

DATED

2007

(1) NOTTINGHAMSHIRE COUNTY COUNCIL

AND

(2) FRAMEWORK HOUSING ASSOCIATION

AND

(3) NOTTINGHAM CITY COUNCIL

ADMISSION AGREEMENT

ADMISSION AGREEMENT

DATE [] day of [] 2007

PARTIES

- (1) **NOTTINGHAMSHIRE COUNTY COUNCIL** of County Hall, West Bridgford, Nottingham NG2 7QP (the “Authority”);
- (2) **FRAMEWORK HOUSING ASSOCIATION** (a charitable organisation with registered charity number 1060941 and with company number 03318404) (“FHA”); and
- (3) **NOTTINGHAM CITY COUNCIL** of [] (“Nottingham City”).

RECITALS

- (A) The Authority is an administering authority within the meaning of the 1997 Regulations, which expression shall include any regulations superseding or re-enacting those Regulations and any reference to a specific regulation of the 1997 Regulations shall include a reference to any regulation superseding or re-enacting that Regulation.
- (B) FHA is a transferee admission body within Regulation 5A 2a (i) of the 1997 Regulations.
- (C) FHA wishes to admit certain employees of FHA to participate in the benefits of the Scheme which is a superannuation fund maintained by the Authority.
- (D) Under the powers contained in Regulation 5 of the 1997 Regulations, the terms and conditions of such admission have been agreed between the parties to this Agreement, as set out in this Agreement.

OPERATIVE PROVISIONS

1. DEFINITIONS

In respect of the expressions used in this Agreement, unless otherwise specified:

these have the same meanings as in the 1997 Regulations;

words denoting the masculine gender include the feminine gender;

words in the singular include the plural and vice versa;

the headings and sub-headings are for ease of reference only and do not form part of the Agreement; and

the following words and expressions have the meanings set out below:

“1997 Regulations”

means the Local Government Pension Scheme Regulations 1997 (as amended) including any regulations superseding or re-enacting those regulations;

“Authorised Insurer”

means:

- (a) an insurance company authorised under sections 3 or 4 of the Insurance Companies Act 1982 to carry on general business; or
- (b) an EC company which is lawfully carrying on general business or providing insurance of an appropriate class within general business in the United Kingdom;

and expressions used in this definition and the Insurance Companies Act 1982 have the same meanings as in that Act;

“Admission Date”

means the latest of the dates referred to in Clause 2.4

“Employee”

includes any officer and “employed” and “employment” will be construed accordingly;

“European Authorised Institution”

has the same meaning as in the Banking Co-ordination (Second Council Directive) Regulations 1992;

“Insolvency”

means in relation to FHA, any 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;

“Member Employees”

means any Employee who falls within the provisions of Clause 2.2

"Premature Termination"

means the premature termination of FHA by reason of Insolvency, winding up or liquidation of FHA

“Registration”

means registration of a pension scheme under Chapter 2 of Part 4 of the Finance Act 2004

“Relevant Institution”

means:

- (a) an institution authorised under Part I of the Banking Act 1987 (regulation of deposit taking business); or
- (b) a person to whom the restriction on acceptance of deposits under section 3 of the Banking Act 1987 does not apply because it is specified in Schedule 2 to that Act (Central Banks etc.); or
- (c) a European Authorised Institution which has lawfully established a branch in the United Kingdom for the purpose of accepting deposits;

“Scheme”

means the Nottinghamshire County Council Local Government Pension Fund;

“Secretary of State”

means the Secretary of State for the Environment, Transport and the Regions;

“Transfer Date”

means 1 October 2007;

“Transferee Admission Body”

means a transferee admission body within Regulation 5(A)(2)(a)(ii) of the 1997 Regulations.

2. ADMISSION AND CONTINUED ADMISSION OF EMPLOYEES

- 2.1. Subject to clause 2.3, the Authority agrees to the continued participation in the Scheme of every Employee of FHA:
 - 2.1.1. who was employed by Nottingham FHA on the Transfer Date; and
 - 2.1.2. who was a member of the Scheme at the date of that transfer.
- 2.2. Subject to clause 2.3, the Authority agrees to admit to participation in the Scheme every Employee of FHA who is not referred to in clause 2.1 above where the duties carried out by such Employee were previously carried out by an Employee or Employees of Nottingham City immediately prior to the Transfer Date.
- 2.3. Clauses 2.1 and 2.2 are subject to the following provisions:
 - 2.3.1. Benefits in respect of the participation of an Employee in the Scheme will only accrue to the extent permitted by the 1997 Regulations.
 - 2.3.2. Employees of FHA who otherwise come within this clause 2 shall only be admitted to (or, as the case may be allowed to continue in) membership of the Scheme, if they are eligible to be members of the Scheme in accordance with Regulations.
 - 2.3.3. A person may not be a member of the Scheme if he is a member of another Occupational Pension Scheme (within the meaning of section 1 of the Pension Schemes Act 1993) if such membership would affect the Registration of the Scheme
- 2.4. A person to whom clauses 2.1 or 2.2 applies shall be admitted from and including the latest of:

