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Dated: 2017

- (1) BEDFORD BOROUGH COUNCIL
- (2) CUMBRIA COUNTY COUNCIL
- (3) DURHAM COUNTY COUNCIL
- (4) THE EAST RIDING OF YORKSHIRE COUNCIL
- (5) LINCOLNSHIRE COUNTY COUNCIL
- (6) MIDDLESBROUGH BOROUGH COUNCIL
- (7) NORTHUMBERLAND COUNTY COUNCIL
- (8) NORTH YORKSHIRE COUNTY COUNCIL
- (9) THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE
- (10) SOUTH YORKSHIRE PENSIONS AUTHORITY
- (11) SURREY COUNTY COUNCIL
- (12) WARWICKSHIRE COUNTY COUNCIL
- (13) BORDER TO COAST PENSIONS PARTNERSHIP LIMITED

Shareholders' Agreement**[Draft subject to final review and finalising items in square brackets]**

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DRAFT BCPP SHAREHOLDERS AGREEMENT

BETWEEN

- (1) **Bedford Borough Council**, of Borough Hall, Cauldwell Street, Bedford, MK42 9AP;
- (2) **Cumbria County Council**, of The Courts, Carlisle, Cumbria, CA3 8NA;
- (3) **Durham County Council**, of County Hall, Durham, DH1 5UE;
- (4) **The East Riding Of Yorkshire Council**, of County Hall, Beverley HU17 9BA;
- (5) **Lincolnshire County Council**, of County Offices, Newland, Lincoln, LN1 1YL;
- (6) **Middlesbrough Borough Council**, of PO Box 340, Middlesbrough, TS1 2XP;
- (7) **Northumberland County Council**, of County Hall, Morpeth, Northumberland, NE61 2EF;
- (8) **North Yorkshire County Council**, of County Hall, Northallerton, North Yorkshire, DL7 8AL;
- (9) **The Council of the Borough of South Tyneside**, of Town Hall and Civic Offices, Westoe Road, South Shields, Tyne and Wear, NE33 2RL;
- (10) **South Yorkshire Pensions Authority**, of 18 Regent Street, Barnsley, S70 2HG (acting on behalf of itself and Sheffield City Region Combined Authority);
- (11) **Surrey County Council**, of County Hall, Penrhyn Road, Kingston upon Thames, KT1 2DN; and
- (12) **Warwickshire County Council**, of PO Box 3, Shire Hall, Warwick, CV34 4RL
(together, the "**Shareholders**"); and
- (13) **Border to Coast Pensions Partnership Limited**, a company incorporated in England and Wales (registered number [●]) whose registered office is at [ADDRESS] ("**BCPP**" or "**the Company**").

BACKGROUND

- (A) The Shareholders together are each administering authorities within the LGPS and within the meaning of the Local Government Pension Scheme Regulations 2013. They each administer, maintain and invest their own respective funds within the LGPS in accordance with those Regulations and the Investment Regulations.
- (B) BCPP has been formed as an entity to act as an alternative investment fund manager to run and operate one or more collective investment vehicles to allow the administering authorities to pool some or all of their respective LGPS investments and any other authorised investment activities of the pool.
- (C) The Shareholders are the sole shareholders in BCPP and have agreed to enter into this Agreement to record the terms of their relationship with each other in relation to BCPP and to regulate certain aspects of their affairs and dealings with BCPP.
- (D) BCPP has agreed with the Shareholders that it will comply with the terms and conditions of this Agreement insofar as they relate to BCPP and insofar as it lawfully can do so.
- (E) BCPP and the Shareholders have agreed that they will comply with the Local Authorities (Companies) Order 1995 (and any supplemental or replacement legislation related thereto) in so far as it relates to BCPP.

1. DEFINITIONS AND INTERPRETATION

In this Agreement:

1.1 the following words and expressions have the following meanings unless the context otherwise requires:

"2006 Act"	the Companies Act 2006 (as amended from time to time)
"A List Reserved Matter"	the reserved matters set out in Part A of Schedule 1 (being unanimous reserved matters)
"A Shares"	the A ordinary shares of £1.00 each in the capital of BCPP having the rights set out in the Articles
"ACS"	an Authorised Contractual Scheme which is a collective investment scheme authorised and regulated by the Financial Conduct Authority
"ACS Funds"	sub-funds of the ACS
"Adequate Procedures"	in respect of the relevant party, adequate procedures designed to prevent persons associated with it from undertaking conduct causing it to be guilty of an offence under section 7 Bribery Act and which comply with the guidance published under section 9 Bribery Act (a)
"Annual Budget"	a budget in a form to be prepared and adopted pursuant to clause 6 in respect of BCPP for each year, such budget for the first year being included in the Initial Strategic Plan
"Annual Operating Charge"	the meaning given to it in clause 4.1
"Anti-Bribery Laws"	any and all statutes, statutory instruments, bye-laws, orders, directives, treaties, decrees and laws, any common law, judgment, demand, order or decision of any court, regulator or tribunal which relate to anti-bribery and/or anti-corruption including the Bribery Act
"Anti-Corruption Policy"	an anti-corruption policy of BCPP requiring BCPP and its officers, employees, agents and any other person who performs services for or on its behalf to comply with the Anti-Bribery Laws
"Articles"	the Articles of Association of BCPP to be adopted at Completion, being those in the agreed form as amended from time to time in accordance with the terms of this Agreement
"B List Reserved Matter"	the reserved matters set out in Part 2 of Schedule 1 (being Shareholder Majority reserved matters)
"B Share Dividend"	has the meaning given in the Articles

"B Shares"	the B ordinary shares of £1.00 each in the capital of BCPP having the rights set out in the Articles
"Board"	the board of directors of BCPP from time to time
"Bribery Act"	the Bribery Act 2010
"Business"	the meaning given to it in clause 2.1
"Business Day"	a day that is not a Saturday, Sunday or public or bank holiday in England and/or Wales
"Chief Executive"	the office of (or person appointed to the office of as the context requires) chief executive of BCPP
"Completion"	the performance by the parties of their respective obligations under clause 3
"Confidential Information"	the meaning given to it in clause 13.4
"Control"	in relation to a person, the power (whether direct or indirect) to direct or cause the direction of its affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise and "Controls" and "Controlled" will be construed accordingly
"Costs"	all costs (on a full indemnity basis) including legal and other professional costs and costs of enforcement
"Deadlock Date"	the date of service of a Deadlock Notice by any Shareholder on BCPP and the other Shareholder(s)
"Deadlock Notice"	a written notice confirming that a Deadlock Situation has arisen
"Deadlock Situation"	the meaning given to it in clause 10.1
"Discloser"	the meaning given to it in clause 13.4.1
"Dispute Notice"	a written notice confirming that a Shareholder believes that a dispute has arisen in accordance with clause 11
"EIR"	the Environmental Information Regulations 2004 and any subordinate legislation made under it, any amendment or re-enactment of any of them, all as amended, supplemented and/or replaced from time to time
"Encumbrance"	any mortgage, charge, pledge, lien, assignment, option, restriction, claim, right of pre-emption, right of first refusal, third party right or interest, other encumbrance or security interest of any kind or other type of preferential arrangement (including a title transfer or retention arrangement) having similar effect
"Exiting Shareholder"	the meaning given to it in clause 14.6

"Fair Market Value"	the fair market value of any Share agreed between the Board and any Shareholder or, in the event of any dispute, as determined by the auditors of BCPP (or if they are unwilling to act, by an independent accountant nominated by the Board and the relevant Shareholder(s) (or, in default of which, by the President of the Institute of Chartered Accountants in England and Wales))
"Financial Year"	the period starting on Completion and ending on 31 March and each successive accounting reference period of BCPP as determined by section 391 of the Companies Act 2006
"FOIA"	the Freedom of Information Act 2000, all regulations made under it and any subordinate legislation made under them, any amendment or re-enactment of any of them, all as amended, supplemented and/or replaced from time to time
"FOIA Legislation"	the FOIA and/or the EIR (as applicable)
"Group Companies"	in respect of a person, any persons that Control, are Controlled by or are under common Control with that person from time to time
"Initial Strategic Plan"	the Strategic Plan for BCPP for the period starting on or around the date of Completion and being in the agreed form
"Inter Authority Agreement"	the agreement between the Shareholders to cooperate in the pooling of LGPS investments dated [•]
Investment Regulations	The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016
"LGPS"	the Local Government Pension Scheme in England and Wales
"Payment Date"	the meaning given to it in clause 4.3
"Permitted Transferee"	another LGPS administering authority admitted as a new Shareholder in accordance with clause 18
"Procurement Legislation"	Directive 2014/24/EU of the European Parliament and of the Council and any legislation implementing this Directive in the UK (as amended from time to time) which at the date of this Agreement shall be the Public Contracts Regulations 2015;
"Purpose" or "Purposes"	the meaning given to them in clause 13.5.2
"Recipient"	the meaning given to it in clause 13.4.1
"Regulatory Capital Requirements"	the requirements under Article 9 of the Alternative Investment Fund Managers Directive 2001/61/EU as amplified or implemented EU Regulation 231/2013 and any relevant other European Union or United Kingdom instrument

"Regulatory Capital Statement"	the statement issued by BCPP to determine whether BCPP satisfies Regulatory Capital Requirements
"Related Agreements"	<p>the following documents:</p> <p>(a) Articles</p> <p>(b) Inter Authority Agreement</p> <p>and any other agreements entered into between BCPP and all of the Shareholders before the date of this Agreement</p>
"Representatives"	in respect of a party, that party's Group Companies and its and their officers, directors, employees, consultants and professional advisers; and "Representative" means any of them
"Request for Information"	a request for information to which the FOIA Legislation applies, where the information requested consists of or includes Confidential Information of a party to this Agreement
"Request Recipient"	a party that receives a Request for Information
"Section 151 Officer"	the officer designated by a local authority as the person responsible for the proper administration of its financial affairs, as required by section 151 of the Local Government Act 1972
"Shared Objectives"	the objectives set out in Schedule 2
"Shareholder Majority"	the holders of 75% or more of the A Shares from time to time
"Shareholder Reserved Matters"	the A List Reserved Matters and the B List Reserved Matters
"Shareholders"	any holder of Shares and "Shareholder" will mean any of them
"Shares"	shares in the capital of BCPP and "Share" will be construed accordingly
"Statutes"	the Companies Acts as defined in section 2 of the Companies Act 2006 and every other statute, order, regulation, instrument or other subordinate legislation for the time being in force relating to companies and affecting the Company
"Strategic Plan"	the annual business plan (including the Annual Budget) for BCPP prepared and approved in accordance with clause 6 as varied from time to time in accordance with the terms of this Agreement
"Subsequent Strategic Plan"	the Strategic Plan for any Financial Year other than the first Financial Year
"Subsidiary/ies"	has the meaning given to it by section 1159 of the Companies Act 2006 and for the purposes of section

