

Dated

2016

- (1) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BARKING AND DAGENHAM
- (2) **[SCHEME EMPLOYER]**
- (3) **[ADMISSION BODY]**

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Admission Agreement  
To participate in the Local Government Pension Scheme

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The LB of Barking & Dagenham Pension Fund

Strategic Director, Finance & Investment  
LB of Barking & Dagenham  
Civic Centre  
Dagenham  
RM10 7BN

# CONTENTS

Clause		Page
1	INTERPRETATION .....	2
2	THE REGULATIONS.....	5
3	COMMENCEMENT DATE .....	6
4	MEMBERSHIP OF ELIGIBLE EMPLOYEES.....	7
5	ADMISSION BODY UNDERTAKINGS .....	9
	5.1 Payments .....	9
	5.2 Discretions .....	9
	5.3 Additional Pension .....	9
	5.4 Matters Affecting Participation .....	9
6	CONTRIBUTIONS AND PAYMENTS .....	11
	6.1 Contributions to the Fund .....	11
	6.2 Due Date for Payment .....	12
	6.3 Information About Pay and Contributions .....	12
	6.4 Interest on Late Payment.....	13
	6.5 Adjustment of Contribution Rate .....	13
	6.6 Right of Set Off .....	14
	6.7 [Funding .....	14
7	TERMINATION.....	16
	7.1 Termination by Notice .....	16
	7.2 Automatic Termination .....	16
	7.3 Immediate Termination by the Administering Authority .....	16
	7.4 Termination Valuation .....	16
	7.5 Other Outstanding Payments on Termination .....	17
	7.6 Rights on Termination .....	17
	7.7 Costs .....	17
8	RISK ASSESSMENT .....	18
	8.1 Initial Level of Risk Exposure .....	18
	8.2 Provision of Bond, Indemnity or Guarantee .....	18
	8.3 Ongoing Assessment of Risk.....	19
	8.4 New or Extended Bond, Indemnity or Guarantee .....	19
9	INDEMNITY FROM ADMISSION BODY .....	21
10	[GUARANTEE FROM SCHEME EMPLOYER.....	22
	10.1 [Status of Administering Authority and Scheme Employer .....	22
	10.2 Failure to Pay Scheme Liabilities .....	22
	10.3 Service of Payment Notice and Payment .....	22
	10.4 Sums Paid by the Scheme Employer.....	22
	10.5 Receipt of Payment .....	23
	10.6 Further Payment Notice .....	23
	10.7 Obligations and Liabilities.....	23
	10.8 Change in Status .....	23
	10.9 Warranty of Authority.....	23
	10.10 Expiry Date.....	23
11	NOTICES .....	24
12	WAIVER .....	25
13	SEVERANCE.....	26
14	ENTIRE AGREEMENT .....	27
15	AMENDMENT.....	28

16 PUBLIC INSPECTION .....29  
17 MORE THAN ONE COUNTERPART .....30  
18 LAWS .....31  
**Schedule**  
Eligible Employees .....33  
**Appendix**  
Secretary of State Letter .....34

TEMPLATE FUND ADMISSION AGREEMENT

This Agreement is made on the

day of

2016

**Between:**

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BARKING AND DAGENHAM** of Civic Centre, Dagenham RM10 7BN (the "**Administering Authority**"); [and]
- (2) **[INSERT NAME]** of [insert address] (the "**Scheme Employer**"); and]
- (3) **[INSERT NAME]** (company number: [insert company number]) whose registered office is at [insert address] (the "**Admission Body**").

**Background**

- (A) The Administering Authority is an administering authority within the meaning of the Regulations. It administers and maintains the Fund in accordance with the Regulations.
- (B) **[The Scheme Employer is a Scheme employer within the meaning of the Regulations.] or [The Administering Authority is also a Scheme employer within the meaning of the Regulations and is referred to in this Agreement as the "Scheme Employer" when acting in its capacity as a Scheme employer.]**
- (C) **[The Scheme Employer and the [Principal Contractor/Admission Body] entered into the Contract. [Pursuant to the Contract, the Principal Contractor and the Admission Body entered into the Sub-Contract.]]**
- (D) **[INSERT DETAILS OF BASIS OF ADMISSION e.g. <sup>1</sup>:**

In accordance with paragraph 1(d)(i) of Part 3 of Schedule 2 to the 2013 Regulations and as a result of the [Contract/Sub-Contract], the Admission Body will provide services or assets in connection with the exercise of a function of the Scheme Employer.

**or**

In accordance with paragraph 1(e) of Part 3 of Schedule 2 to the 2013 Regulations, the Admission Body is a body which provides a public service in the United Kingdom and is approved by the Secretary of State for the purposes of admission to the Scheme as evidenced in the letter dated [insert date] included in the Appendix (Secretary of State Letter).

**or**

In accordance with paragraph 1(a) of Part 3 of Schedule 2 to the 2013 Regulations, the Admission Body is a body which provides a public service in the United Kingdom otherwise than for the purposes of gain. The [Scheme Employer] and the Admission Body confirm[s] that the Admission Body has sufficient links with the Scheme Employer for the Admission Body and the Scheme Employer to be regarded as having a community of interest, whether because the operations of the Admission Body are dependent on the operations of the Scheme Employer or otherwise.]

- (E) The Administering Authority [, the Scheme Employer] and the Admission Body have agreed to enter into this 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 members of the Scheme.
- (F) The terms and conditions of such admission have been agreed by the parties to this Agreement as follows.

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<sup>1</sup> This may need to be altered – there are other grounds of admission.

**NOW IT IS AGREED** as follows:

1. **INTERPRETATION**

This Clause sets out the definitions and rules of interpretation which apply to the Agreement.

