. The definitions and rules of interpretation in this clause apply in this agreement unless the Contract requires otherwise.

Bond: a bond or indemnity with a person or firm described in paragraph 7 of Part 3 of Schedule 2 to the Regulations in a form approved by the Administering Authority.

Business Day: any day other than a Saturday, Sunday or a public bank holiday in England.

Commencement Date: the date of this agreement.

Contract: the Contract dated [DATE] for the provision of Services between the Letting Authority and the Admission Body.

Eligible Employees: employees who are employed in connection with the provision of Services or assets referred to in the Contract, as listed in the Schedule to the Agreement [and who are otherwise nominated by the Admission body for membership of the Scheme]; and provided that:

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

the employee otherwise satisfies the requirements of the Regulations relating to eligibility for and membership of the Scheme.

Employer's Contribution Rate: the Admission Body's employer's contribution rate of [PERCENTAGE]% of the pensionable pay of the Eligible Employees, calculated in accordance with the rates and adjustments certificate obtained in accordance with regulation 62 of the Regulations applicable to the Admission Body and certified by an actuary appointed by the Administering Authority as being the appropriate amount, as revised from time to time in accordance with the Agreement.

Fund: the Warwickshire County Council pension fund within the Scheme.

Guarantee: a guarantee with a person described in paragraph 8, Part 3 of Schedule 2 to the Regulations in a form approved by the Administering Authority.

Registered Pension Scheme: a pension scheme registered under Chapter 2 of Part 4 of the Finance Act 2004.

Regulations: the Local Government Pension Scheme Regulations 2013 (S/2013/2356).

Scheme: the Local Government Pension Scheme.

Services: the [DESCRIPTION] services which are to be provided to the Letting Authority by the Admission Body under the Contract.

Termination Date: has the meaning prescribed in clause 10.2 or clause 10.3 as appropriate.

Transfer Date: [DATE].

- 1.2. 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.
- 1.3. Unless stated otherwise, the words and expressions used in this Agreement shall have the same respective meanings as in the Regulations unless the context otherwise requires.
- 1.4. Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.

- 1.5. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.6. The schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the schedules.
- 1.7. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.8. Words in the singular shall include the plural and vice versa.
- 1.9. A reference to one gender shall include a reference to the other genders.
- 1.10. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.11. A reference to writing or written includes faxes but not e-mail.
- 1.12. Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.13. A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this agreement) at any time.
- 1.14. References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule.

2. Commencement and duration of Agreement

The Agreement shall commence on the Commencement Date and will remain in force until the Termination Date unless terminated earlier in accordance with clause 10 of the Agreement.

3. Admission

- 3.1. From the Transfer Date, the Administering Authority shall permit the Eligible Employees to be or to remain members of the Scheme and to participate as active members of the Fund. From that date the Admission Body shall operate as a scheme

employer for the purpose of the Regulations and shall exercise the responsibilities provided for in the Regulations.

3.2. This is to be [an open OR a closed] admission agreement.

4. Effect of the Regulations

4.1. The Regulations will apply in determining the rights, obligations and actions to be taken by each party to this Agreement.

4.2. The Regulations will govern the transfer of information between the parties.

4.3. Each party agrees with the other to take such action as is required to comply with the Regulations.

5. Participation and indemnities

5.1. The Admission Body warrants and represents to the Administering Authority and the Letting Authority that, as at the Transfer Date, every Eligible Employee is employed in connection with the provision of the Services for the purposes of this Agreement.

5.2. The Admission Body undertakes that it will promptly notify the Administering Authority and Scheme Employer in writing if any Eligible Employee ceases to satisfy the definition of Eligible Employee. That employee shall then cease to be eligible to be an active member of the Scheme.

5.3. The Admission Body shall be liable for and shall indemnify the Fund against any breach by the Admission Body of this Agreement, the Regulations, or any other legal or regulatory requirements applicable to the Scheme.

5.4. The Letting Authority shall be liable for and shall indemnify the Fund against any failure on the part of the Admission Body to comply with its obligations under this Agreement.

6. Payments

6.1. 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.