1159(1) a company (the first company) shall be treated as a member of another company if:

- (a) any of its subsidiaries is a member of that other company; or
- (b) any shares in that other company are held by a person acting on behalf of the first company or any of its subsidiaries; or
- (c) any shares in that other company are registered in the name of a person (or its nominee) by way of security or in connection with the granting of security over those shares by the first company

"Termination Date" the date of termination of this Agreement under **clause 16**

"Withdrawal Date" the meaning given to it in **clause 14.5**

- 1.2 references to the background section, clauses and Schedules are to the background section and clauses of and schedules to this Agreement and references to paragraphs are to paragraphs of the relevant Schedule;
- 1.3 the Schedules form part of this Agreement and will have the same force and effect as if set out in the body of this Agreement and any reference to this Agreement will include the Schedules;
- 1.4 the background section and all headings are for ease of reference only and will not affect the construction or interpretation of this Agreement;
- 1.5 unless the context otherwise requires:
 - 1.5.1 references to the singular include the plural and vice versa and references to any gender include every gender; and
 - 1.5.2 references to a "person" include any individual, body corporate, association, partnership, firm, trust, organisation, joint venture, government, local or municipal authority, governmental or supra-governmental agency or department, state or agency of state or any other entity (in each case whether or not having separate legal personality);
- 1.6 references to any statute or statutory provision will include any subordinate legislation made under it and will be construed as references 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;
- 1.7 any words following the words "include", "includes", "including", "in particular" or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them;
- 1.8 the rule known as the ejusdem generis rule will not apply and accordingly the meaning of general words introduced by the word "other" or a similar word or expression will not be restricted by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things;
- 1.9 references to "in writing" or "written" are to communication effected by post and email or any other means of reproducing words in a legible and non-transitory form (but not fax);
- 1.10 any reference to a document being in the "agreed form" will mean that document in the form and content agreed by the parties and, for the purposes of identification, initialled by or on behalf of each party;

- 1.11 an obligation on a party to procure or ensure the performance or standing of another person will be construed as a primary obligation of that party; and
- 1.12 unless expressly stated otherwise, all obligations, representations and warranties on the part of two or more persons are (unless stated otherwise) entered into, given or made by such persons severally.

2. BUSINESS OF BCPP

- 2.1 The parties agree that the business of BCPP shall be (unless and until otherwise determined in accordance with this Agreement) acting as an alternative investment fund manager to run and operate one or more collective investment vehicles or supervise and provide advice in relation to such investments in order to provide a collaborative platform through which the Shareholders can aggregate their LGPS investments (the "**Business**").
- 2.2 the Business and BCPP will conduct the Business in accordance with:
 - 2.2.1 the then current Strategic Plan;
 - 2.2.2 the Shared Objectives; and
 - 2.2.3 applicable law.

3. COMPLETION

- 3.1 After the signing of this Agreement, the parties shall procure that:
 - 3.1.1 the written resolutions in the agreed form are passed to among other things:
 - 3.1.1.1 adopt the Articles; and
 - 3.1.1.2 authorise the BCPP directors to allot the share subscriptions and redesignate the existing issued shares[s] in the capital of BCPP as referred to in **clause 3.1.2** ;
 - 3.1.2 each of the Shareholders will subscribe in cash at par for the following number and class of Shares respectively in accordance with FCA requirements, and will waive any rights of pre-emption which any of them may have in respect of such subscriptions:

Name	Number of Shares	Class of Share	Aggregate Subscription Sum (£)
[•]	[TBC]	B Share	[TBC]
[•]	[TBC]	B Share	[TBC]

- 3.1.3 a meeting or meetings of the Board shall be held at which (i) the shares specified in **clause 3.1.2** will be allotted and issued to the Shareholders respectively and registered in their names and (ii) each existing ordinary share that has been allotted to each of the Shareholders shall be redesignated as an A Share¹;
- 3.1.4 the following directors shall be appointed:

Name	Title

¹ Note this has been drafted on the basis that each shareholder will take a subscriber share at incorporation of BCPP.

[•]	Chairman
[•]	Director
[•]	Director
[•]	Director
[•]	[Non-Executive Director]
[•]	[Non-Executive Director]

Subsequent administrative matters

3.2 After completion of the matters referred to in **clause 3.1** each of the Shareholders will procure that each of the Shareholders shall enter into those of the Related Agreements to which they are a party.

3.3 BCPP warrants and represents to each of the Shareholders that, at the date of this Agreement, BCPP has not carried on any business, has no assets or liabilities, has no employees and is not a party to any contracts except as necessary to comply with **clause 3.1** and **3.2**

4. FINANCE AND REGULATORY CAPITAL

4.1 Each Shareholder shall pay an annual operating charge to BCPP in the amount specified in the Annual Budget in relation to services provided by BCPP as specified in the Annual Budget ("**Annual Operating Charge**").

4.2 Each Shareholder shall be required to make a contribution to BCPP's Regulatory Capital Requirements by way of a subscription for B Shares:

4.2.1 in accordance with **clause 3** and thereafter in accordance with the Regulatory Capital Statement which will be issued annually by BCPP and approved in writing by all of the Shareholders;

4.2.2 at such other times as the directors reasonably determine that additional regulatory capital is required by BCPP and notify each of the Shareholders in writing accordingly (including, without limitation, at such times as the Shareholders unanimously approve any new investor into the BCPP pool) (such notice being an "**Additional Regulatory Capital Statement**"); and

4.2.3 after such time as any Shareholder (an "**Exiting Shareholder**") ceases to hold any A Shares (at which time any B Shares held by that Shareholder may, at the discretion of the Board, be redeemed by BCPP in accordance with and subject to the Articles and the Statutes). In this regard, upon a Shareholder giving notice to BCPP pursuant to the Articles (at least twelve (12) months prior to any proposed withdrawal to expire on 31 March next following) that it wishes to withdraw as a Shareholder, the directors shall thereafter issue a notice in writing to each remaining Shareholder not less than six (6) months prior to the Withdrawal Date in respect of the Exiting Shareholder, notifying the remaining Shareholders that the Exiting Shareholder intends to withdraw as a Shareholder and confirming the amount of replacement regulatory capital (if any) and/or such other amount as may be required to be contributed by the remaining Shareholders in order to maintain the regulatory capital required by BCPP upon the redemption held by the Exiting Shareholders of the B Shares (such other amount shall also be deemed to be regulatory capital for the purpose of this **clause 4** (such notice being a "**Replacement Regulatory Capital Statement**").

4.3 Each Shareholder shall be liable to make an equal contribution (such equal amount payable by each Shareholder being that Shareholder's "**Relevant Share**" of such capital

requirement) in respect of any Regulatory Capital Requirement which is specified in a Regulatory Capital Statement, Additional Regulatory Capital Statement or Replacement Regulatory Capital Statement (as the case may be) (each such statement being a "**Statement**" for the purposes of this **clause 4**), which contribution shall be satisfied by way of a subscription by such Shareholder for such number of B Shares, at par value, as is equal to that Shareholder's Relevant Share. Each Statement shall specify the date (the "**Payment Date**") by which the subscription monies must be paid to BCPP by the Shareholders.

- 4.4 Following receipt of a Statement, each Shareholder shall advance to BCPP its Relevant Share of the Regulatory Capital Requirement specified therein, on or before the specified Payment Date. Upon receipt of payment, BCPP shall issue the requisite number of B Shares to each such Shareholder.
- 4.5 If any of the Shareholders (for this purpose, a "**Failing Shareholder**") fails to pay its Relevant Share of any Regulatory Capital Requirement on or before the relevant Payment Date (and without prejudice to any right to bring proceedings against the Failing Shareholder in relation to such failure) then, without prejudice to **clause 15 (consequences of breach)**:
- 4.5.1 BCPP shall notify the other Shareholders (each, a "**Non-Failing Shareholder**") in writing as soon as practicable and the Non-Failing Shareholders shall be bound to advance the Failing Shareholder's Relevant Share, in equal shares, by way of subscriptions for further B Shares in accordance with this **clause 4**, within seven days of receipt of such notice from BCPP.
- 4.5.2 If the Failing Shareholder within 20 days of a notice in writing from the directors of non-payment contributes its Relevant Share of the Regulatory Capital Requirement (its "**Repayment Amount**") BCPP shall (if the other Shareholders (or any of them) have previously satisfied the Failing Shareholder's contribution pursuant to **clause 4.5.1**) promptly redeem the Non-Failing Shareholders' B Shares subscribed for pursuant to this **clause 4.5.2** in accordance with **Article 27** of the Articles and reimburse such Non-Failing Shareholder(s) for subscriptions paid under **clause 4.5.1** promptly (and for this purpose each Shareholder shall be deemed to have given its prior written consent to such redemption by virtue of entering into this Agreement).
- 4.5.3 Any Failing Shareholder's voting rights in relation to its A Shares shall be immediately suspended (except in relation to resolutions to either amend the Articles or any rights attaching to the class of Shares held by the Failing Shareholder or any of the A List Reserved Matters), and the vote of the Failing Shareholder shall not be required in relation to the approval of any A List Reserved Matter or B List Reserved Matter, until such time as the Failing Shareholder has subscribed for its B Shares in BCPP and paid its Relevant Share of the Regulatory Capital Requirement, at which time the restrictions set out in this **clause 4.5.3** shall cease to apply.
- 4.5.4 All dividends and distributions to which the Failing Shareholder would otherwise have been entitled under this Agreement or the Articles (up to a maximum aggregate amount equal to the Repayment Amount) shall be applied in redeeming the B Shares subscribed for by the Non-Failing Shareholders pursuant to **clause 4.5.1** (pro rata to their contribution to the Repayment Amount).
- 4.5.5 For the avoidance of doubt, if a Failing Shareholder contributes its Repayment Amount in accordance with **clause 4.5.2**, the provisions of **clauses 4.5.3** and **4.5.4** shall not apply.
- 4.6 If BCPP requires additional funds or financial support from the Shareholders other than as explicitly provided for in this **clause 4**, no Shareholder shall seek to agree terms with BCPP in relation to such matter which differ from those on which any other Shareholder is providing equivalent finance or support.
- 4.7 The Shareholders agree that, subject to **clauses 4.8** and **4.9**, the aggregate amount of any actual liability incurred by any or all of them pursuant to any guarantee or indemnity given by any or all of them to any third party in respect of any liabilities or obligations of BCPP, or pursuant to any sole or several guarantee or indemnity given in respect of such

obligations or liabilities by any of them with the consent in writing of the others, shall be borne by them in equal proportions and each shall indemnify and keep indemnified the others accordingly. Subject to **clause 4.8**, no Shareholder shall be obliged to provide any guarantee in respect of any liabilities or obligations of BCPP unless the Shareholders have given their unanimous approval to the Shareholders providing such guarantees on the terms of this **clause 4.7**. For the avoidance of doubt, this **clause 4.7** shall not apply to any obligations related to BCPP's Regulatory Capital Requirements.