1.1 The following expressions have the following meanings:

<b>"2013 Regulations"</b>	The Local Government Pension Scheme Regulations 2013.
<b>"Actuary"</b>	an actuary appointed by the Administering Authority.
<b>"Business Day"</b>	any day other than a Saturday or a Sunday or a Public or Bank Holiday in England.
<b>"Commencement Date"</b>	[insert date on which Admission Agreement is due to commence].
<b>["Contract"]<sup>2</sup></b>	a contract dated [insert date contract was completed] between the Scheme Employer and the [Principal Contractor/Admission Body] to [provide the Services] [which is anticipated to expire on [insert date on which contract expires].] <sup>3</sup>
<b>"Eligible Employee"</b>	an employee of the Admission Body who is listed in the Schedule [, or a New Eligible Employee] <sup>4</sup> .
<b>"Fund"</b>	the LB Barking & Dagenham Pension Fund.
<b>"Member"</b>	an Eligible Employee who joins the Scheme as an active member and who remains an active member or subsequently becomes a deferred member or a pensioner member. Where applicable, this term shall also include a Member's spouse, civil partner, nominated partner, eligible child or dependant whether actual or prospective.
<b>["New Eligible Employee"]<sup>5</sup></b>	an employee of the Admission Body (other than an employee listed in the Schedule) designated by the Admission Body [with the consent of the Scheme Employer and Administering Authority] <sup>6</sup> as eligible for Scheme membership.
<b>["Payment Notice"</b>	is defined at <b>Clause 10.3</b> (Service of Payment Notice and Payment)] <sup>7</sup>

<sup>2</sup> Only applicable for a paragraph 1(d)(i) AB

<sup>3</sup> Where the Admission Body is exercising the functions of a Scheme employer in connection with more than one contract there needs to be a separate admission agreement for each contract.

<sup>4</sup> Only applicable for an open agreement.

<sup>5</sup> Only applicable for an open agreement.

<sup>6</sup> Include if controls are required on admission of further employees (ie. agreement is not to be fully open).

<sup>7</sup> Only applicable if **Clause 10** (Guarantee from Scheme Employer) applies

<b>["Principal Contractor"]<sup>8</sup></b>	[Insert name and company/registered number of principal contractor].
<b>"Registered Pension Scheme"</b>	a pension scheme registered under Chapter 2 of Part 4 of the Finance Act 2004.
<b>"Regulations"</b>	the 2013 Regulations and the Transitional Regulations.
<b>"Scheme"</b>	the Local Government Pension Scheme established and governed by the Regulations.
<b>"Scheme Employer"</b>	[Insert name of scheme employer] <sup>9</sup>
<b>"Scheme Year"</b>	a year beginning on a 1 April and ending on the next 31 March.
<b>["Services"</b>	the [insert description] services which are to be provided by the Admission Body under the [Contract/Sub-Contract].] <sup>10</sup>
<b>["Sub-Contract"]<sup>11</sup></b>	[a contract dated [insert date sub-contract was completed] between the Principal Contractor and the Admission Body made pursuant to the Contract to [provide the Services]].
<b>"Transitional Regulations"</b>	the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.

- 1.2 [Unless the Administering Authority agrees otherwise, the expression "employed in connection with the provision of the Services" shall mean that an Eligible Employee spends on average in a Scheme Year at least [75]% of his time working on the Services.<sup>12</sup>
- 1.3 Expressions have the same meaning as in the Regulations except where the context otherwise requires.
- 1.4 This Agreement includes a heading and a box at the start of each Clause which outlines its provisions. These are included for information only.
- 1.5 Any reference in this Agreement to any statute or statutory provision will include any subordinate legislation made under it and will be construed as a reference to such statute, statutory provision and/or subordinate legislation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time.
- 1.6 Words such as "in particular", "includes" or "including" shall not limit the generality of the words preceding them.

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<sup>8</sup> Only applicable for a paragraph 1(d)(i) AB

<sup>9</sup> Define "Scheme Employer" if the Scheme employer is not a party to the Admission Agreement

<sup>10</sup> Only applicable for a paragraph 1(d) AB

<sup>11</sup> Only applicable for a paragraph 1(d)(i) AB

<sup>12</sup> Only applicable for a paragraph 1(d) AB. The Administering Authority may wish to define this term or simply rely on the undefined term in the Regulations.

2. **THE REGULATIONS**

This Clause sets out the relationship between the Agreement and the Regulations.

- 2.1 The rights, obligations and actions of each party to this Agreement shall be determined by the Regulations.
- 2.2 The Admission Body undertakes to:
- 2.2.1 adopt the practices and procedures relating to the operation of the Scheme set out in the Regulations and in any employer's guide [and service level agreement<sup>13</sup>] published by the Administering Authority and provided to the Admission Body;
  - 2.2.2 inform the Administering Authority promptly in writing of all decisions made by the Admission Body concerning Members under regulation 72 of the 2013 Regulations; and
  - 2.2.3 provide (or procure to be provided) promptly all information that the Administering Authority reasonably requests in order to discharge its Scheme functions in accordance with the Regulations and to comply with any other legal or regulatory requirements applicable to the Scheme.
- 2.3 The Admission Body undertakes to meet the relevant requirements of the Regulations.
- 2.4 The Regulations will apply to the Admission Body and to employment with the Admission Body in which an Eligible Employee is an active member of the Scheme in the same way as if the Admission Body were a Scheme employer listed in Part 2 of Schedule 2 to the 2013 Regulations.

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<sup>13</sup> Please confirm if you have a SLA you wish to refer to.

3. **COMMENCEMENT DATE**

This Clause sets out the date the Agreement commences.

This Agreement shall have effect on and from the Commencement Date.

TEMPLATE FUND ADMISSION AGREEMENT



#### 4. MEMBERSHIP OF ELIGIBLE EMPLOYEES

This Clause sets out the terms on which the Eligible Employees are admitted to membership of the Scheme.

