

ANNEXURE 9

FORM OF PENSIONS ADMISSION AGREEMENT BOND

DATED

20

[INSERT NAME OF TRANSFEREE ADMISSION BODY]

- and -

[INSERT NAME OF INSTITUTION ACTING AS BONDSMAN]

in favour of

SOUTH YORKSHIRE PENSIONS AUTHORITY

BOND AGREEMENT

relating to

[insert name of Transferee Admission Body]

and admission to the
South Yorkshire Pension Fund

CONTENTS

1.	INTERPRETATION AND DEFINITIONS	2
2.	SURETY'S OBLIGATIONS	4
3.	PAYMENT FOLLOWING EARLY TERMINATION OR INSOLVENCY	4
4.	ALTERATIONS AND INDULGENCE.....	5
5.	PERIOD OF ENFORCEABILITY	5
6.	SURETY'S AGGREGATE LIABILITY	6
7.	BOND IRREVOCABLE	6
8.	ASSIGNMENT.....	7
9.	CLAIMS PROCEDURE.....	7
10.	THIRD PARTIES	7
11.	GOVERNING LAW.....	7
	[APPENDIX A]	8
	[Admission Agreement].....	8

THIS BOND AGREEMENT is made on

BETWEEN

- (1) **[INSERT NAME OF TRANSFEREE ADMISSION BODY]** (company number) whose registered office is at *[insert address of registered office]* (the "**Transferee Admission Body**"); and
- (2) **[INSERT NAME OF INSTITUTION ACTING AS BONDSMAN]** (company number *[insert company number of bondsman]*) whose registered office is at/of *[insert address of registered office of bondsman]* and whose address for service in the United Kingdom is *[insert address required]* (the "**Surety**")

are held and firmly bound jointly and severally unto **SOUTH YORKSHIRE PENSIONS AUTHORITY** of 18 Regent Street, Barnsley, South Yorkshire S70 2HG (the "**Administering Authority**", which term shall include all permitted assignees under this Bond) (the "**Parties**") in the sum of *[insert amount of bond]* Thousand Pounds Sterling (£) (the "**Secured Amount**") for the payment of which sum the Transferee Admission Body and Surety hereby bind themselves, their successors and assigns jointly and severally by these present on the conditions hereinafter contained.

RECITALS

- (A) The Transferee Admission Body has entered into a contract for *[insert a description of the contract]* dated the *[insert the date of the contract]* (the "**Contract**") with *[insert name of the outsourcing employer]* (the "**Scheme Employer**") for the carrying out and completion of the works and/or services therein referred to and subsequently entered into an admission agreement (the Admission Agreement) a copy of which is annexed as Appendix A.
- (B) Under the terms of the Admission Agreement the Transferee Admission Body has agreed to provide an indemnity or bond in an approved form in accordance with the Admission Agreement and Regulations 7 and 8 of the Administration Regulations.
- (C) In accordance with its obligations under clause 6 of the Admission Agreement the Transferee Admission Body is entering into this Bond.
- (D) The Surety is an Authorised Insurer and has agreed to enter into this Bond.

NOW IT IS HEREBY AGREED AND DECLARED by and between the Parties as follows:

1. INTERPRETATION AND DEFINITIONS

In this Bond, unless otherwise specified:

- 1.1 expressions used in this Bond have the same meanings as in the Regulations;
- 1.2 words denoting the masculine gender include the feminine gender;
- 1.3 words in the singular include the plural and vice versa;
- 1.4 the headings and sub headings are for ease of reference only and do not form part of the Bond; and
- 1.5 any reference to any statute or statutory instrument or a particular section or regulation thereof shall be deemed to refer to any statutory modification, extension, replacement or re-enactment thereof for the time being in force including any subordinate legislation made from time to time thereunder, and any reference to any rules or regulations made thereunder shall include reference to any rules or regulations from time to time in force; and
- 1.6 the following words and expressions have the meanings set out below:
 - "Administering Authority"** has the meaning ascribed to it under schedule 1 of the Administration Regulations;
 - "Administration Regulations"** means the Local Government Pension Scheme (Administration) Regulations 2008;
 - "Admission Agreement"** means the Admission Agreement made on [*insert date the Admission Agreement was made on*] that exists between the Administering Authority, the Scheme Employer and the Transferee Admission Body;
 - "Authorised Insurer"** means:
 - (a) 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;