- 2.4.1. the date agreed by the Authority and FHA;
 - 2.4.2. the Transfer Date; and
 - 2.4.3. the date on which FHA is admitted as an Admission Body for the purposes of the Regulations.
- 2.5. FHA must as soon as reasonably practicable notify in writing to the Authority the occurrence of any of the following events:
 - 2.5.1. if a person who becomes or remains a member of the Scheme by virtue of Clauses 2.1 to 2.4 ceases to be employed by FHA;
 - 2.5.2. if a person who is a member of the Scheme employed by FHA increases or decreases:
 - (a) the number of hours per week; or
 - (b) the proportion of his working week,in respect of which he is engaged;
 - 2.5.3. any transfer (whether under the Transfer of Undertakings (Protection of Employment) Regulations 2006 or otherwise) of any individual admitted to the Scheme under Clauses 2.1 and 2.2 above from the employment of FHA to the employment of any other body.
- 2.6. A person who is a member of the Scheme by virtue of this Agreement will be treated as leaving the Scheme if he ceases to be employed by FHA.
- 2.7. In the case of a person who first becomes a member of the Scheme on or after 13 January 2000, any period of membership in the employment of FHA shall not be aggregated with any other period of membership for the purpose of calculating his retirement grant if it would affect the Registration of the Scheme

3. ADMISSION OF ADMISSION BODY

The Authority admits FHA to the Scheme as a Transferee Admission Body. [The Authority terminates the Admission Agreement between it and Nottingham City] and the Authority hereby confirms that in connection with that termination no termination payment under Regulation 78 of the 1997 Regulations will be required from Nottingham City.

4. ADMISSION BODY OBLIGATIONS

- 4.1. FHA must pay to the Authority, in accordance with the 1997 Regulations, all contributions and payments which FHA as an employing authority may from time to time be required by or under the 1997 Regulations and FHA shall observe and

perform all its duties and obligations as an employing authority under and in accordance with the Regulations.

4.2. FHA must pay to the Authority all contributions and payments due under the 1997 Regulations including, for the avoidance of doubt:

4.2.1. any contributions due to be paid under the 1997 Regulations after FHA has ceased to be a Transferee Admission Body; and

4.2.2. the cost of any action taken or omitted to be taken by FHA which materially affects the benefits under the Scheme of any of its Employees; and

4.2.3. any interest payable under the 1997 Regulations.

4.2.4. any contributions due to be paid by the Employees admitted to the Scheme under Clause 2.1 or 2.2.

4.3. FHA undertakes to indemnify the Authority against any costs and liabilities which it may incur (whether directly or as a result of a loss or cost to the members of the Scheme) arising out of or in connection with:

4.3.1. non-payment by FHA of any contributions due to the Scheme; or

4.3.2. any material breach by FHA of the 1997 Regulations, or this Agreement

4.3.3. benefits accrued under the Scheme in respect of the Employees from the commencement of their employment with Nottingham City.

4.4. Where FHA certifies that:

4.4.1. an employee who is aged 50 or more is retiring by reason of redundancy or in the interest of efficiency;

4.4.2. an employee is voluntarily retiring with FHA's consent on or after age 50 but before age 60;

4.4.3. the deferred benefit of a former employee is brought into payment with FHA's consent on or after age 50 but before age 60

4.4.4. FHA shall pay to the Authority the amount as notified to them in writing by the Authority as representing the cost to the Scheme caused by the immediate payment of benefits (unless the Authority agrees that the cost is to be met through the FHA's employer contribution rate). Payment must be made within 30 days of receiving written notification of this amount from the Authority.

5. ADMISSION BODY'S UNDERTAKINGS, REPRESENTATIONS AND WARRANTIES

5.1. FHA undertakes to adopt the practices and procedures relating to the operation of the Scheme as set out in the 1997 Regulations and as set out in any employer's