- 4.1 Subject to the terms of this Agreement, the Administering Authority admits the Admission Body to the Scheme with effect on and from [the Commencement Date].
- 4.2 Subject to the following provisions of this **Clause 4** (Membership of Eligible Employees), the Admission Body designates:
- 4.2.1 an Eligible Employee listed in the Schedule as being eligible to remain or become (as appropriate) an active member of the Scheme. The designation is effective on and from the Commencement Date; [and]
- 4.2.2 [a New Eligible Employee if he or she is invited in writing by the Admission Body to become an active member of the Scheme. The designation shall be effective on and from the first day of the payment period following acceptance in writing of the invitation by a New Eligible Employee.]<sup>14</sup>
- 4.3 Notwithstanding the provisions of **Clause 4.2** (Membership of Eligible Employees), an Eligible Employee will cease to be an active member in the circumstances set out in regulation 5 of the 2013 Regulations.
- 4.4 An Eligible Employee may not be an active member of the Scheme if he is an active member of another occupational pension scheme (within the meaning of section 1 of the Pension Schemes Act 1993) in relation to the employment in respect of which he would otherwise be eligible to be designated for Scheme membership, or if he otherwise fails to satisfy the eligibility requirements of the 2013 Regulations.
- 4.5 Within three months of:
- 4.5.1 a Member joining the Scheme; or
- 4.5.2 any change in respect of a Member's employment which is material for the Scheme;
- the Admission Body must ask the Member in writing for a written statement listing all of the Member's previous periods of employment and copies of all notifications previously given to him under the 2013 Regulations and the Earlier Regulations (as defined in the Transitional Regulations) unless the Admission Body is satisfied that it or the Administering Authority already has all material information. The request must include a conspicuous statement that it is important that the Member gives full and accurate information especially for ascertaining his rights under the Scheme.
- 4.6 [An Eligible Employee may only be an active member of the Scheme by virtue of this Agreement if and for so long as he is employed in connection with the provision of the Services.]<sup>15</sup>
- 4.7 In respect of each Member, the Admission Body will promptly notify the Administering Authority in writing of:
- 4.7.1 [any change in employment which results in an Eligible Employee who is an active member ceasing to be employed in connection with the provision of the Services;]<sup>16</sup>

<sup>14</sup> Wording in square brackets in 4.1.1, 4.1.2 and 4.1.3 is applicable for open agreements only.

<sup>15</sup> Only applicable for a paragraph 1(d) AB

<sup>16</sup> Only applicable for a paragraph 1(d) AB

- 4.7.2 any Eligible Employee who joins or re-joins the Scheme;
- 4.7.3 any material change in terms and conditions of employment which affect a Member's entitlement to benefits under the Scheme; and
- 4.7.4 any termination of employment, including termination by virtue of redundancy, business efficiency, ill-health or other early retirement.

TEMPLATE FUND ADMISSION AGREEMENT

## 5. **ADMISSION BODY UNDERTAKINGS**

This Clause sets out the undertakings to be given by the Admission Body to the Administering Authority.

### 5.1 **Payments**

Without prejudice to **Clause 6** (Contributions and Payments), the Admission Body shall pay to the Administering Authority all contributions and payments due under the Regulations and this Agreement.

### 5.2 **Discretions**

5.2.1 Within three months of the Commencement Date, the Admission Body shall provide the Administering Authority with a statement of the Admission Body's policies concerning the exercise of its functions under regulations 16(2)(e), 16(4)(d), 30(6), 30(8) and 31 of the 2013 Regulations. The statement must follow the form of statement prescribed by the Administering Authority as from time to time in place. The Admission Body must keep these policies under review. Where the Admission Body determines to revise any of its policies, the Admission Body must publish the revised statement and send a copy of it to the Administering Authority within one month of the determination.

5.2.2 The Admission Body will notify the Administering Authority promptly in writing of each occasion on which it exercises a discretion under the Regulations and the manner in which it exercises that discretion.

### 5.3 **Additional Pension**

5.3.1 The Admission Body will not resolve to award a Member additional pension under regulation 31 of the 2013 Regulations unless either:

5.3.1.1 the Administering Authority and the Admission Body agree that the Admission Body will pay increased contributions to meet the cost of the additional pension; or

5.3.1.2 the Admission Body pays the sum required under regulation 68(3) of the 2013 Regulations to the Administering Authority for credit to the Fund.

5.3.2 The Admission Body must pay to the Fund the amount of any extra charge on the Fund arising as a result of the resolution which has not been discharged by payments made in accordance with **Clauses 5.3.1.1** or **5.3.1.2** (Additional Pension).

### 5.4 **Matters Affecting Participation**

5.4.1 The Admission Body will notify the Administering Authority [and the Scheme Employer] promptly in writing of any matter which may affect or is likely to affect its participation in the Scheme.

5.4.2 The Admission Body will notify the Administering Authority [and the Scheme Employer] immediately in writing of any actual or proposed change in its status, including take-over, change of control, reconstruction, amalgamation, insolvency, winding up, liquidation or receivership or a material change to its business or constitution. In the event of any such actual or proposed change in its status, the Admission Body will not [designate any New Eligible Employees for membership of the Scheme or] make any representations to any Member or body regarding continued membership of the Scheme without the prior written consent of the Administering Authority.

- 5.4.3 The Admission Body will not do anything (or omit to do anything) where such act or omission would or might prejudice the status of the Scheme as a Registered Pension Scheme.

TEMPLATE FUND ADMISSION AGREEMENT

## 6. CONTRIBUTIONS AND PAYMENTS

This Clause sets out the contributions and payments to the Fund to be made by the Admission Body.

### 6.1 Contributions to the Fund

The Admission Body shall pay to the Fund in relation to the Members:

- 6.1.1 the amount calculated in accordance with its rates and adjustments certificate issued by the Actuary. This will be payable monthly in arrears no later than the date specified by the Administering Authority or in accordance with any other terms of the rates and adjustments certificate;
- 6.1.2 all amounts from time to time deducted from the pay of the Members under the Regulations. These will be payable monthly in arrears no later than the date specified by the Administering Authority and in any event no later than the time required under section 49(8) of the Pensions Act 1995;
- 6.1.3 any amount received by the Admission Body by deduction or otherwise under regulations 12, 13, 14, 16 and 17 of the 2013 Regulations;
- 6.1.4 any sum or any extra charge payable under **Clauses 5.3.1.2** and **5.3.2** (Additional Pension) respectively;
- 6.1.5 any extra charge required by the Administering Authority to cover the actuarial strain on the Fund (as notified by the Actuary in writing) as a result of the immediate payment of benefits when:
  - 6.1.5.1 a Member who is an active member of the Scheme has his employment with the Admission Body terminated on grounds of ill-health or infirmity of mind or body which renders him both permanently incapable of discharging efficiently the duties of his current employment and not immediately capable of undertaking any gainful employment; or
  - 6.1.5.2 a Member who became a deferred member of the Scheme on leaving his employment with the Admission Body receives payment of his benefits immediately on grounds of ill-health or infirmity of mind or body which renders him both permanently incapable of discharging efficiently the duties of that employment and unlikely to be capable of undertaking gainful employment before normal pension age, or for at least three years, whichever is the sooner;
- 6.1.6 any extra charge required by the Administering Authority to cover the actuarial strain on the Fund (as notified by the Actuary in writing) as a result of:
  - 6.1.6.1 the immediate payment of benefits when the Admission Body dismisses a Member who is an active member of the Scheme by reason of redundancy or business efficiency or where such a Member's employment is terminated by mutual consent on the grounds of business efficiency; or
  - 6.1.6.2 the immediate payment of benefits under regulation 30(5) of the 2013 Regulations or (with the Admission Body's consent) under regulation 30(6) of the 2013 Regulations, including in either case the costs of the Admission Body waiving any reduction of benefits under regulation 30(8) of the 2013 Regulations;