- 4.8 Where any Shareholders combine and sell any Shares back to BCPP pursuant to [**clause 14.3**], any such newly combined entity shall assume any and all of the aggregate liabilities of its original component separate entities in relation to this Agreement.
- 4.9 Save as set out in **clauses 4.1 to 4.5** there shall be no obligation upon the Shareholders to subscribe for Shares in BCPP or to provide, or procure to be provided, to BCPP loans or loan facilities.
- 4.10 The Shareholders agree that BCPP, acting by the directors, shall have the power to seek funding by way of borrowings on behalf of BCPP from any third party commercial lender, provided that:
- 4.10.1 the directors seek to obtain any such funding on the most favourable terms reasonably available as to interest, repayment and security;
- 4.10.2 no prospective lender shall be allowed a right to participate in the equity share capital of BCPP as a condition of any such loan; and
- 4.10.3 no prospective lender shall be allowed to take any Encumbrance over any of the Shares; and
- 4.10.4 any third party loan(s) in excess of £5,000,000 shall require prior approval from all of the Shareholders.

5. **DIVIDEND POLICY**

Reduction of Annual Operating Charge

- 5.1 The Shareholders acknowledge that the Company will pay the B Share Dividend on the B Shares in accordance with the Articles.
- 5.2 Subject to **clauses 5.1, 5.4, 5.6** and **5.7**, the Shareholders intend that BCPP will use any profits lawfully available for distribution for that Financial Year first towards the reduction (or elimination) of the Annual Operating Charge for the next Financial Year.
- 5.3 Subject to **clauses 4.5, 5.1, 5.2, 5.4, 5.6** and **5.7**, the Shareholders intend that BCPP will either distribute to the Shareholders by way of cash dividend in respect of each Financial Year all of its profits lawfully available for distribution for that Financial Year or, in the sole discretion of the Board, make available these distributable profits to facilitate a buyback of Shares by BCPP under **clause 14.7** in the event of an Exiting Shareholder.
- 5.4 Subject to **clause 5.1**, the Shareholders may unanimously agree in writing for any Financial Year not to make any distribution by way of cash dividend or to make a distribution of a different amount of available profits to that set out in **clause 5.3**.
- 5.5 Any distribution for a Financial Year will be made within six months of the end of that Financial Year.

Prior repayment of third party indebtedness

- 5.6 **Subject to clause 5.1**, no distribution by way of dividend or otherwise will be made until BCPP has repaid all third party financing unless otherwise agreed by a Shareholder Majority.

Retentions

- 5.7 The amount of any distribution that would otherwise be made by BCPP under **clause 5.3** will be reduced by an amount equal to the aggregate of:
- 5.7.1 any amount necessary to ensure that BCPP would not otherwise be in breach or likely to be in breach of any covenant or undertaking given by BCPP to any lender in the relevant financial year following the distribution;
 - 5.7.2 any amount necessary to ensure that BCPP would not otherwise be in breach or likely to be in breach of any applicable Regulatory Capital Requirements following the distribution; and
 - 5.7.3 any amount resolved by the Board and resolved unanimously by the Shareholders as prudent to retain having regard to:
 - 5.7.3.1 the cashflow and working capital requirements of BCPP;
 - 5.7.3.2 the need to make reasonable provisions and transfers to reserves;
 - 5.7.3.3 the interests of BCPP in respect of the implementation of its Strategic Plan or its business prospects; and
 - 5.7.3.4 the future outlook and performance of the business of BCPP, including the scope to reduce the Annual Budget for future years.

6. THE STRATEGIC PLAN, ANNUAL BUDGET, ADMINISTRATIVE AND ACCOUNTING MATTERS

- 6.1 The Strategic Plan which is first agreed by all Shareholders and which starts from or around the date of Completion will be the Initial Strategic Plan.
- 6.2 BCPP will prepare an Annual Budget which will be included within the Strategic Plan for each Financial Year in accordance with **clause 6.4**.
- 6.3 Each Annual Budget will include the following:
- 6.3.1 an estimate of the working capital requirements of BCPP incorporated within a cashflow forecast;
 - 6.3.2 a projected profit and loss account;
 - 6.3.3 an operating budget (including estimated capital expenditure requirements) and balance sheet forecast;
 - 6.3.4 a review of projected business;
 - 6.3.5 a summary of business objectives; and
 - 6.3.6 a financial report which includes an analysis of the results of BCPP and the established collective investment vehicles for the previous Financial Year compared with the Strategic Plan for that Financial Year, identifying variations in sales, revenues, costs and other material items.
- 6.4 Each Subsequent Strategic Plan will be substantially in the form of and contain a comparable level of detail to the Initial Strategic Plan and will be prepared by the Board in accordance with the Shared Objectives and thereafter presented to the Shareholders for comment and approval according to a timetable approved by the Board after due consultation with the Shareholders, provided that such Subsequent Strategic Plan shall in any event be submitted for approval by (i) the Board not later than 60 days before the commencement of the Financial Year to which it relates and (ii) the Shareholders not later than 30 days before the commencement of the Financial Year to which it relates. The Subsequential Strategic

Plan will be updated when approved in accordance with **clause 9.7**.

- 6.5 If any Subsequent Strategic Plan is not approved in accordance with **clause 6.4** before the end of the preceding Financial Year then until it is approved the business of BCPP will continue to be run in accordance with the Strategic Plan for that preceding Financial Year and the Annual Budget in respect of the immediately preceding Financial Year shall apply, increased by the Retail Price Index as published by the United Kingdom Office for National Statistics in September of the previous Financial Year (the "RPI"). In the event that the RPI is negative there shall be no increase and the Annual Budget will remain the same as for the previous Financial Year.
- 6.6 All Strategic Plans once approved by the Board and the Shareholders may only be amended with the approval of all of the Shareholders as set out in **clause 9** and **Schedule 1**.

Appointment of Auditors

- 6.7 [●] will be the auditors of BCPP unless removed from office and replaced in accordance with **clause 9**.

Basis of preparation of Accounts

- 6.8 The annual accounts of BCPP will be prepared in accordance with the laws applicable in, and the accounting standards, principles and practices generally accepted in, the United Kingdom.

Financial Year

- 6.9 The accounting reference date of BCPP will be 31 March unless changed in accordance with **clause 9**.
- 6.10 [●] will be the bankers to BCPP unless changed in accordance with **clause 9**.

Record keeping

- 6.11 The Shareholders will use all their powers in relation to BCPP to assist the Board to ensure that BCPP will maintain accurate and complete accounting and other financial records in accordance with the requirements of all applicable laws and generally accepted accounting practices applicable in the United Kingdom.

Conflicts policy

- 6.12 The Board will produce a written conflicts policy which shall be approved by a Shareholder Majority prior to being adopted. Any changes to this policy will similarly require approval from a Shareholder Majority.

7. DIRECTORS AND MANAGEMENT

Composition of the Board and subsequent Board appointments

- 7.1 The initial Board shall be the directors appointed on or after Completion in **clause 3.1 in accordance with Part A of Schedule 1**. Any subsequent or additional directors shall be appointed by the Board (or a committee of the Board) subject always to the prior approval of all of the Shareholders in accordance with **Part B of Schedule 1**. The Company Secretary (if any) shall be appointed by the Board.

Role and responsibilities

- 7.2 The Board will be responsible (within the parameters of the Strategic Plan) for the overall direction, supervision and management of BCPP, including the day to day management of BCPP and authority and responsibility for implementing the Strategic Plan.

- 7.3 The management of BCPP shall be vested in the Board provided that the day to day management of BCPP will be the responsibility of the directors. Without prejudice to the generality of the foregoing and subject to the express provisions of this Agreement, the Board will determine the general policy of BCPP and the manner in which that is to be carried out in light of the Strategic Plan as adopted by the Shareholders and will reserve to itself all matters involving major or unusual decisions and will procure that BCPP and its Subsidiaries will:
- 7.3.1 transact the Business on arm's length terms; and
- 7.3.2 without prejudice to the terms of any Related Agreements, maintain, with a well-established and reputable insurer, adequate insurance against all risks usually insured against by companies carrying on the same or a similar business including, but not limited to, employers liability insurance, public liability insurance, professional indemnity insurance and director's and officer's insurance, in each case (without prejudice to the generality of the foregoing) for the appropriate value determined by the Board; and
- 7.3.3 comply with the provisions of **clause 8**.
- 7.4 The specific responsibilities of the Chief Executive will be determined by the Board from time to time.
- 7.5 The Board shall implement any decision reached pursuant to the Shareholder Reserved Matters, subject to obtaining the requisite approval under **clause 9**.

Appointment and removal of Chief Executive

- 7.6 [•] will be appointed as Chief Executive on Completion. No Chief Executive will be appointed to office (or removed from office) unless approved in accordance with **clause 9**.