- 6.2. The Admission Body shall pay to the Administering Authority for credit to the Fund:
- (a) the employee pensions contributions from time to time deducted from the pay of the Eligible Employees under the Regulations;
 - (b) the employer contributions due under the Regulations based on the Employer's Contribution Rate.
- 6.3. These contributions will be payable on a monthly basis in arrears; and
- (a) any sums calculated under clause 8 and clause 10 arising on termination of the Agreement; and
 - (b) any other payments required by the Regulations or by any other legislation.
- 6.4. The payment must be paid to the Administering Authority no later than the date specified in the Regulations and regulations made under the Pensions Act 1995 or relevant substituting statutory provision.
- 6.5. Where the Admission Body certifies that:
- (a) 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;
 - (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) the deferred benefit of an Eligible Employee is brought into payment on the grounds of ill health or infirmity of mind or body; or
 - (f) the Admission Body has exercised a discretion under the Regulations,

and immediate benefits are payable 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 an actuary appointed by the Administering Authority.

- 6.6. The amount of the payment in clause 6.5 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. Where the sum notified is more than £1,000, with the agreement of the Administering Authority, it may be paid by equal annual instalments over a period of five years (or the remaining period of the Contract if less), the first instalment of which is to be paid within 30 days of receipt of the written notification and the remaining instalments to be paid with interest within one month of the relevant anniversary of receipt of the written notification.
- 6.7. 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.
- 6.8. 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.
- 6.9. If any sum payable under the Regulations or this Agreement by the Admission Body to the Administering Authority or to the Fund is unpaid when it becomes due, the Administering Authority and/or the Letting Authority may set off against any payments due to the Admission Body under the Contract or otherwise an amount equal to the sum due (including any interest due in accordance with clause 6.8) and then pay the sum to the Administering Authority for credit to the Fund.
- 6.10. The Admission Body and the Letting Authority agree that the right of set-off in clause 6.9 shall be valid and enforceable notwithstanding any provision to the contrary in the Contract.

7. Admission Body's undertakings

- 7.1. The Admission Body undertakes:
 - (a) to provide or procure the provision of any information relating to the Admission Body's participation in the Fund and the Eligible Employees'

participation in the Scheme as is reasonably required by the Administering Authority;

- (b) to 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;
- (c) to adopt the practices and procedures relating to the operation of the Scheme set out in the Regulations and in any employer's guide and/or policy published by the Administering Authority and provided to the Admission Body;
- (d) to notify the Administering Authority and the Letting Authority immediately of each occasion on which it exercises a discretion under the Regulations and the manner in which it exercises that discretion;
- (e) without prejudice to the requirements of the Regulations and any employer's guide published by the Administering Authority and provided to the Admission Body, to notify the Administering Authority and the Letting Authority in writing of any material change in the terms and conditions of employment of any Eligible Employee that affects or is likely to affect entitlement to benefits under the Scheme for its employees who are members of the Scheme and of any termination of employment by virtue of redundancy or in the interests of business efficiency;
- (f) not to be party to any act, omission or thing that would prejudice the status of the Scheme as a Registered Pension Scheme;
- (g) to notify the Administering Authority and the Letting Authority immediately of any matter that may affect, or is likely to affect, its participation in the Scheme and give immediate notice to the Administering Authority and the Letting Authority of any actual or proposed change in its status that may give rise to a termination of the Contract, including but not limited to take-over, reconstruction or amalgamation, liquidation or receivership and a change in the nature of its business or constitution; and
- (h) that 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.

8. Revision of employer's contribution rate and exit payment

- 8.1. The Administering Authority shall periodically obtain from an 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 and whether any additional cash sum payments shall become due. 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 the 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.
- 8.2. When this Agreement terminates under clause 10, the Administering Authority must obtain:
- (a) 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
 - (b) a revision of any rates and adjustments certificate within the meaning of the Regulations showing the exit payment due from the Admission Body in accordance with regulation 64(2) of the Regulations.