- 6.1.7 any exit payment and/or revised contribution(s) due under **Clause 6.5** (Adjustment of Contribution Rate);
- 6.1.8 any termination contribution(s) due under **Clause 7.4.2** (Termination Valuation);
- 6.1.9 any contribution (not being one required under **Clause 6.1.1** (Contributions to the Fund)) required by the Administering Authority towards the cost of the Fund's administration relating to the Admission Body, including an amount specified in a notice given by the Administering Authority under regulation 70 of the 2013 Regulations and the costs of any reports and advice requested by the Admission Body from the Actuary or required in respect of the Admission Body's application to become an Admission Body;
- 6.1.10 any interest payable under the Regulations; and
- 6.1.11 any other payments or contributions required by the Regulations or by any other legislation.

## 6.2 **Due Date for Payment**

Save where this Agreement, the Regulations or any other relevant legislation expressly requires otherwise, any amount which the Admission Body is required to pay by virtue of **Clauses 5.1** (Payments) and **6.1** (Contributions to the Fund) must be paid to the Fund within 19 Business Days of receipt by the Admission Body from the Administering Authority of written notification of the sum or (where relevant) of any revised rates and adjustments certificate, or within such other period and on such terms as the Administering Authority and the Admission Body may agree.

## 6.3 **Information About Pay and Contributions**

- 6.3.1 Any payments made by the Admission Body under **Clause 6.1.2** (Contributions to the Fund) must be accompanied by a statement (given in such form and at such intervals as the Administering Authority shall specify) showing the following information for each Member who was an active member of the Scheme during all or part of the period covered by the statement:
  - 6.3.1.1 name and contribution band;
  - 6.3.1.2 details of any period(s) falling within the period to which the statement relates in relation to which an election was in force in respect of the active Member under regulation 10 of the 2013 Regulations (temporary reduction in contributions);
  - 6.3.1.3 total pensionable pay received by the Member (including any assumed pensionable pay the Member is treated as having received);
  - 6.3.1.4 total employee contributions deducted from that pensionable pay;
  - 6.3.1.5 total employer contributions in respect of that pensionable pay;
  - 6.3.1.6 total additional contributions paid by the Member (distinguishing additional pension contributions paid under regulation 16 of the 2013 Regulations and additional voluntary contributions paid under regulation 17 of the 2013 Regulations);
  - 6.3.1.7 total additional contributions paid by the Admission Body (distinguishing additional pension contributions paid under regulation 16 of the 2013 Regulations and additional voluntary contributions paid under regulation 17 of the 2013 Regulations); and

- 6.3.1.8 such other information as the Administering Authority may require (including any information from time to time required to calculate benefits for the Member in accordance with the provisions of the Transitional Regulations).
- 6.3.2 Where an election was in force in respect of the active Member under regulation 10 of the 2013 Regulations during any part of the period to which the statement required under **Clause 6.3.1** relates, the information provided under **Clauses 6.3.1.3, 6.3.1.4 and 6.3.1.5** must be provided separately in respect of:
- 6.3.2.1 the period (or, if more than one, the aggregate of such periods) during which the election was in force; and
- 6.3.2.2 any period (or, if more than one, the aggregate of such periods) during which no election was in force.
- 6.3.3 Any question concerning what rate of contribution a Member is liable to pay to the Fund must be decided by the Admission Body.

#### 6.4 **Interest on Late Payment**

If any sum payable by the Admission Body under the Regulations or this Agreement remains unpaid, the Administering Authority may require the Admission Body to pay interest on the unpaid sum in accordance with regulation 71 of the 2013 Regulations.

#### 6.5 **Adjustment of Contribution Rate**

6.5.1 Without prejudice to its powers under regulation 64(4) of the 2013 Regulations, where the Administering Authority considers there are circumstances which make it likely that the Admission Body will become an exiting employer, the Administering Authority may obtain from the Actuary a certificate specifying the percentage or amount by which:

- 6.5.1.1 the Admission Body's contribution rate at the primary rate should be adjusted; or
- 6.5.1.2 any prior secondary adjustment should be increased or reduced;

with a view to ensuring that assets equivalent to the anticipated exit payment that will be due from the Admission Body are provided to the Fund by the likely exit date or, where the Admission Body is unable to meet that liability by that date, over such period of time thereafter as the Administering Authority considers reasonable.

6.5.2 In accordance with regulations 64(6) and (7) of the 2013 Regulations, where:

- 6.5.2.1 the Admission Body agrees under **Clause 5.3.1.1** (Additional Pension) to pay increased contributions to meet the cost of an award of additional pension under regulation 31 of the 2013 Regulations; or
- 6.5.2.2 it appears likely to the Administering Authority that the amount of the liabilities arising or likely to arise in respect of Members in employment with the Admission Body exceeds the amount specified, or likely as a result of the assumptions stated, for the Admission Body, in the current rates and adjustments certificate applying to the Admission Body;

the Administering Authority must obtain a revision of the rates and adjustments certificate concerned, showing the resulting changes required.

6.5.3 Pursuant to regulation 64(1) of the 2013 Regulations and regulation 25A of the Transitional Regulations, but subject to any exercise by the Administering Authority of its power to issue a suspension notice under regulation 64(2A) of the 2013 Regulations, where this Agreement terminates in accordance with **Clause 7** (Termination) or the Admission Body no longer employs an active member contributing to the Fund:

6.5.3.1 the Administering Authority shall obtain an actuarial valuation as at the exit date of the Fund's liabilities in respect of the Members (calculated on such basis as the Actuary shall recommend) and a revision of the Admission Body's rates and adjustments certificate showing the exit payment due and payable by the Admission Body[; and] [.]