Annual approval or ratification of Directors

- 7.7 All of the Shareholders shall be required to approve the continuing appointment of all directors at each annual general meeting of BCPP.
- 7.8 In the event that any director appointment is not approved by all of the Shareholders then the Shareholders agree to take any necessary action (including the passing of any resolution) required by the Shareholders and/or the Board to remove such director at such time.

8. BOARD MEETINGS AND RESOLUTIONS

Frequency

- 8.1 The Board will meet at least four times a year.

Notice

- 8.2 Any director may call a meeting of the Board by giving not less than 5 Business Days' notice of the meeting (or such lesser notice as all the directors may agree) to the other directors.
- 8.3 Notice of any Board meeting must indicate:
- 8.3.1 its proposed date and time;
- 8.3.2 where it is to take place;
- 8.3.3 the proposed agenda of items; and
- 8.3.4 if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should simultaneously communicate with each other during the meeting.

8.4 Subject to Article 9.3, notice of any Board meeting must be given to each director but need not be in writing.

Participation

8.5 Directors will be treated as participating in a directors' meeting or part of a directors' meeting when:

8.5.1 the meeting has been called and takes place in accordance with this Agreement; and

8.5.2 they can each simultaneously communicate with and to the others participating in the meeting any information or opinions they have on any particular item of the business of the meeting.

8.6 In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or, provided **clause 8.5.2** is complied with, how they communicate with each other.

8.7 If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

Quorum

8.8 The quorum for the transaction of business at any Board meeting shall be four directors participating in the meeting, provided at least two of whom shall non-executive directors.

8.9 If there is no quorum participating in any meeting of the Board within 30 minutes after the time fixed for the meeting or, if during the meeting a quorum ceases to be participating, the meeting will be adjourned to such time (not being earlier than 5 Business Days after the date of the original meeting unless otherwise agreed by all the directors) as the director or directors participating in the meeting determine. All directors will be notified of the adjournment.

Voting

8.10 Subject to **clauses 8.12** and **9** any resolution proposed to the Board will be approved if more votes are cast for it than against it.

Written Resolutions

8.11 The Board may pass any resolution by way of a written resolution signed by a majority of the directors or to which a majority of eligible directors has otherwise indicated agreement in writing.

Chairman

8.12 [The first Chairman shall be [●]]. Thereafter, the position of Chairman of the Board will be filled by one of the independent non-executive directors of the Board and will be appointed by a Shareholder Majority. If the Chairman is not present at any Board meeting, the directors present may appoint any one of their number to act as Chairman for the purpose of the meeting. The Chairman of the Board will have a casting vote on any tied decision.

Alternates

8.13 Each Director will only be entitled to appoint as an alternate (i) any other director; or (ii) any other person in respect of which prior approval has been obtained from all of the Shareholders.

8.14 The rights and responsibilities of an alternate and the procedure for terminating his/her appointment are set out in the Articles.

Observers

- 8.15 Each of the Shareholders may each invite one person to attend any meetings of the Board and if so invited they may attend and speak (but not vote).

Board Committees

- 8.16 The Board will determine from time to time if it is appropriate to establish any committees of the Board and shall determine the scope, authority and any terms of reference for any such committees at the time of such creation.

Subsidiary Boards

- 8.17 Subject always to receiving the approval of all of the Shareholders, the Board will determine the composition, governance arrangements and limits of authority of any and all subsidiaries of BCPP and each of the Shareholders agrees to exercise all of their powers as a Shareholder to seek to ensure that all of the constitutional documents of any subsidiary reflect at all times the agreed position determined by the Board (including, but not limited to, any agreed scope and limits of authority and any restrictions imposed by the Financial Conduct Authority on BCPP or any subsidiary of BCPP).
- 8.18 Each Shareholder shall nominate a representative from time to time to be its representative at shareholder meetings and shall notify the Company accordingly. A Shareholder may notify the Board at any time in writing of a change in representative.

SHAREHOLDER MEETINGS

- 8.19 General meetings of the Shareholders will take place in accordance with the Companies Act 2006 and the Articles including that:
- 8.19.1 for as long as there are a minimum of twelve (12) Shareholders, the meeting will be quorate once at least nine Shareholders are represented at the meeting (either in person or by proxy) and, for the avoidance of doubt, any matter that requires a Shareholder Majority or unanimous shareholder consent under this Agreement will not have the threshold for such consent reduced by virtue of not all of the Shareholders being present at a meeting;
- 8.19.2 the notice of meeting will set out an agenda identifying in reasonable detail the matters to be discussed (unless the Shareholders otherwise agree);
- 8.19.3 the Chairman (who shall be the Chairman of the Board subject to **clause 9.4**) of the meeting will not have a casting vote.
- 8.20 Each of the Shareholders may each invite one person to attend any general meetings of the Shareholders and if so invited they may attend and speak (but not vote).

9. CONDUCT OF BCPP'S BUSINESS AND RESERVED MATTERS

- 9.1 Each of the Shareholders covenants with each other that so long as this Agreement remains in full force and effect it will:
- 9.1.1 act in good faith towards the other Shareholders to discharge its statutory obligations under Regulation 7(2)(d) of the Investment Regulations (to include its approach to pooling investments within its investment strategy statement) [primarily/exclusively] via the Business;
- 9.1.2 promptly notify the others of any matters of which it becomes aware which may affect BCPP or the Business;
- 9.1.3 generally do all things necessary to give effect to the terms of this Agreement (including, so far as it is legally able, exercising all voting rights and powers (direct or indirect)

available to it in relation to BCPP in a manner consistent with the terms of this Agreement);

- 9.1.4 use all reasonable endeavours to promote and develop the business of BCPP and any Subsidiaries to the best advantage in accordance with good business practice and the highest ethical standards and will not do or say anything which is intended to damage the goodwill or reputation of the Company or the ACS or any other investment vehicles operated by BCPP;
- 9.1.5 appoint a representative to act on behalf of that Shareholder at general meetings;
- 9.1.6 take all steps available to it to ensure that any meeting of the Board or any committee of the Board or any general meeting has the necessary quorum throughout;
- 9.1.7 exercise all voting and other rights and powers of control as are from time to time respectively available to it under this Agreement and the Articles and otherwise in relation to BCPP and its beneficial holdings in it and will execute and deliver such waivers and shall take or refrain from taking all other appropriate action within its power so as to procure that the provisions of this Agreement binding on it are duly observed and complied with and given full force and effect and all actions required by it are carried out promptly;
- 9.1.8 exercise all voting and other rights and powers respectively available to it to procure the alteration of the Articles to the extent necessary to permit the affairs of BCPP to be so operated (if it shall not be possible to secure the operation of this Agreement as set out in **clauses 9.1.1 to 9.1.7** by reason of any contrary provision of the Articles);
- 9.1.9 subject to the preceding provisions of this **clause 9.1**, observe the provisions of the Articles.
- 9.2 The undertakings of each Shareholder under this **clause 9** shall in each case be several so that each Shareholder shall only be liable for its own actions or failures to act in accordance with them, and none of them shall be liable for a failure to procure anything required by this **clause 9** where such failure is attributable to any action or failure to act by another Shareholder, but without prejudice to the liability of such other Shareholder.
- 9.3 Notwithstanding any other provision of this Agreement, should any Shareholder or any other person connected with it be in dispute with or have a conflict of interest with BCPP or any of its Subsidiaries, such Shareholder shall not do or omit to do anything which would or would be likely to prevent BCPP or any of its Subsidiaries from exercising or from deciding whether or not to exercise such rights as it may have against the Shareholder in dispute with it, or in respect of the matter in relation to which the conflict of interest arises. This **clause 9** is without prejudice to the provisions of **clause 26**.
- 9.4 If the Chairman of the Board is unable to attend any General Meeting of BCPP, another person shall be selected by a Shareholder Majority to chair such General Meeting in accordance with the Articles. The Chairman shall not have a casting vote at any general meeting of BCPP.
- 9.5 BCPP and the Shareholders agree to procure that an Annual General Meeting is held once each year with a view to approving the Annual Budget and any other resolutions to be proposed.

Structural Review

- 9.6 Each of the Shareholders agree that eighteen months from the date of this Agreement and thereafter on the anniversary of that date, they will procure that the Board will formally review and report on the corporate structure of BCPP and any of its Group Companies and the operation of their respective boards of directors and board committees so that each of the Shareholders can each consider any whether more efficient governance, any reduction of costs and/or improvement of performance is possible (and in the event that the Board resolves that changes are necessary and/or appropriate in its opinion at such time it will

provide full details of the Board's recommendations to each of the Shareholders for due Shareholder consideration and approval before effecting any such changes).

Reserved Matters

9.7 It is agreed by the parties set out in this **clause 9.7** below that BCPP will not, and will procure that any subsidiary of BCPP will not and the Shareholders will exercise their powers in relation to BCPP to procure that (save as contemplated in this Agreement) BCPP will not, and will use best endeavours to procure that any subsidiary of BCPP will not:

9.7.1 carry out any of the A List Reserved Matters without the prior written approval of all of the Shareholders;

9.7.2 or carry out any of the B List Reserved Matters without the prior approval of a Shareholder Majority.

10. DEADLOCK

10.1 For the purpose of this **clause 10** a "**Deadlock Situation**" means:

10.1.1 any of the Shareholder Reserved Matters set out in **clause 9.7** not being approved by the requisite unanimity or majority and no resolution being reached following referral by any of the Shareholders for dispute resolution in accordance with the procedure set out in **clause 11**;

10.1.2 any other matter notified to the Board in a Deadlock Notice to be a "Deadlock Situation" between any of the Shareholders; or

10.1.3 any dispute between any of the Shareholders as to either:

10.1.3.1 the amount of profit lawfully available for distribution in accordance with **clause 5.3**; or

10.1.3.2 the amount by which any distribution will be reduced in accordance with **clause 5.7**; or

10.1.4 any dispute between the Shareholders which cannot be resolved in accordance with **clause 11** (Dispute Resolution Procedure).

Deadlock Notice

10.2 Any Shareholder may serve a Deadlock Notice on BCPP and the other Shareholder(s) if a Deadlock Situation has arisen. The Deadlock Notice will contain reasonable details of the Deadlock Situation.