- (b) an EAA firm of the kind mentioned in paragraph 5(b) and (d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits or to effect and carry out contracts of general insurance; or
- (c) a person who does not require permission under that Act to accept deposits, by way of business, in the United Kingdom;

"Benefit Regulations" means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007;

"Contract" means the contract dated _____ for [*insert description of contract/service*], made between the Scheme Employer and the Transferee Admission Body;

"Expiry Date" means the date set out in clause 5 of this Bond;

"Fund" means the South Yorkshire Pension Fund, which is a pension fund administered by South Yorkshire Pensions Authority;

"Insolvency" means in relation to the Transferee Admission Body, any action or any other steps taken or legal proceedings being taken for its winding-up, dissolution or reorganisation or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of it or of any of its revenues or assets;

"Indemnity or Bond" means an indemnity or bond from an Authorised Insurer to meet a level of risk exposure arising on premature termination of the Contract as required following an assessment carried out at the behest of the Scheme Employer;

"Parties" means the parties to this Agreement;

"Regulations" means the Administration Regulations, the Benefit Regulations and the Transitional Regulations;

"Scheme Employer" has the meaning ascribed to it under schedule 1 of the Administration Regulations;

"Secured Amount" means the amount guaranteed by the Surety;

"Surety" means the company, institution or organisation who agrees, upon the default of the Transferee Admission Body to be held liable to the Administering Authority for the debt, or obligation, of the Secured Amount;

"Transferee Admission Body" has the meaning ascribed to it under schedule 1 of the Administration Regulations;

"Transitional Regulations" means the Local Government Pension Scheme (Transitional Provisions) Regulations 2008.

2. SURETY'S OBLIGATIONS

The Surety's obligations under this agreement shall remain in full force and effect until such time as the Administering Authority certifies that all costs, charges, liabilities and debts arising under, through or from the Transferee Admission Body's participation in the Fund as detailed in the Admission Agreement shall be deemed to have been met in full and discharged accordingly by the Transferee Admission Body or by the Surety having satisfied and discharged the damages or other sums due from the Transferee Admission Body arising therefrom (together with any recoverable costs and statutory interest) up to the amount of the Secured Amount.

3. PAYMENT FOLLOWING EARLY TERMINATION OR INSOLVENCY

3.1 The Surety guarantees to the Administering Authority that in the event of the Transferee Admission Body's Insolvency or any termination of the Contract prior to the Expiry Date the Surety shall, subject to the provisions of this Bond, satisfy and discharge the obligations of the Transferee Admission Body to the Administering Authority pursuant to the Regulations, including any damages sustained by the Administering Authority as a result of the Insolvency or resulting from such termination unconditionally and on demand by the Administering Authority.

3.2 For the purposes of this Bond the termination of the Contract before the Expiry Date shall be deemed to have occurred in the event that and at the time that the Scheme Employer has on reasonable grounds before the Expiry Date certified in writing to the Administering Authority under the Contract that the Transferee Admission Body has ceased to perform a substantial proportion of the work or services to be performed under the Contract.

4. ALTERATIONS AND INDULGENCE

The Surety hereby agrees that no variation or alteration to the terms of the Contract or Admission Agreement and as regards non-payment of contributions, no allowance of time, waiver, forbearance, forgiveness, compromise or other dealing under or with the Contract or Admission Agreement or any right or remedy arising thereunder, no invalidity, illegality, unenforceability or irregularity of the Contract or Admission Agreement or any provision thereof, no other bond, security or guarantee now or hereafter held by the Administering Authority for all or any part of any liability that may arise following the Insolvency of the Transferee Admission Body or the termination of the Contract prior to the Expiry Date or any release or waiver of any such bond, security or guarantee, no winding up, liquidation, receivership, administration, voluntary arrangement or other composition with creditors (or any event analogous to any of them) of the Transferee Admission Body and no other act or omission which (but for this provision) might have operated to release, exonerate or discharge the Surety or otherwise reduce, extinguish or adversely effect any liability of the Surety under the terms hereof shall in any way, release, exonerate or discharge the Surety from any liability under the terms of this Bond or reduce, extinguish or otherwise adversely affect any such liability, and the Surety hereby waives notice to it of any such event.