6.5.3.2 [where for any reason it is not possible to obtain all or part of the exit payment from the Admission Body or from any person providing a bond, indemnity or guarantee in accordance with **Clause 8** (Risk Assessment) then the Administering Authority may obtain a further revision of the rates and adjustments certificate for the Fund showing the revised contributions due from the body which is the related employer (as defined in regulation 64(8) of the 2013 Regulations) in relation to the Admission Body.]<sup>17</sup>

6.5.4 The Admission Body shall meet the costs of obtaining any certificate under **Clauses 6.5.1, 6.5.2 or 6.5.3** (Adjustment of Contribution Rate). The Admission Body will co-operate with the Administering Authority and the Actuary to provide the certificate or review.

## 6.6 **Right of Set Off**<sup>18</sup>

Notwithstanding any terms to the contrary contained in the [Contract/Sub-Contract], if any sum payable by the Admission Body under the Regulations or this Agreement has not been paid by the date on which it becomes due then the Administering Authority may [require the Scheme Employer to] set off against any payments due to the Admission Body an amount equal to the sum due (including any interest payable) and pay the sum to the Fund by a date specified by the Administering Authority.

## 6.7 **[Funding]**

Any payment due from the Admission Body under **Clause 6.1.1** (Contributions to the Fund) shall be calculated on the assumption that, as at the Commencement Date, any liabilities relating to the Scheme membership prior to the Commencement Date of the Eligible Employees [listed in the Schedule]<sup>19</sup> are 100% funded (as determined by the Actuary in accordance with the actuarial assumptions consistent with the most recent actuarial valuation of the Fund before the Commencement Date (updated to the Commencement Date as necessary)). Where any additional funding (as certified by the Actuary) is necessary, this shall be deducted from the Scheme Employer's notional allocation of assets within the Fund. For the avoidance of doubt, 100% funded shall mean that the Admission Body shall be notionally allocated at the Commencement Date an amount of assets within the Fund equal to the value placed on the liabilities as at the Commencement Date as determined by the Actuary.]<sup>20</sup>

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<sup>17</sup> Only applicable for a paragraph 1(d) AB

<sup>18</sup> Only applicable for a paragraph 1(d) AB. Modify appropriately where admission is under paragraph 1(d)(ii) or (iii). Consider joining principal contractor to the Admission Agreement and incorporating a right to set-off in the Contract.

<sup>19</sup> Check commercial terms agreed for this specific transaction. In particular, in an open agreement, any fully-funded starting position may be restricted to staff transferring to the AB at the Commencement Date.

<sup>20</sup> Check commercial terms agreed for this specific transaction.



## 7. TERMINATION

This Clause sets out the ways in which the Admission Body and the Administering Authority may terminate the Agreement.

### 7.1 Termination by Notice

Subject to **Clauses 7.2** (Automatic Termination) and **7.3** (Immediate Termination by the Administering Authority), the Administering Authority [or the Admission Body] may terminate this Agreement by giving at least three months' notice of termination in writing to the [Admission Body] [other [party][parties] to this Agreement].<sup>21</sup>

### 7.2 Automatic Termination

This Agreement shall automatically terminate on [the earlier of:

- 7.2.1 the date of expiry or earlier termination of the Contract [and/or Sub-Contract]; or]<sup>22</sup>
- 7.2.2 the date the Admission Body [otherwise] ceases to be an admission body for the purposes of the Regulations.

### 7.3 Immediate Termination by the Administering Authority

The Administering Authority may terminate this Agreement with immediate effect by notice in writing to the Admission Body:

- 7.3.1 where the Admission Body breaches any of its obligations under this Agreement (including, for the avoidance of doubt, where the Admission Body fails to pay any sums due to the Fund or where the Admission Body fails to renew or adjust the level of the bond, indemnity or guarantee (if required) in accordance with **Clause 8** (Risk Assessment)). If the breach is capable of remedy, the Administering Authority shall first give the Admission Body the opportunity of remedying the breach within such reasonable period as the Administering Authority may specify;
- 7.3.2 on the insolvency, winding up or liquidation of the Admission Body;
- 7.3.3 where the continued participation of the Admission Body in the Scheme would or might prejudice the status of the Scheme as a Registered Pension Scheme; or
- 7.3.4 if the Admission Body no longer employs an active member contributing to the Fund.

### 7.4 Termination Valuation

- 7.4.1 Where the Administering Authority is unable for any reason to obtain an actuarial valuation or issue a revision of the Admission Body's rates and adjustments certificate in accordance with **Clause 6.5.3** (Adjustment of Contribution Rate) then (without prejudice to any powers set out in the Regulations), the Administering Authority shall have the right to obtain from the Actuary an actuarial valuation of the assets and liabilities of the Fund in respect of the Members as at the date this Agreement terminates, calculated on such basis as the Actuary shall recommend.

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<sup>21</sup> The Administering Authority should consider whether it wants to give the Admission Body the power to terminate by notice.

<sup>22</sup> Only applicable for a paragraph 1(d)(i) AB.

7.4.2 The Admission Body will pay to the Fund an exit payment (as certified by the Actuary) equal to any deficit in the Fund shown by the valuation under **Clause 7.4.1** (Termination Valuation).

7.4.3 [Where the Admission Body does not pay the exit payment required in accordance with **Clause 7.4.2** (Termination Valuation) and the sum is not paid in full by any person providing a bond, indemnity or guarantee in accordance with **Clause 8** (Risk Assessment), then the Administering Authority may recharge any unpaid balance within the Fund to the Scheme Employer.]<sup>23</sup>

#### 7.5 **Other Outstanding Payments on Termination**

Where any contributions, payments or other sums due under this Agreement or the Regulations (including any payments by instalments agreed under **Clause 6** (Contributions and Payments)) remain outstanding on the termination of this Agreement, the Admission Body shall pay them in full within 20 Business Days of the date of termination.