- guide published by the Authority and provided to FHA from time to time or contained in any other instructions lawfully given by the Authority in writing.
- 5.2. FHA undertakes to the Authority that it will not do anything to enable HM Revenue & Customs to de-register the Scheme.
- 5.3. FHA undertakes that it will promptly notify the Authority in writing of:
- 5.3.1. any material change in the terms and conditions of employment which will or might affect entitlement to benefits under the Scheme for its Employees who are members of the Scheme; and
 - 5.3.2. any terminations of employment of its employees who are or have been members of the Scheme by virtue of redundancy or in the interests of efficiency; and
 - 5.3.3. each occasion when it exercises a discretion under the 1997 Regulations and the manner in which it exercises that discretion.
- 5.4. FHA undertakes to notify the Authority of any matter which may affect its participation in the Scheme and to give immediate notice of any actual or proposed change in its status which may give rise to a termination, including (without prejudice to the generality of this clause) any actual or proposed takeover, reconstruction, amalgamation, liquidation or receivership of FHA or any change in the nature of its business or constitution and will promptly pay to the Authority such costs as the Authority may reasonably require as a result of such a change in status.
- 5.5. [FHA warrants and covenants that, if requested in writing by the Authority, it will promptly procure and put in place an indemnity or bond to meet the level of risk assessed from time to time by the Authority, taking actuarial advice arising on Premature Termination and that it will keep in place such indemnity or bond with a person or firm described in Regulation 5A(7) of the 1997 Regulations until the Authority certifies in writing that there are no sums due under this Agreement or the 1997 Regulations.]

6. TERMINATION

- 6.1. FHA will cease to be a Transferee Body and this Agreement will terminate on the occurrence of the first of the following events:
- 6.1.1. the completion of three months' written notice given by FHA to the Authority that it wishes to cease to be a Transferee Admission Body and both the Authority agrees to that cessation; or
 - 6.1.2. the completion of three months' written notice given by the Authority to terminate this Agreement; or

- 6.1.3. the insolvency, winding up or liquidation of FHA; or
- 6.1.4. the withdrawal of the approval by the Commissioners of HM Revenue & Customs to the participation of FHA in the Scheme; or
- 6.1.5. FHA ceasing to be a Transferee Admission Body.
- 6.2. The Authority may terminate this Agreement immediately by notification in writing to FHA on the first of the following events:
 - 6.2.1. a material breach by FHA of any of its obligations under this Agreement or under the 1997 Regulations if that breach is incapable of remedy or is capable of remedy but has not been remedied within a reasonable time after FHA has been notified of the breach;
 - 6.2.2. a failure by FHA to pay any sums due to the Scheme within a reasonable period after receipt of a notice from the Authority requiring it to do so.
- 6.3. FHA must notify the Authority immediately if:
 - 6.3.1. it wishes to cease to be a Transferee Admission Body for the purposes of the 1997 Regulations; or
 - 6.3.2. it is aware that it will cease to be a Transferee Admission Body under the 1997 Regulations
- 6.4. If FHA ceases to be a Transferee Admission Body under clauses 6.1 or 6.2:
 - 6.4.1. its Employees shall immediately cease to be members of the Scheme; and
 - 6.4.2. the Authority must immediately notify the affected members of the Scheme and Secretary of State and, if required, the Commissioners of HM Revenue & Customs

7. NOTICES AND INFORMATION

- 7.1. The Authority will promptly inform the Secretary of State of the date of this Agreement and the name of FHA.
- 7.2. The Authority will promptly notify the Commissioners of HM Revenue & Customs of the relevant provisions of this Agreement and of any other information as may be required under the Finance Act 2004, as amended.
- 7.3. The Authority undertakes to make available a copy of this agreement for public inspection at their respective offices.

8. DISPUTES

Any question which may arise between any party relating to the construction of this Agreement or to the rights and obligations thereunder of any party shall be determined by the Secretary of State PROVIDED THAT Employees of FHA who are Scheme members by virtue of this Agreement must use the internal dispute resolution procedure established in respect of the Scheme.

9. AMENDMENTS

The Authority and FHA may, with the agreement of the other, amend this Agreement by deed provided that:

- 9.1. the amendment is not such that it would or might breach the 1997 Regulations or any requirement of law as it applies to the Scheme; and
- 9.2. the amendment would not prejudice the Registration of the Scheme .

10. FUNDING OF THE SCHEME

- 10.1. Without prejudice to any powers set out in the 1997 Regulations, the Authority may require reviews of the funding of the Scheme in relation to the employers participating in the Scheme and in each case the Authority may, after considering actuarial advice, adjust the contributions due by FHA as it may deem reasonably necessary.

11. RIGHTS OF THIRD PARTIES

Nothing in this agreement creates rights under the Contracts (Rights of Third Parties) Act 1999 in favour of any person other than the Authority and FHA.

12. COUNTERPARTS

This Agreement may be issued in counterparts each of which when executed and delivered shall be an original and all the counterparts together shall constitute one and the same deed.

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

EXECUTED as a DEED
AFFIXING THE COMMON SEAL OF
NOTTINGHAMSHIRE COUNTY COUNCIL
in the presence of :

.....
Authorised Signatory

SIGNED as a DEED by
FRAMEWORK HOUSING ASSOCIATION
NOTTINGHAM LIMITED
acting by two Directors
or a Director and its Secretary:

.....
Director

.....
Director/Secretary

EXECUTED as a DEED
AFFIXING THE COMMON SEAL OF
NOTTINGHAM CITY COUNCIL
in the presence of :

.....
Authorised Signatory