Business during a Deadlock Situation

10.3 If any Deadlock Situation arises and for so long as it continues, each Shareholder will use its best endeavours (in so far as it is able by the exercise of its rights and powers in relation

to BCPP) to procure that, notwithstanding the fact that there is a Deadlock Situation, BCPP can continue to carry on the Business in the ordinary course.

Deadlock resolution

- 10.4 If a Deadlock Notice has been served by any Shareholder confirming that a Deadlock Situation has arisen then each of the Shareholders concerned will use their best endeavours to resolve the Deadlock Situation within 10 Business Days after the Deadlock Date.

Referral to Shareholders

- 10.5 If a Deadlock Situation has arisen and it has not been resolved within 10 Business Days after the Deadlock Date then each Shareholder hereby agrees to refer the Deadlock Situation to the Section 151 Officer of each authority, as set out in **Schedule 4**.
- 10.6 The Section 151 Officer of each authority will have 30 days (or such other timeframe as is agreed between the Shareholders) to meet and resolve the Deadlock Situation as they determine appropriate.
- 10.7 If the Section 151 Officer of each of the relevant Shareholders do not resolve the Deadlock Situation within 30 days after the Deadlock Date:
- 10.7.1 the provisions of **clauses 10.8 to 10.12** shall apply; and
- 10.7.2 no decision relating to the Deadlock Situation can be taken or imposed on BCPP or any Shareholder until such later time (if any) as the Deadlock Situation has been resolved.

Referral to mediation process

- 10.8 Where the relevant Section 151 Officer referred to in **clause 10.5** of each authorities in dispute are unable to resolve such dispute, or where in the opinion of the Board such dispute would be more effectively resolved in another forum, the Board may refer such dispute to a mediator appointed by the relevant Shareholders until such dispute is resolved.
- 10.9 The Shareholders shall each bear their own costs incurred in relation to the mediation.

Referral to arbitration process

- 10.10 If the dispute is not resolved within 40 days of referral of the dispute to mediation any Shareholder involved in such dispute may (by service of a written notice on the other Shareholders and BCPP) refer the dispute to an arbitrator who shall be of not less than 10 years standing or qualification.
- 10.11 If the Shareholders cannot agree on an arbitrator within 15 days of service of the written notice on the other Shareholders and BCPP, the Board shall appoint an arbitrator nominated by the President for the time being of the Chartered Institute of Arbitrators in England and Wales.
- 10.12 The arbitrator's decision shall be final and binding on the Shareholders and BCPP. The costs of the arbitration shall be paid as directed by the arbitrator.

11. DISPUTE RESOLUTION PROCEDURE

- 11.1 The parties agree that in the event of any dispute between any of the Shareholders regarding any of the provisions of this Agreement, other than the matters set out in **clause 10** the Shareholders shall seek to resolve such dispute as follows:
- 11.1.1 any Shareholder may serve a Dispute Notice on BCPP and the other Shareholder(s) if that Shareholder believes that a dispute has arisen;
- 11.1.2 the Dispute Notice shall contain reasonable details of the dispute and the reasons why that Shareholder believes that a dispute has arisen; and

11.1.3 the Shareholders shall thereafter use best endeavours to resolve the dispute within 15 days of service of the Dispute Notice.

11.2 Where a dispute has not been resolved within 10 Business Days of service of the Dispute Notice in accordance with **clause 11.1** then any Shareholder shall be entitled to serve a Deadlock Notice on the BCPP and the provisions of **clause 10** (Deadlock) shall apply provided that **clause 10.4** shall not apply and for the purposes of **clause 10.5** it shall be assumed that the Deadlock Situation has not been resolved within 10 Business Days after the Deadlock Date.

12. ANTI-BRIBERY AND CORRUPTION

Compliance by BCPP

12.1 BCPP will, and the Shareholders will exercise all their powers in relation to BCPP to procure that BCPP will:

12.1.1 not do or omit to do any act or thing which constitutes or may constitute a breach of and/or an offence under Anti-Bribery Laws or would cause any Shareholder to be liable for an offence under any such laws;

12.1.2 within 60 days of Completion prepare and implement an appropriate Anti-Corruption Policy and have in place Adequate Procedures; and

12.1.3 comply with the Adequate Procedures and the Anti-Corruption Policy as amended from time to time.

Compliance by the Shareholders

12.2 Each Shareholder will not do or omit to do any act or thing which constitutes or may constitute a breach of and/or an offence under Anti-Bribery Laws and would cause the other Shareholder or BCPP to be liable for any offence under any such laws.

13. INFORMATION TO SHAREHOLDERS AND CONFIDENTIALITY

Provision of information to Shareholders

13.1 BCPP will, and the Shareholders will procure that BCPP will, supply the Shareholders with such financial information as is necessary to keep each Shareholder informed about how the business of BCPP is performing (including any other information relating to operational or risk matters) as determined by each Shareholder.

13.2 In particular BCPP will supply each Shareholder with:

13.2.1 quarterly management accounts and reports of BCPP containing such information (including as to whether the structure and operation of BCPP and any of its Group Companies and their respective boards of directors and board committees are operating effectively) as the Shareholders reasonably require from time to time, within 30 days of the end of the quarter to which they relate;

13.2.2 unaudited annual accounts of BCPP prepared in accordance with **clause 6.8**, within 30 days of the end of the Financial Year to which they relate;

13.2.3 a copy of the annual accounts after they have been audited and signed by the auditors within 6 months of the end of the Financial Year to which they relate;

13.2.4 the outcome of a structural review into the efficiency of the governance structure noted under **clause 9.6**; and

13.2.5 a report setting out the progress of the Company in relation to the objectives and/or milestones set out in the Strategic Plan and/or the Additional Strategic Plan.

- 13.3 BCPP will:
- 13.3.1 allow each Shareholder and their respective authorised Representatives access at all reasonable times to examine the books and records of BCPP and to discuss its affairs with the directors and senior management; and
- 13.3.2 provide, in accordance with the Local Authorities (Companies) Order 1995, each Shareholder and their respective authorised Representatives with such other information relating to the operations and management of BCPP as they may reasonably request to discharge such Representatives' duties. In determining the reasonableness of such requests, regard shall be had to the Shared Objectives set out in **Schedule 2** and the duties and responsibilities of the Shareholders.

Confidentiality

- 13.4 In this Agreement "**Confidential Information**" means, subject to **clause 13.10**:
- 13.4.1 any information (whether written, oral, in electronic form or in any other media) that is disclosed in connection with this Agreement and/or any Related Agreement by or on behalf of a party (the "**Discloser**") to another party (the "**Recipient**") or any of the Recipient's Representatives whether before, on or after the date of this Agreement and which relates (in whole or in part) to a party or its business and such information is of a material and commercially sensitive nature;
- 13.4.2 the terms of or subject matter of this Agreement or any Related Agreement or any discussions or documents in relation to them and in respect of such information each party will be deemed to be a Recipient where such information is of a material and commercially sensitive nature;
- 13.4.3 any information (whether written, oral, in electronic form or in any other media) about BCPP (including its customers, businesses, assets or affairs) which a Shareholder may have or acquire by virtue of the Shareholder's shareholding in BCPP and/or its right to appoint directors to the Board (in each case the Shareholder will be treated as a "**Recipient**").
- 13.5 Subject to **clauses 13.13 to 13.15**, the Recipient agrees with the Discloser that it will, and will procure that each of its Representatives will, subject to **clauses 13.6 and 13.10** and **clause 18**:
- 13.5.1 keep that Confidential Information secret and only disclose it in the manner and to the extent expressly permitted by this Agreement;
- 13.5.2 use that Confidential Information solely for the purpose of exercising or performing its rights and obligations under this Agreement or any Related Agreement and (where the Recipient is a Shareholder and the Confidential Information relates to BCPP) for the purpose of monitoring that Shareholder's investment in BCPP and compiling its own accounts and tax returns and complying with relevant regulatory requirements (each a "**Purpose**" and together the "**Purposes**");
- 13.5.3 only make such copies, summaries, extracts, transcripts, notes, reports, analyses and recordings (in any form of media) that use, contain or are based on or derived from Confidential Information as are reasonably necessary to fulfil each Purpose; and
- 13.5.4 keep that Confidential Information safe and secure and apply to it documentary and electronic security measures that match or exceed those the Recipient operates in relation to its own confidential information and will never exercise less than reasonable care.
- 13.6 The Recipient may disclose that Confidential Information to those of the Recipient's Representatives who need access to that Confidential Information to fulfil the Purposes provided that before any such disclosure:

- 13.6.1 the Recipient must make that Representative aware of the fact that the Confidential Information is confidential and the obligations of confidentiality contained in this Agreement; and
- 13.6.2 (unless the Representative is an employee, officer or elected Member of the Recipient) such Representative will enter into a confidentiality agreement with the Recipient on terms substantially equivalent to those contained in this Agreement.
- 13.7 If a Recipient makes any disclosure to one of its Representatives under **clause 13.6** the Recipient will:
- 13.7.1 take reasonable steps to procure that its Representative will not do or omit to do anything which if done or omitted to be done by the Recipient would constitute a breach of **clause 13** of this Agreement; and
- 13.7.2 be liable for the acts and omissions of its Representatives in respect of the relevant Confidential Information as if they were acts or omissions of the Recipient.
- 13.8 The Recipient of any Confidential Information may disclose that Confidential Information to the extent required by law or a court of competent jurisdiction or the rules of any applicable listing authority, securities exchange or governmental or regulatory body provided that the Recipient will where reasonably practicable and lawful:
- 13.8.1 notify the Discloser of that Confidential Information in writing in advance of such disclosure;
- 13.8.2 consult with the Discloser as to the content, purpose and means of disclosure; and
- 13.8.3 seek to make such disclosure subject to obligations of confidence consistent, so far as reasonably possible, with the terms of this Agreement.
- 13.9 No licence or right to use any patent, copyright, registered design, unregistered design, trademark, trade name or similar right or any right to use any Confidential Information or trade secrets is granted by any party to another party save as set out expressly in this Agreement.
- 13.10 **Clauses 13.4 to 13.9** will not extend to Confidential Information which:
- 13.10.1 at the time of disclosure was in the public domain or subsequently enters into the public domain other than as the direct or indirect result of a breach of this Agreement by the Recipient of that Confidential Information or any Recipient's Representative; or
- 13.10.2 the Recipient can prove to the reasonable satisfaction of the Discloser of that Confidential Information from written records or other substantive evidence:
- 13.10.2.1 has been received by the Recipient (or one of its Representatives) at any time from a third party who did not acquire it in confidence and who is free to make it available to the Recipient (or the relevant Representative); or
- 13.10.2.2 was independently developed by the Recipient (or one of the Recipient's Representatives) without any breach of this Agreement;
- 13.10.3 may need to be disclosed or released into the public domain by Shareholders or their representatives, given that such persons are or work for public and local authorities pursuant to relevant local authority legislation, rules and regulations.
- 13.11 **Clause 13.10.2** will not apply to the Confidential Information referred to in **clause 13.4.2**.