#### 7.6 **Rights on Termination**

The termination of this Agreement shall be without prejudice to the rights, duties and liabilities of any party accrued prior to such termination. The Clauses of this Agreement which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

#### 7.7 **Costs**

The Admission Body shall pay to the Administering Authority any costs (including professional costs and the costs of obtaining any actuarial valuation under **Clause 6.5.3** (Adjustment of Contribution Rate) or **Clause 7.4.1** (Termination Valuation)) which the Fund or the Administering Authority may incur as a result of the Agreement's termination.

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<sup>23</sup> Only applicable to a paragraph 1(d) AB.

## 8. RISK ASSESSMENT

This Clause sets out the terms which apply to assess whether a bond, indemnity and/or guarantee is required to mitigate the risk of exposure for the Fund on premature termination of the Agreement.

### 8.1 Initial Level of Risk Exposure

The Admission Body has assessed (taking account of actuarial advice) the level of risk exposure arising on the premature termination of the provision of [service or assets (as applicable)] [the Services] by reason of the insolvency, winding up or liquidation of the Admission Body [as being the sum of [insert amount in words] pounds sterling (£[insert amount in figures])]. This assessment has been carried out to the satisfaction of the Administering Authority [and the Scheme Employer].<sup>24</sup>

### 8.2 Provision of Bond, Indemnity or Guarantee

#### **[WHERE A BOND IS INITIALLY REQUIRED]**

The Admission Body warrants that [at the Commencement Date] there [is/will be] in place a bond or indemnity (in a form approved by the Administering Authority [and the Scheme Employer]) from a person or firm meeting the requirements of paragraph 7 of Part 3 of Schedule 2 to the 2013 Regulations for the level of risk exposure specified in **Clause 8.1** (Initial Level of Risk Exposure).

#### **[WHERE A GUARANTEE IS INITIALLY REQUIRED]<sup>25</sup>**

8.2.1 The Administering Authority [and the Scheme Employer] [have/has] agreed that it is not desirable for the Admission Body to provide a bond or indemnity but instead that the Admission Body shall secure a guarantee (in a form approved by the Administering Authority [and the Scheme Employer]) from [insert guarantor name] being [a person who [funds the Admission Body in whole or in part]/[owns the Admission Body]/[controls the exercise of the functions of the Admission Body]] **or** [the Secretary of State for Communities and Local Government]<sup>26</sup> for the level of risk exposure specified in **Clause 8.1** (Initial Level of Risk Exposure).

8.2.2 Notwithstanding the provision of the guarantee under **Clause 8.2.1** (Provision of Bond, Indemnity or Guarantee), where so required by the Administering Authority [or the Scheme Employer] at any time after the Commencement Date, the Admission Body shall arrange for provision of a bond or indemnity (in a form approved by the Administering Authority [and the Scheme Employer]) from a person or firm meeting the requirements of paragraph 7 of Part 3 of Schedule 2 to the 2013 Regulations to cover the level of risk exposure assessed by the Admission Body (taking account of actuarial advice) to the satisfaction of the Administering Authority [and the Scheme Employer].<sup>27</sup>

<sup>24</sup> The level of risk exposure must also be actuarially assessed to the satisfaction of the Scheme Employer in the case of a paragraph 1(d)(i) AB

<sup>25</sup> For an AB admitted under paragraph 1(b), the Scheme employer(s) must give a guarantee in the agreement covering all liabilities of the body under the Regulations if at the date that the admission agreement is made the contributions paid to the body by the Scheme employer(s) equal in total 50% or less of the total amount the body receives from all sources, and in such a case, the wording should be tailored appropriately. The Administering Authority may wish, however, to consider a guarantee in other circumstances too.

<sup>26</sup> Where the Admission Body is established under an enactment and that enactment enables the Secretary of State to make financial provision for the Admission Body, then the Secretary of State may provide a guarantee.

<sup>27</sup> The Administering Authority will need to consider whether it wants the option to require a bond or indemnity where a guarantee has been provided – this is likely to depend on the terms of the guarantee i.e. whether the guarantee sufficiently covers all risks during the term of the Agreement.

**[WHERE NO BOND OR GUARANTEE IS INITIALLY REQUIRED]**

The Administering Authority [and the Scheme Employer] [have/has] agreed that the initial level of risk exposure is not such as to require a bond, indemnity or guarantee.

**8.3 Ongoing Assessment of Risk**

During the term of this Agreement, the Admission Body shall keep the level of risk exposure arising on the premature termination of the provision of [service or assets (as applicable)] [the Services] by reason of the insolvency, winding up or liquidation of the Admission Body under assessment at regular intervals as required by the Administering Authority [and the Scheme Employer].<sup>28</sup>

**8.4 New or Extended Bond, Indemnity or Guarantee**

8.4.1 This **Clause 8.4** (New or Extended Bond, Indemnity or Guarantee) applies where:

8.4.1.1 any bond, indemnity or guarantee provided under this **Clause 8** (Risk Assessment) is for a period shorter than the full term of this Agreement, so that such bond, indemnity or guarantee will expire during the term of this Agreement; or

8.4.1.2 the Administering Authority [or the Scheme Employer] so requires, following an assessment of risk exposure carried out under **Clause 8.3** (Ongoing Assessment of Risk).

8.4.2 Where this **Clause 8.4** (New or Extended Bond, Indemnity or Guarantee) applies, the Admission Body shall [as directed by the Administering Authority [or the Scheme Employer]]<sup>29</sup>:

8.4.2.1 arrange for any existing bond, indemnity or guarantee to be extended in duration and/or amount as appropriate (provided that, in the case of a guarantee, the Administering Authority [and the Scheme Employer] [have/has] agreed that it is not desirable for the Admission Body instead to provide a bond or indemnity);

8.4.2.2 arrange for provision of a new bond or indemnity (in a form approved by the Administering Authority [and the Scheme Employer]) from a person or firm meeting the requirements of paragraph 7 of Part 3 of Schedule 2 to the 2013 Regulations; or

8.4.2.3 secure a new guarantee (in a form approved by the Administering Authority [and the Scheme Employer]) from a person listed in paragraph 8 of Part 3 of Schedule 2 to the 2013 Regulations, provided that the Administering Authority [and the Scheme Employer] [have/has] agreed that it is not desirable for the Admission Body instead to provide a bond or indemnity.