5. PERIOD OF ENFORCEABILITY

- 5.1 Subject to clauses 5.2, 5.3, 5.4 and 5.5 the obligations of the Surety hereunder shall be continuing and shall remain in full force and effect until the close of banking hours on [*enter expiry date*] ("**Expiry Date**") or until all sums due under this Bond shall have been paid in full, whichever shall last occur.
- 5.2 The occurrence of the Expiry Date will release the Surety from any further obligation under this guarantee but, any obligation incurred by the Surety during the life of this Bond shall remain in full and effective force until all sums due under this Bond have been paid in full, regardless of when any claim relating to such obligation under this Bond is made, and whether or not any such claim is made prior to, on, or after the Expiry Date, and as provided for under clause 5.1 of this Bond. For the avoidance of doubt, any claim made by the Administering Authority against this Bond after the Expiry Date shall still be effective provided it relates to an event prior to the Expiry Date.

- 5.3 The Expiry Date may be extended at the Surety's discretion by notice in writing by the Surety to the Administering Authority. Subject to such written notice being given by the Surety to the Administering Authority the Expiry Date shall be extended accordingly and this Bond shall remain in effect until such amended Expiry Date. The Expiry Date may be further extended by the Surety in accordance with the provisions of this clause 5.
- 5.4 The Scheme Employer may review the amount of the Secured Amount required from the Transferee Admission Body in accordance with clause 6 of the Admission Agreement. Upon such review the Transferee Admission Body may terminate the Bond and the period of enforceability of the obligations of the Surety shall be altered accordingly provided that the Administering Authority has received a further Indemnity or Bond in an approved form referred to in the Admission Agreement and in accordance with Regulations 7 and 8 of the Administration Regulations in a form agreed with the Administering Authority under clause 6 of the Admission Agreement.
- 5.5 This Bond shall remain in operation notwithstanding any variation in the terms of the Admission Agreement or in the terms or maximum duration of the Contract or any variation of the Regulations and notwithstanding that the Transferee Admission Body shall be dissolved or go into liquidation whether compulsory or otherwise cease to exist or function.

6. SURETY'S AGGREGATE LIABILITY

Notwithstanding anything else herein contained the aggregate liability of the Surety hereunder shall not exceed the Secured Amount, but subject to such limitation, the liability of the Surety shall be co-extensive with the liability of the Transferee Admission Body under the Contract and Admission Agreement. The Administering Authority may make one or more calls under this Bond in accordance with clause 3, subject to the provision of this clause.

7. BOND IRREVOCABLE

This Bond is irrevocable by the Transferee Admission Body or by the Surety as from the date hereof.

8. ASSIGNMENT

The Bond or the benefit hereof and/or the rights arising hereunder (whether or not accrued) may without the consent of the Transferee Admission Body or the Surety be assigned to any person, firm or company who shall succeed the Administering Authority.

9. CLAIMS PROCEDURE

Any demands, claims or other notices to be served upon the Surety hereunder shall be in writing and shall be served personally, by first class pre-paid post or by facsimile (with a copy by first class pre-paid post) and shall be sent to the Surety at the address stated in this Bond or its facsimile number (which is [*enter fax number*]) or such other address or number as the Surety may have previously notified in writing to the Authority. Any demands, claims or other notices, if delivered personally or by facsimile, shall be deemed to have been served at the time of delivery or transmission or, if sent by post, shall be deemed to have been served on the second business day following posting.

10. THIRD PARTIES

This Bond is for the sole benefit of the Administering Authority and the provisions of the Contracts (Rights of Third Parties) Act 1999 shall be excluded from and shall not apply to this Bond. Terms which make reference to third parties are not to confer benefits upon such other parties nor is it the intention of the Parties that any terms of this Bond shall be enforceable by anyone other than the Parties.

11. GOVERNING LAW

This Bond shall be governed by English law, and the Parties hereby irrevocably submit to the exclusive jurisdiction of the English Courts.

IN WITNESS WHEREOF this bond has been executed and delivered as a deed on the date first before written.

[APPENDIX A]

[Admission Agreement]