13.12 All obligations in **clauses 13.4 to 13.11** will survive termination of this Agreement without limit in time.

Freedom of Information

13.13 The parties each acknowledge and agree that:

13.13.1 each party may be regarded as a public authority for purposes of the FOIA Legislation and is therefore subject to the requirements of the FOIA Legislation, and may receive Requests for Information;

13.13.2 each Request Recipient shall be responsible for determining at its absolute discretion whether:

13.13.2.1 the information requested in the Request for Information is relevant to and in connection with the Agreement;

13.13.2.2 a Request for Information in connection with this Agreement is valid under the FOIA Legislation, as well as all other considerations relevant in the assessment of an information request under the FOIA Legislation, such as any considerations (as may be applicable) regarding the cost of complying with a request or any charges for responding to a request, whether the request is repeated, vexatious or manifestly unreasonable and any other relevant considerations;

13.13.3 any information sought (including Confidential Information) is subject to any exemption and/or exception from disclosure and/or publication in accordance with the relevant provisions of the FOIA Legislation or is to be disclosed in response to a Request for Information, and nothing in this Agreement shall remove or in any way limit that discretion of the Request Recipient; and

13.13.4 in some circumstances, consistent with the spirit of the Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part I of the Freedom of Information Act 2000, it may not be possible or reasonable for the Request Recipient to provide notice of any Request for Information or consider the comments of the other parties in relation to it, prior to responding to such a request. Reasonable steps should, where appropriate, be taken to give other parties advance notice, or failing that, to draw it to such parties' attention afterwards.

13.14 The other parties agree to reasonably assist and cooperate with the Request Recipient (without charge), bearing in mind always the time limits imposed under the FOIA Legislation, as notified to them by the Request Recipient, to enable the Request Recipient to comply with its obligations under the FOIA Legislation.

13.15 Subject to **clauses 13.13.2 and 13.13.4**, where the Request Recipient receives a Request for Information:

13.15.1 the Request Recipient will notify the party whose Confidential Information is the subject of the Request for Information (the "**Affected Party**") as soon as reasonably possible, confirming what Confidential Information is being requested and disclosing the Request for Information to each Affected Party; and

13.15.2 the Request Recipient agrees to discuss in good faith with the Affected Party as to whether a relevant exemption/exception to the requirement to disclose the relevant Confidential Information under the FOIA Legislation might be applicable, provided that the Affected Party makes itself available for such discussions within a reasonable time (and in any event within five Business Days of being notified of the Request for Information) so that the Request Recipient has a reasonable opportunity to consider the Affected Party's comments prior to the deadline for the Request Recipient to respond to the Request for Information.

13.16 Where a party receives a Request for Information and another party holds information or records on behalf of that party, upon request, such other party agrees to provide the first party with a copy of all such information related to the request for information, in the form that the first party reasonably requires within five Business Days (or such other period as the first party may reasonably specify) of the first party's request.

14. TRANSFER OF SHARES

Restrictions on transfer

14.1 Save as set out in this **clause 14**, no Shareholder may transfer any Shares other than pursuant to a purchase by BCPP of such Shares in accordance with the Articles, this Agreement and the Companies Act 2006, as appropriate.

14.2 Save as contemplated in this Agreement, each of the Shareholders undertakes that it will not create or permit to exist any Encumbrance over or in respect of all or any part of its Shares nor assign or otherwise purport to deal with its beneficial ownership in, or any right relating to, its Shares separate from the legal ownership of such Shares.

14.3 In the event that two or more Shareholders combine, such combined entity may only hold one (1) A Share following such combination and any other A Shares held by such combined entity or its separate, component predecessor Shareholders shall be purchased by BCPP at par value, subject to and in accordance with the Companies Act 2006, and such combined entity shall co-operate with BCPP to effect such purchase.

14.4 In the event that BCPP is incapable of implementing a purchase of its own Shares as anticipated by either **clause 14.3** or **clause 15.3**, any Shareholder that would otherwise be required to sell its Share(s) back to BCPP agrees that (if required to do so by all of the other Shareholders) it shall not exercise any rights to vote, accept any dividend [that has not been declared] nor exercise any other rights attached to such Share(s) until such time as BCPP is able to and does implement the proposed purchase of the relevant Share(s).

Exiting Shareholders

14.5 In the event that a Shareholder wishes to cease to be a Shareholder in the Company, a Shareholder shall be required to serve a written notice on the Board of BCPP at least 12 months prior to the proposed exit date, which must be 31 March in any year unless such other date is approved by the Board and all of the other Shareholders (the "**Withdrawal Date**").

14.6 In the event of a Shareholder ceasing to be a Shareholder (an "**Exiting Shareholder**"), the Exiting Shareholder shall pay to BCPP, in addition to any monies owing by the Exiting Shareholder to BCPP as at the Withdrawal Date, such sum as represents the contribution to the capitalised value of that proportion of the continuing and outstanding liabilities of BCPP which have been incurred before the Withdrawal Date and which is properly attributable to the Exiting Shareholder's share membership of BCPP.

14.7 Thereafter, save where any defaulting Shareholder is required to cease being a Shareholder pursuant to **clause 15** (in which event the provisions of **clause 15.3** shall apply), on the Withdrawal Date:

14.7.1 **A Shares:** the A Shares held by the Exiting Shareholder shall be either (as agreed by the Exiting Shareholder and BCPP):

14.7.1.1 purchased by BCPP at Fair Market Value in accordance with and subject always to Part 18 of the 2006 Act; or

14.7.1.2 (without prejudice to the provisions of **clause 9.7 (Reserved Matters)** and **Schedule 1**) transferred to a new Shareholder at Fair Market Value,

within 3 months of the Withdrawal Date, the proceeds of such sale or transfer shall be paid to the Existing Shareholder (subject to the Company having sufficient reserves to do so and if it does not, at such date when it next has sufficient distributable reserves).

For the avoidance of doubt, if BCPP is unable to purchase the A Shares (as a result of insufficient distributable reserves and/or any other legal restriction in Part 18 of the 2006 Act) then BCPP shall not be under any obligation to purchase any such A Shares until such later time as the Board determines that BCPP is in a position to complete the proposed share buyback.

- 14.7.2 **B Shares:** the rights attached to B Shares in the event of a shareholder withdrawing are set out in **clause 4** above and **Article 27** of the Articles. Subject to those provisions, the proceeds of such sale or transfer shall be paid to the Exiting Shareholder within 3 months of the Withdrawal Date (subject to the Company having sufficient reserves to do so and if it does not, at such date when it next has sufficient distributable reserves).

Deed of Adherence

- 14.8 If a Shareholder transfers its Shares in accordance with this Agreement to any person other than any Exiting Shareholder (including to any Permitted Transferee) it will procure that the transferee (including any Permitted Transferee) enters into a deed of adherence substantially in the form set out in **Schedule 3**.

Registration of Transfers

- 14.9 The directors may refuse to register the transfer of any Share unless it is made in compliance with this **clause 14** and may request such evidence as the directors may reasonably think fit regarding any matter which they consider relevant to establish whether such transfer is permitted. If the evidence is not provided to the reasonable satisfaction of the directors within a reasonable time after it has been requested, or if in the reasonable opinion of the directors the information or evidence is false in any material respect, the directors may refuse to register the relevant transfer.

15. CONSEQUENCES OF BREACH

- 15.1 (Without prejudice always to the right of any Shareholder to make a claim against any other Shareholder for breach of the terms of this Agreement), a Shareholder shall be deemed to have committed an act of default (in this **clause 15** called a "**Default**") if:
- 15.1.1 it commits a material breach of its obligations under this Agreement which cannot effectively be remedied or which the Shareholder fails effectively to remedy within 15 Business Days of receipt of a notice in writing from a majority of the Shareholders or BCPP specifying the breach and requiring remedy; or
- 15.1.2 it fails to participate in two consecutive duly convened general meetings (without good reason); or
- 15.1.3 any of the events contained in **Article 35** (*Deemed transfers to BCPP*) occur in respect of such Shareholder.
- 15.2 For the purposes of **clause 15.1.1** the expression "**material breach**" means a breach of any of the terms of this Agreement which is serious in the widest sense of having a serious effect on the benefit which any other Shareholder would otherwise derive from this Agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.
- 15.3 if a Shareholder (in this **clause 15** called a "**Defaulting Shareholder**") is deemed to have committed a Default, a majority of each of the other Shareholders (having considered all relevant factors including, without limitation, any FCA requirements, regulatory capital requirements and all Procurement Legislation) may at any time within 30 Business Days of becoming aware of the Default serve notice in writing (a "**Default Notice**") on the

Defaulting Shareholder in which event the Defaulting Shareholder shall be required to sell its A Share back to BCPP at par value. **Clause 14.7.2** shall then apply to the redemption of the Defaulting Shareholder's B Shares. In the event of any failure by the Defaulting Shareholder to co-operate with BCPP to effect such purchase, the Defaulting Shareholder hereby irrevocably and unconditionally appoints BCPP as its attorney for the purposes of executing such documents as are necessary to effect such purchase.