8.4.3 In any such case the level of risk exposure covered by the extended or new bond, indemnity or guarantee must have been assessed by the Admission Body (taking account of actuarial advice) to the satisfaction of the Administering Authority [and the Scheme Employer].

8.4.4 Where this **Clause 8.4** (New or Extended Bond, Indemnity or Guarantee) applies by virtue of **Clause 8.4.1.1**, the Admission Body shall comply with the

<sup>28</sup> The level of risk exposure must be assessed at regular intervals to the satisfaction of the Administering Authority and the Scheme Employer in the case of a paragraph 1(d) AB

<sup>29</sup> Include if the Administering Authority and/or Scheme Employer wishes to have the option to require the Admission Body to replace, rather than renew or amend, an existing bond, indemnity or guarantee.

requirements of **Clause 8.4.2** at least one month before the date of expiry of the existing bond, indemnity or guarantee.

TEMPLATE FUND ADMISSION AGREEMENT

9. **INDEMNITY FROM ADMISSION BODY**

This Clause sets out the terms of the indemnity to be provided by the Admission Body in favour of the Administering Authority.

- 9.1 The Admission Body undertakes to indemnify and keep indemnified the Administering Authority against any costs and liabilities which it or the Fund may incur (whether directly or as a result of a loss or cost to the Members) arising out of or in connection with:
- 9.1.1 the non-payment by the Admission Body of any contributions or payments due to the Fund under this Agreement or the Regulations; or
  - 9.1.2 any breach by the Admission Body of this Agreement, the Regulations or any other legal or regulatory requirements applicable to the Scheme.
- 9.2 Any demand under **Clause 9.1** (Indemnity from Admission Body) must be paid by the Admission Body to the Administering Authority or to the Fund (as applicable) within 10 Business Days of receipt by the Admission Body of such demand. [In the event of non-payment by the Admission Body, the Scheme Employer shall indemnify and keep indemnified the Administering Authority against such costs and liabilities.]<sup>30</sup>

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<sup>30</sup> This is only applicable if the Administering Authority and the Scheme Employer are separate bodies.

## 10. **[GUARANTEE FROM SCHEME EMPLOYER]<sup>31</sup>**

This Clause sets out the terms of the guarantee to be provided by the Scheme Employer in favour of the Administering Authority.

### 10.1 **[Status of Administering Authority and Scheme Employer]**

For the avoidance of doubt, in this **Clause 10** (Guarantee from Scheme Employer), the term "Administering Authority" refers to [insert name of administering authority] acting in the capacity of administering authority (as defined in the Regulations) of the Fund and the term "Scheme Employer" refers to the same entity acting in the capacity of Scheme employer (as defined in the Regulations).]<sup>32</sup>

### 10.2 **Failure to Pay Scheme Liabilities**

Where the Admission Body has failed to pay any sum due under this Agreement or the Regulations (in whole or in part and including for the avoidance of doubt any exit payment due when this Agreement ceases to have effect) to the Administering Authority within [20] Business Days of receipt by the Admission Body of a written demand from the Administering Authority, [and the Administering Authority is unable for any reason to obtain payment in respect of all or part of the unpaid liability under any bond, indemnity or guarantee provided under **Clause 8** (Risk Assessment),]<sup>33</sup> the Scheme Employer shall pay to the Administering Authority such sum or sums as the Administering Authority claims in respect of the unpaid liability.

### 10.3 **Service of Payment Notice and Payment**

Any claim under **Clause 10.2** (Failure to Pay Scheme Liabilities) shall be made by written notice specifying the amount due (a "**Payment Notice**"), which shall be served by the Administering Authority upon the Scheme Employer in accordance with **Clause 11** (Notices). The Payment Notice shall be accepted by the Scheme Employer as conclusive evidence for all purposes that the amount claimed is due to the Administering Authority. The Scheme Employer shall pay the sum so demanded within [5] Business Days of receipt of the Payment Notice.

### 10.4 **Sums Paid by the Scheme Employer**

10.4.1 All sums paid by the Scheme Employer in accordance with **Clause 10.2** (Failure to Pay Scheme Liabilities) shall be held and applied by the Administering Authority for the purpose of paying and discharging the Admission Body's liability to pay the relevant sums due under this Agreement or the Regulations.

10.4.2 Any payment to be made by the Scheme Employer shall be made in sterling and shall be free, clear of and without any deduction for taxes, levies, duties, charges, fees or any deductions or withholdings for or on account of any set-off or counterclaim.

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<sup>31</sup> This **Clause 10** is to be used where the Scheme Employer (including where the administering authority is also the Scheme Employer) is to guarantee the liabilities of the Admission Body. This clause may not be required if a separate guarantee/indemnity document is being entered into. If this clause is used, **Clause 8** (Risk Assessment) will need to be suitably amended to ensure consistency.

<sup>32</sup> Delete where Administering Authority is not the Scheme Employer for the purposes of this Agreement.

<sup>33</sup> Include where **Clause 10** is being used to provide a guarantee of last resort from the Scheme Employer in addition to the provision of a bond / indemnity from a third party (which may be relevant where the AB is not a para.1(d) AB and therefore there is no guarantor of last resort under reg.64).

10.4.3 [Any payment to be made by the Scheme Employer shall be made from funds held by the Scheme Employer in its capacity as such, and not from any funds held in its capacity as the Administering Authority.]<sup>34</sup>

#### 10.5 **Receipt of Payment**

Following any payment by the Scheme Employer in accordance with **Clause 10.2** (Failure to Pay Scheme Liabilities), the Administering Authority shall within 6 months of receipt of payment provide the Scheme Employer with a written account showing how the payment has been applied to the Fund. If any payment exceeds the amount required to discharge the liabilities of the Admission Body to the Fund, the Administering Authority shall refund any overpayment to the Scheme Employer.

#### 10.6 **Further Payment Notice**

The service of a Payment Notice by the Administering Authority shall not preclude the service of any further Payment Notice.

#### 10.7 **Obligations and Liabilities**

The Scheme Employer's obligations and liabilities under this **Clause 10** (Guarantee from Scheme Employer) shall not be reduced, discharged, impaired or affected by the giving of time or any other indulgence, forgiveness or forbearance by the Administering Authority in respect of the Admission Body.