9. Indemnity, bond or guarantee from Admission Body

- 9.1. Before the Commencement Date, the Admission Body, taking account of actuarial advice and to the satisfaction of the Administering Authority, assessed 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 [AMOUNT].
- 9.2. The Admission Body warrants that, where required by the Administering Authority, at the Commencement Date there is in place a Bond or, where for any reason it is not desirable for the Admission Body to enter into a Bond and the Administering Authority is in agreement, a Guarantee in respect of the level of risk identified in clause 9.1.
- 9.3. The Admission Body shall, to the satisfaction of the Administering Authority and the Letting Authority keep under assessment 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. Following such review, where the risk requires it and within 30 days of notification by the Letting Authority, the Admission Body shall:

- (a) arrange for the existing Bond or indemnity or Guarantee to be renewed and amended to cover the revised amount of assessed risk; or
- (b) secure a new Bond or indemnity or Guarantee to cover the revised amount of the assessed risk.

10. Termination

10.1. The Admission Body shall:

- (a) notify the Administering Authority of any matter that may affect, or is likely to affect, its participation in the Scheme; and
- (b) give immediate notice to the Administering Authority 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, liquidation or receivership and a change in the nature of the Admission Body's business or constitution.

10.2. Subject to clause 10.3 and clause 10.4, this Agreement shall terminate on the earlier of the Termination Date (as determined by clause 10.3 and clause 10.4) or at the end of the notice period on either of the parties hereto giving a minimum of three months' notice to terminate this Agreement to the other party, but if required by the Letting Authority such notice shall not have effect unless a broadly comparable occupational pension scheme is made available to the Eligible Employees who are active members of the Scheme at the Termination Date of this Agreement.

10.3. This Agreement shall automatically terminate on the Termination Date which shall be the earlier of the date of:

- (a) the date of expiry or earlier termination of the Contract;
- (b) the date the Admission Body ceases to employ any Eligible Employee; or
- (c) the date the Admission Body otherwise ceases to be an admission body for the purposes of the Regulations.

10.4. 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:

- (a) the insolvency, winding up or liquidation of the Admission Body;

- (b) a material breach by the Admission Body of any of its obligations under this Agreement or the Regulations, provided that 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 decides;
- (c) the failure by the Admission Body to pay any sums due to the Administering Authority or to the Fund within one month of the periods specified in clause 6.2, clause 6.5, clause 6.7 and clause 8.2(b) or, in any other case, within one month of receipt of a notice from the Administering Authority requiring it to do so; or
- (d) the failure by the Admission Body to obtain or alter an indemnity or bond in accordance with clause 9.

11. Notices

11.1. 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 registered office of the Admission Body, the address of the Letting Authority or the address of the Administering Authority and shall be deemed to have been duly given or made:

- (a) if delivered by hand or by fax or electronic transmission (provided receipt is acknowledged), on delivery at the address provided for in this clause 11 unless such delivery occurs on a day which is not a Business Day or after 4.00 pm on a Business Day, in which case it will be deemed to have been given at 9.00 am on the next Business Day; or
- (b) if sent by prepaid first class post, on the second Business Day after the date of posting.

12. Public inspection

Subject to the removal of Schedule 1 in order to protect the personal data of the Eligible Employees, this Agreement shall be made available for public inspection by the Administering Authority and Letting Authority at their address.

13. 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.

14. Disputes

While the Agreement is in force, any party may request a formal review of it to determine whether any amendments should be made. Any reasonable request for such a review shall not be refused by the other party. In respect of any review or any other question that may arise between the parties to this Agreement relating to its construction or to the rights and obligations under the Agreement, any dispute shall be referred in writing to an independent legal adviser for determination.

15. Third party rights

This Agreement and the documents referred to in it are made for the benefit of the parties; they 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.

16. Applicable law

16.1. This Agreement and any claim or matter arising under or in connection with this Agreement (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England and Wales.

16.2. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

17. Counterparts

This Agreement may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule Eligible employees

Pensionable Employees to be admitted on the Transfer Date:

Employee Number	Employee Name	Date of Birth	NI Number	Current Member of Fund? Y/N

Executed as a Deed by
WARWICKSHIRE COUNTY COUNCIL PENSION FUND
by affixing the Common Seal of
WARWICKSHIRE COUNTY COUNCIL
in the presence of:

.....
Designated Officer

Executed as a Deed by

[REDACTED] (AS SCHEME EMPLOYER)
By affixing the Common Seal of
[REDACTED]
In the presence of:

.....
Designated Officer

Executed and delivered as a deed by
[NAME OF ADMISSION BODY] acting by

..... Director

..... Director / Company Secretary