16. **TERMINATION**

16.1 This Agreement shall terminate (the "**Termination Date**") when either:

16.1.1 all the Shareholders agree in writing to its termination; or

16.1.2 BCPP passes a resolution for its winding up, is subject to an order or notice issued by a court or other authority of competent jurisdiction for its winding up or striking off or has an administrator appointed in respect of it; or

16.1.3 such number of Shareholders decide to withdraw from BCPP that a majority of the remaining Shareholders (after any such withdrawals) inform BCPP in writing (including in electronic form) that they are no longer able or willing to maintain BCPP's Regulatory Capital Requirements; or

16.1.4 the Board determines, acting reasonably, that the business of BCPP may not lawfully be continued.

17. **CONSEQUENCES OF TERMINATION**

Rights and Obligations

17.1 Following the Termination Date:

17.1.1 the following will continue in force: **clauses 13.4 to 13.12**, together with any other terms of this Agreement which expressly or impliedly continue to have effect after expiry or termination of this Agreement; and

17.1.2 all other rights and obligations will immediately cease but without prejudice to any rights, obligations, claims (including without claims for damages for breach) and liabilities which have accrued before the Termination Date.

17.2 As soon as practicable after the Termination Date and in any event within 20 Business Days of the Termination Date, each Shareholder will, subject to the exception set out in **clause 17.3**,

17.2.1 return to the other Shareholders all Confidential Information of the other Shareholders (including all copies and extracts) in its possession or control;

17.2.2 return to BCPP all Confidential Information of BCPP (including all copies and extracts) in its possession or control;

17.2.3 destroy or permanently erase (if technically feasible) all documents and all records (in any media) created by it or on its behalf that use, concern or are based on any Confidential Information of the other Shareholder or BCPP ("**Records**"); and

17.2.4 cease to use the Confidential Information of the other Shareholder or BCPP.

17.3 Each Shareholder may retain any Confidential Information of the other Shareholder and/or BCPP and/or Records which it has to keep to comply with any legal or regulatory requirement or which it is required to retain for insurance, accounting or taxation purposes. The provisions of **clause 13** will continue to apply to retained Confidential Information and Records, which may only be used for the purposes for which they have been retained.

17.4 Each Shareholder will, upon request, confirm to the other Shareholders and BCPP in writing that it has complied with **clauses 17.2** and **17.3**.

18. **NEW SHAREHOLDERS**

In the event that the Board or any of the Shareholders proposes that an additional third party shareholder (which shall be another LGPS administering authority) should subscribe for new shares in BCPP, all of the parties hereby agree and undertake to each other that no such person shall be admitted as a new Shareholder of BCPP without the prior written consent of all of the Shareholders.

19. **FURTHER ASSURANCE**

Each Shareholder will at its own cost execute all such documents and do all such acts and things as any of the other Shareholders may reasonably request from time to time to give each of the Shareholders full effect to the terms of this Agreement (including the rights given under it) and the transactions contemplated by it.

20. **INADEQUACY OF DAMAGES**

Each Shareholder acknowledges and agrees that damages alone would not be an adequate remedy for breach of the provisions of this Agreement. Accordingly, it agrees that any of the other Shareholders and/or BCPP will be entitled, without having to prove special damages, to equitable relief (including injunction and specific performance) for any breach or threatened breach of such clauses by it.

21. **NO PARTNERSHIP OR AGENCY**

Nothing in this Agreement and no action taken by the parties in connection with it will create a partnership between the parties or give any party authority to act as the agent of or in the name of or on behalf of another party or to bind another party or to hold itself out as being entitled to do so.

22. **INDEPENDENT CONTRACTORS**

Each party agrees that it is an independent contractor and is entering into this Agreement as principal and not as agent for or for the benefit of any other person.

23. **WAIVER**

A delay in exercising or failure to exercise a right or remedy under or in connection with this Agreement will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor will the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the party giving it and only in the circumstances and for the purpose for which it was given and will not constitute a waiver of any other right, remedy, breach or default.

24. **VARIATION/AMENDMENT**

No variation or amendment to this Agreement will be effective unless it is in writing and signed by a duly authorised representative on behalf of all of the parties provided that no variation or amendment will or may invalidate the continued application to BCPP of the "Teckal exemption" codified under Regulation 12 of the Public Contracts Regulations 2015.

25. **CONFLICT WITH ARTICLES**

Where the Articles conflict with this Agreement, the Shareholders agree that this Agreement will prevail, to the intent that they will if necessary procure the amendment of the Articles to the extent required to enable BCPP and its affairs to be administered in accordance with this Agreement.

26. **CLAIMS BY OR AGAINST SHAREHOLDERS**

26.1 Where any of the Shareholders asserts any claim against BCPP (the "**Claiming Shareholder**"), the other Shareholders shall be entitled to defend such claim in the name and at the expense of BCPP.

26.2 Where any other provision of this Agreement or of the Articles conflicts with the provisions of this clause, this clause shall prevail.

27. **NOTICE**

27.1 Any notice or other communication given under or in connection with this Agreement will be in writing, marked for the attention of the specified representative of the party to be given the notice or communication and:

27.1.1 sent to that party's address by pre-paid first class post or mail delivery service providing guaranteed next working day delivery; or

27.1.2 delivered to or left at that party's address (but not, in either case, by one of the methods set out in **clause 27.1.1**).

27.2 The address and representative for each party are set out below and may be changed by that party giving at least 10 Business Days' notice in accordance with this **clause 27**.

Bedford Borough Council

Borough Hall, Cauldwell Street, Bedford, MK42 9AP

For the attention of: [•]

Cumbria County Council

The Courts, Carlisle, Cumbria, CA3 8NA

For the attention of: [•]

Durham County Council

County Hall, Durham, DH1 5UE

For the attention of: [•]

The East Riding of Yorkshire Council

County Hall, Beverley HU17 9BA

For the attention of: [Director of Corporate Resources]

Lincolnshire County Council

County Offices, Newland, Lincoln, LN1 1YL

For the attention of: [•]

Middlesbrough Borough Council

PO Box 340, Middlesbrough, TS1 2XP

For the attention of: [•]

Northumberland County Council

County Hall, Morpeth, Northumberland, NE61 2EF

For the attention of: [•]

North Yorkshire County Council

County Hall, Northallerton, North Yorkshire, DL7 8AL

For the attention of: [•]

The Council of the Borough of South Tyneside

Town Hall and Civic Offices, Westoe Road, South Shields, Tyne and Wear, NE33 2RL

For the attention of: [•]

South Yorkshire Pensions Authority

18 Regent Street, Barnsley, S70 2HG

For the attention of: [•]

Surrey County Council

County Hall, Penrhyn Road, Kingston upon Thames, KT1 2DN

For the attention of: [•]

Warwickshire County Council

PO Box 3, Shire Hall, Warwick, CV34 4RL

For the attention of: [•]

Border to Coast Pensions Pool Limited

INSERT

For the attention of: [•]

27.3 Any notice or communication given in accordance with **clause 27.1** will be deemed to have been served:

27.3.1 if given as set out in **clause 27.1.1**, at 9.00am on the 2nd Business Day after the date of posting; and

27.3.2 if given as set out in **clause 27.1.2**, at the time the notice or communication is delivered to or left at that party's address,

provided that if a notice or communication is deemed to be served before 9.00am on a Business Day it will be deemed to be served at 9.00am on that Business Day and if it is deemed to be served on a day which is not a Business Day or after 5.00pm on a Business Day it will be deemed to be served at 9.00am on the immediately following Business Day.

27.4 For the purposes only of this **clause 27**, references to time of day are to the time of day at the address of the recipient parties referred to in **clause 27.2**.

27.5 To prove service of a notice or communication it will be sufficient to prove that the provisions of **clause 27.1** were complied with.

27.6 This **clause 27** is subject to the provisions of the Companies Act 2006, the Articles and this Agreement regulating the giving of notices in relation to meetings of the directors or general meetings of the Shareholders.

28. **UNLAWFUL FETTER ON THE SHAREHOLDERS' STATUTORY POWERS**

Notwithstanding any other provision contained in this Agreement the Shareholders and BCPP shall not be bound by any provision of this Agreement to the extent that it would constitute an unlawful fetter on any statutory power of any of the Shareholders, but any such provision shall remain valid and binding as regards all other parties to which it is expressed to apply.

29. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which will constitute an original but which will together constitute one agreement.

30. **COSTS AND EXPENSES**

Each party will bear its own costs and expenses incurred in connection with or arising out of the negotiation, preparation and execution of this Agreement.

31. **SEVERANCE**

If any term of this Agreement is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from this Agreement and this will not affect the remainder of this Agreement which will continue in full force and effect. In this event the parties will agree a valid and enforceable term to replace the severed term which, to the maximum extent possible, achieves the parties' original commercial intention and has the same economic effect as the severed term.

32. **ENTIRE AGREEMENT**

32.1 This Agreement and the Related Agreements constitute the entire agreement between the parties and supersede any prior agreement or arrangement in respect of their subject matter and:

32.1.1 no party has entered into this Agreement in reliance upon, and it will have no remedy in respect of, any misrepresentation, representation or statement (whether made by the other party or any other person and whether made to the first party or any other person) which is not expressly set out in this Agreement;

32.1.2 no party has entered into the Related Agreements in reliance upon, and it will have no remedy in respect of, any misrepresentation, representation or statement (whether made by the other party or any other person and whether made to the first party or any other person) which is not expressly set out in those Related Agreements; and

32.1.3 nothing in this **clause 32** will be interpreted or construed as limiting or excluding the liability of any person for fraud or fraudulent misrepresentation.

33. **ASSIGNMENT**

Save as provided for by this Agreement or by the Articles, no Shareholder nor BCPP will be entitled to assign, transfer, charge, hold on trust for any person or deal in any other manner with any of its rights under this Agreement.

34. **RIGHTS OF THIRD PARTIES**

The parties do not intend that any term of this Agreement will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person.

35. **GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it will be governed by the law of England and Wales.

36. **JURISDICTION**

Each party agrees that the courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with this Agreement (including in relation to any non-contractual obligations).

This document is executed as a **deed** and **delivered** on the date stated at the beginning of this Agreement.