#### 10.8 **Change in Status**

Unless expressly varied under **Clause 15** (Amendment), this **Clause 10** (Guarantee from Scheme Employer) shall remain in effect in accordance with its terms notwithstanding any variation made in any of the other terms of this Agreement or the Regulations and notwithstanding the insolvency, winding-up or liquidation of the Admission Body (compulsory or otherwise) or it otherwise ceasing to exist or function. This **Clause 10** (Guarantee from Scheme Employer) and the obligations under it shall not be affected by any disclaimer of the Admission Body's contracts or liabilities by a liquidator.

#### 10.9 **Warranty of Authority**

The Scheme Employer warrants and represents to the Administering Authority that it has all necessary authority, power and capacity to enter into and perform its obligations under this **Clause 10** (Guarantee from Scheme Employer), that all necessary actions have been taken to enter into those obligations properly and lawfully, and that those obligations are binding on the Scheme Employer in accordance with their respective terms.

#### 10.10 **Expiry Date**

10.10.1 The obligations and liabilities of the Scheme Employer under this **Clause 10** (Guarantee from Scheme Employer) shall cease and determine absolutely on the full discharge of all liabilities of the Admission Body (arising under this Agreement and the Regulations) by the Admission Body or the Scheme Employer.

10.10.2 For the avoidance of doubt, this **Clause 10** (Guarantee from Scheme Employer) shall continue to have effect after the termination of this Agreement unless and until all liabilities of the Admission Body under the Regulations or this Agreement have been discharged in full either by the Admission Body or by the Scheme Employer pursuant to **Clause 10.10.1** (Expiry Date).]

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<sup>34</sup> Delete where Administering Authority is not the Scheme Employer for the purposes of this Agreement.



11. **NOTICES**

This Clause sets out how any written notices are to be served.

All notices under this Agreement shall be in writing and shall be served by sending the same by first class post, facsimile or by hand or leaving the same at the registered office of the Admission Body or the headquarter address of the Administering Authority [or the Scheme Employer] (as the case may be).

TEMPLATE FUND ADMISSION AGREEMENT

12. **WAIVER**

This Clause sets out what happens if there is a failure to enforce the Agreement.

Failure or neglect by the Administering Authority [or the Scheme Employer] to enforce at any time any of the provisions of this Agreement shall not be construed nor shall be deemed to be a waiver of the Administering Authority's [or the Scheme Employer's] rights [(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 [(as the case may be)] to take subsequent action.

TEMPLATE FUND ADMISSION AGREEMENT

13. **SEVERANCE**

This Clause sets out what happens if any part of the Agreement is found to be invalid.

- 13.1 If any provision of or period of Scheme membership following purported admission to the Scheme under this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of or any other periods of Scheme membership under this Agreement which shall remain in full force and effect.
- 13.2 If any provision of this Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted the provision in question shall apply with such modification(s) as may be necessary to make it valid and enforceable.

TEMPLATE FUND ADMISSION AGREEMENT

14. **ENTIRE AGREEMENT**

This Clause provides that the Agreement sets out the only terms relating to the admission of the Admission Body.

Except where expressly provided, this Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement.

TEMPLATE FUND ADMISSION AGREEMENT

15. **AMENDMENT**

This Clause sets out the terms that apply in relation to amending the Agreement.

The parties to this Agreement may, with the agreement of all of them in writing, amend this Agreement by deed provided that:

- 15.1 the amendment is not such that it would breach the Regulations or any other legal or regulatory requirements applicable to the Scheme; and
- 15.2 the amendment would not prejudice the status of the Scheme as a Registered Pension Scheme.

TEMPLATE FUND ADMISSION AGREEMENT

16. **PUBLIC INSPECTION**

This Clause sets out the circumstances in which the Agreement can be inspected by the public.

Subject to the Schedule being removed to protect personal data for the purposes of the Data Protection Act 1998, this Agreement shall be made available for public inspection by the Administering Authority [and the Scheme Employer] at [its/their] appropriate office[s].

TEMPLATE FUND ADMISSION AGREEMENT

17. **MORE THAN ONE COUNTERPART**

This Clause sets out how the Agreement can be executed in counterparts.

This Agreement may be executed in more than one counterpart, which together constitute one agreement. When each signatory to this Agreement has executed at least one part of it, it will be as effective as if all the signatories to it had executed all of the counterparts. Each counterpart Agreement will be treated as an original.

TEMPLATE FUND ADMISSION AGREEMENT

18. **LAWS**

This Clause sets out the legal framework which governs the Agreement.

18.1 This Agreement will be governed by and interpreted in accordance with the laws of England and Wales.

18.2 Any rights that a third party may have under the Contracts (Rights of Third Parties) Act 1999 are excluded.

**EXECUTED** as a deed and delivered on the date stated at the beginning of this Agreement.<sup>35</sup>

**THE COMMON SEAL of  
THE MAYOR AND BURGESSES  
of the LONDON BOROUGH  
OF BARKING & DAGENHAM**

was hereunto affixed  
in the presence of:

.....

Being an officer of the Council of  
the London Borough of Barking and Dagenham  
duly authorised to attest the Common  
Seal thereof

Minute Number:

Sealing Register:

**THE COMMON SEAL of:  
[SCHEME EMPLOYER]**  
was affixed in the presence of:

**Authorised Officer**

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<sup>35</sup> Confirm execution formalities of each of the parties to the Admission Agreement.



**EXECUTED** as a deed by **[ADMISSION BODY]**  
acting by a director

**Director signature:** .....

**Name:** .....

in the presence of:

**Witness signature:** .....

**Name:** .....

**Address:** .....

.....

**Occupation:** .....

**OR**

**EXECUTED** as a deed by **[ADMISSION BODY]**  
acting by two directors or by a director and its  
company secretary

**Director signature:** .....

**Name:** .....

**Director / secretary  
signature:** .....

**Name:** .....



**APPENDIX**

**Secretary of State Letter**

**[INSERT COPY OF LETTER]<sup>37</sup>**

TEMPLATE FUND ADMISSION AGREEMENT

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<sup>37</sup> Only applicable for a 1(e) Admission Body