DRAFT BCPP SHAREHOLDERS AGREEMENT

SCHEDULE 1

Reserved Matters

PART A – Matters for approval by all of the Shareholders (unanimous consent required)

1. subject to FCA rules, extend the activities of the Company outside the scope of the Business or close down any operation of the Business;
2. subject to FCA rules, give any guarantee or indemnity outside the ordinary course of the Business to secure the liabilities of any person or assume the obligations of any person (other than a wholly owned subsidiary) (e.g. guaranteeing a lease that does not relate to the Business of the Company);
3. subject to FCA rules, enter into or vary any contracts or arrangements with any of the Shareholders or directors (other than service agreements and letters of appointment as directors) or any person with whom any shareholder or director is connected (whether as director, consultant, shareholder or otherwise) (e.g. any contract which could give preferential rights to a specific shareholder);
4. enter into any agreement not in the ordinary course of the Business and/or which is not on an arm's length basis;
5. enter into or vary any agreement for the provision of consultancy, management or other services by any person which will, or is likely to result in, the Company being managed otherwise than by its directors;
6. change the name of the Company;
7. pass a resolution or present a petition to wind up the Company or apply for an administration order or any order having similar effect in a different jurisdiction in relation to the Company unless in any case the Company is at the relevant time unable to pay its debts within the meaning of section 123 Insolvency Act 1986;
8. reduce or cancel any share capital of the Company, purchase its own shares, hold any shares in treasury, allot or agree to allot, whether actually or contingently, any of the share capital of the Company or any security of the Company convertible into share capital, grant any options or other rights to subscribe for or to convert any security into shares of the Company or alter the classification of any part of the share capital of the Company (in each case other than as expressly permitted by this Agreement and/or the Articles where no prior consent shall be required including, without limitation, pursuant to either **clause 4 (Finance & Regulatory Capital)** and/or **clause 15 (Consequences of Breach)** and/or **Article 26 of the Articles (Issue of Shares and Pre-Emption Rights)**);
9. other than as expressly permitted by this Agreement and/or the Articles, redeem or buy any existing Shares or otherwise reorganise the share capital of the Company;
10. admit any person as a member of the Company or an investor in the BCPP pool;
11. enter into any partnership, joint venture or profit sharing arrangement with any person (excluding entering into any investment or investment vehicle);
12. alter any of the provisions of the Articles or any of the rights attaching to the Shares;
13. amalgamate or merge with any other company or business undertaking;
14. sell, lease (as lessor), license (as licensor), transfer or otherwise dispose of any of its material assets otherwise than in the ordinary course of the Business;
15. the initial appointment of any director of the Company in accordance with the Companies Act 2006 including, for the avoidance of doubt, the Chairman;

16. commence, settle or defend any claim, proceedings or other litigation brought by or against BCPP, except (i) in relation to debt collection (not exceeding £500,000) in the ordinary course of the Business and (ii) in relation to any investment related claims or proceedings relevant to the ACS or other collective investment vehicles;
17. take out any third party loan(s) in respect of BCPP which (in aggregate) exceed the sum of £5,000,000;
18. form any subsidiary of BCPP, or acquire any shares in any other company, whether through subscription or transfer, such that the company concerned becomes a subsidiary of BCPP;
19. determine the composition, governance arrangements and limits of authority of any and all subsidiaries of BCPP;
20. approving and adopting a Subsequent Strategic Plan (including the Annual Budget) and/or amending any such Plan; and
21. make any capitalisation, repayment or other distribution of any amount standing to the credit of any reserve of the Company or pay or declare any dividend or other distribution to the Shareholders save that no consent will be required to pay the B Share Dividend.

PART B – Matters for approval by a Shareholder Majority only

1. enter into or materially vary any licence or other similar agreement relating to intellectual property to be licensed to or by the Company which is otherwise than in the ordinary course of the Business;
2. appoint or remove the auditors of the Company;
3. alter the Company's accounting reference date;
4. make any significant change to any of the Company's accounting or reporting practices other than conforming with any changes made to the accounting standards adopted by the Company;
5. approve the annual accounts of the Company;
6. determine the amount of, or any increase in, remuneration payable to any directors from time to time;
7. establish or amend any pension scheme (i.e. for employees of the Company);
8. subject to FCA rules, enter into any agency, distribution or similar agreement which confers or is expressed to confer any element of exclusivity as regards any goods or services the subject of such agreement or as to the area of the agreement or vary such an agreement to include any such exclusivity;
9. incur in any financial year any item or series of items of capital expenditure including finance leases (but excluding operating leases) of more than £5,000,000 (unless provided for in the Initial Strategic Plan or any Subsequent Strategic Plan);
10. enter into or vary any operating lease either as lessor or lessee, of any plant, property or equipment of a duration exceeding 5 years or involving aggregate premium and annual rental payments in excess of £100,000 (unless provided for in the Initial Strategic Plan or any Subsequent Strategic Plan);
11. adoption of (and any amendment of) any written conflicts policy;
12. approval of any conflict or potential conflict of interest any director may have which would preclude him or her from being included in the quorum of any meeting of the directors;
13. appointment of any subsequent director, any alternate director (who is not at the time a director of the Company) and including, for the avoidance of doubt any subsequent Chairman in accordance with the Companies Act 2006 or otherwise; and
14. removal of any director and, for the avoidance of doubt, the Chairman in accordance with the Companies Act 2006 or otherwise.

SCHEDULE 2

Shared Objectives

1. To provide the administering authorities a compliant and effective means of meeting the government's requirement for the pooling of LGPS funds and thereby to achieve scale, improved governance, enhanced capability and capacity to deliver infrastructure investment and fees savings and to comply with all governance requirements placed on the investment function of LGPS administering authorities.
2. To operate with a common or like-minded responsible investor/Shareholder voting policy which focuses on securing high levels of corporate governance by the companies invested in.
3. To share legal ownership, control and decisive influence over BCPP and to allocate the associated costs of operating BCPP between the administering authorities in an equitable manner.

SCHEDULE 3

Deed of Adherence

This Agreement is made on

20[●●]

BETWEEN

- (1) **BCPP Limited**, a company incorporated in England and Wales (registered number [NUMBER] whose registered office is at [ADDRESS] ("**the Company**");
- (2) The persons whose names and addresses are set out in the Schedule to this Agreement ("**the Existing Shareholders**"); and
- (3) [NAME OF NEW SHAREHOLDER] whose registered office is at [ADDRESS] ("**the New Shareholder**").

BACKGROUND

This Agreement is supplemental to a shareholders' agreement dated [DATE] and entered into by [DETAILS] ("**the Shareholders' Agreement**").

The New Shareholder wishes to [subscribe for] [acquire] [A Ordinary Shares] [and] [B Ordinary Shares].

OPERATIVE PROVISIONS

1. The definitions contained in the Shareholders' Agreement will have the same meanings in this Agreement save where the context otherwise requires.
2. The New Shareholder confirms (subject to paragraph 3 below) that it has been given and read a copy of the Shareholders' Agreement and covenants with each person named in the Schedule to this Agreement to perform and be bound with effect from the date of this Agreement by all the terms of the Shareholders' Agreement as if the New Shareholder was a party to the Shareholders' Agreement as a Shareholder. By executing this Agreement all parties confirm that it is the intention that the New Shareholder shall be bound by and entitled to the benefit of the provisions of the Shareholders' Agreement as if it was a party to the Shareholders' Agreement and named in the Shareholders' Agreement as a Shareholder.
3. This Agreement may be executed in any number of counterparts, each of which when executed will be an original but together will constitute one and the same agreement.
4. This Agreement will be governed by and construed in accordance with the laws of England and Wales.
5. This document is executed as a deed and delivered on the date stated at the beginning of this Deed.

SCHEDULE

The [Existing] Shareholders

SCHEDULE 4

Conflicts

[David Hayward to list the relevant 151 Officer (i.e. title of person) for each authority to deal with disputes in accordance with clause 10.5.]

EXECUTED AS A DEED

(but not delivered until the date hereof)
by affixing the Common Seal of:
BEDFORD BOROUGH COUNCIL
in the presence of:

Authorised Officer

EXECUTED AS A DEED

(but not delivered until the date hereof)
by affixing the Common Seal of:
CUMBRIA COUNTY COUNCIL
in the presence of:

Authorised Officer

EXECUTED AS A DEED

(but not delivered until the date hereof)
by affixing the Common Seal of:
THE COUNTY COUNCIL OF DURHAM
in the presence of:

Authorised Sealing Officer
(A permanent Officer of the County Council)

EXECUTED AS A DEED

(but not delivered until the date hereof)
by affixing the Common Seal of:
THE EAST RIDING OF YORKSHIRE COUNCIL
in the presence of:

Authorised Officer

EXECUTED AS A DEED

(but not delivered until the date hereof)
by affixing the Common Seal of:
LINCOLNSHIRE COUNTY COUNCIL
in the presence of:

Authorised Officer

EXECUTED AS A DEED

(but not delivered until the date hereof)
by affixing the Common Seal of:
MIDDLESBROUGH BOROUGH COUNCIL
in the presence of:

Authorised Officer

EXECUTED AS A DEED

(but not delivered until the date hereof)
by affixing the Common Seal of:
NORTHUMBERLAND COUNTY COUNCIL
in the presence of:

Authorised Officer

EXECUTED AS A DEED

(but not delivered until the date hereof)
by affixing the Common Seal of:
NORTH YORKSHIRE COUNTY COUNCIL
in the presence of:

Authorised Officer

EXECUTED AS A DEED

(but not delivered until the date hereof)

by affixing the Common Seal of:

THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE

in the presence of:

Authorised Officer

EXECUTED AS A DEED

(but not delivered until the date hereof)

by affixing the Common Seal of:

SOUTH YORKSHIRE PENSIONS AUTHORITY

in the presence of:

Authorised Officer

EXECUTED AS A DEED

(but not delivered until the date hereof)

by affixing the Common Seal of:

SURREY COUNTY COUNCIL

in the presence of:

Authorised Officer

EXECUTED AS A DEED

(but not delivered until the date hereof)

by affixing the Common Seal of:

WARWICKSHIRE COUNTY COUNCIL

in the presence of:

Authorised Officer

EXECUTED as a deed (but not delivered until dated) by **BORDER TO COAST PENSIONS PARTNERSHIP LIMITED** acting by a director

Director signature:

Name:

in the presence of:

Witness signature:

Name:

Address:

.....

Occupation: