



Local Authority Loan Agreement

East Sussex County Council

731447v1/cdo/imp/A41

DMS#968275 v.2

THIS AGREEMENT is made between:-

- (1) East Sussex County Council; and
- (2) The Royal Bank of Scotland plc

It is agreed as follows:-

1 DEFINITIONS

1.1 Definitions

"Backstop Drawdown Date" means the backstop drawdown date specified in Schedule 1;

"Bank" means The Royal Bank of Scotland plc and its successors and assigns;

"Borrower" means East Sussex County Council;

"Breakage Loss" means the amount the Bank reasonably determines in good faith to be its total loss, cost, liability or expense resulting from or attributable to any early repayment or recovery of a Loan in whole or in part (other than as permitted by Clause 7.1) or the Bank declaring the Loan repayable following an Event of Default and calculated by reference to the loss of the right to receive interest for the balance of the Term and/or any agreements or arrangements (whether entered into actually with third parties or established internally as between different divisions of the Bank) entered into, recorded or booked in order to manage or protect the Bank in respect of the risk of movements in interest rates.

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London;

"Event of Default" means the event specified in Clause 11;

"Interest Period" means each period for the calculation of interest for the purpose of Clause 6;

"LIBOR" and **"LIBOR Related Rate"** have the meaning ascribed to them in Schedule 2

"Loan" means the loan specified in the Schedule 1 or, where applicable, any tranche of it;

"Option Date" means the applicable date specified in the Schedule 1;

"Replacement Rate" means each rate of interest agreed between the Bank and the Borrower to apply with effect from an Option Date in place of any previous rate of interest.

"Term" means the term specified in Schedule 1.

2 THE LOAN

This Agreement records the terms on which the Bank agreed, on the date set out in the Schedule, to make a Loan available to the Borrower.

3 CONDITIONS PRECEDENT

The Loan may not be drawn until the Bank has received the duplicate of this Agreement signed on behalf of the Borrower.

4 DRAWING OF THE LOAN

- 4.1 The Loan must be drawn down in full on or by the Backstop Drawdown Date. The Borrower shall give the Bank 3 Business Days notice if it wishes to drawdown prior to the Backstop Drawdown Date. Prior to the Backstop Drawdown Date the Loan may be drawn in tranches and each tranche must be for an amount of not less than £5,000,000. Tranches, when drawn, will be consolidated

with previous tranches in one Loan account.

- 4.2 As interest on the Loan will be charged during the Term at the rates specified in Schedule 1 or any agreed Replacement Rates, formal arrangements have been made by the Bank with its Global Banking and Markets Department to book the Loan.

Accordingly, if the Borrower does not draw (or if the Borrower gives the Bank notice that it does not intend to draw) the Loan in full on or by the Backstop Drawdown Date, it will be an Event of Default and the Borrower shall pay to the Bank the Breakage Loss in accordance with Clause 8

5 INTEREST

- 5.1 During the First Period specified in Schedule 1 interest on the Loan shall be charged at the rate(s) stated in Schedule 1. For the balance of the Term interest will be charged at the rate(s) stated in Schedule 1 or any agreed Replacement Rates.
- 5.2 The Bank may give the Borrower 2 Business Days notice prior to each Option Date if the Bank elects to change the rate of interest. At any time before 3pm on the relevant Option Date the Bank and the Borrower may agree a Replacement Rate. The Replacement Rate so agreed will be payable by the Borrower from the Option Date. The Bank will notify the Borrower of the Replacement Rate so agreed.
- 5.3 If a Replacement Rate is not agreed the Borrower must repay the Loan with accrued interest on the relevant Option Date but without being liable for any Breakage Loss.
- 5.4 Interest on the Loan shall be calculated on a daily basis and assuming a year of 365 days and shall be paid on the last day of each Interest Period and on final repayment of the Loan. Any interest unpaid when payable shall be compounded.

6 INTEREST PERIODS

The first Interest Period for the Loan shall begin on the Backstop Drawdown Date (or if the Loan or any part is drawn, the date the Loan or the first tranche is drawn) and each subsequent Interest Period shall begin on the expiry of the preceding Interest Period provided that if a tranche is drawn during an Interest Period the first Interest Period in respect of that tranche shall end on the last day of the current Interest Period. Subject to Clause 14.1 each Interest Period shall be for 3 months (or such shorter period to ensure that the expiry of an Interest Period coincides with the Backstop Drawdown Date). If the Loan is repaid in full the current Interest Period will end on the date of such repayment.

7 REPAYMENT

- 7.1 The Borrower shall repay the Loan in full with accrued interest on the expiry of the Term or on any Option Date where the Bank has served notice on the Borrower to change the interest rate and no Replacement Rate has been agreed.
- 7.2 The Borrower shall give the Bank 3 Business Days notice if it wishes to make a repayment at any other time. Any amount repaid may not be redrawn.

8 BREAKAGE LOSS

- 8.1 The Borrower acknowledges that the Bank will enter into, record or book agreements or arrangements on the assumption that its sources of funds will include payments of interest under this Agreement. Those agreements or arrangements may be made with third parties or may be internal agreements or arrangements made between different divisions of the Bank, in reliance on which the Bank may then enter into other agreements or arrangements with third parties.

Accordingly, the Borrower acknowledges that if the Borrower makes any early repayment of the Loan (whether as required by Clause 9.2 or as permitted by Clause 7.2 or otherwise) or the Borrower commits an Event of Default by failing to draw or by giving notice that it does not intend to draw the Loan in full on or by the Backstop Drawdown Date or the Bank declares the Loan repayable following an Event of Default, the Borrower will be required to pay any Breakage Loss

the Bank suffers. Breakage Loss is not payable if repayment is made under Clause 7.1.

8.2 The Borrower acknowledges:

- (a) that, prior to agreeing with the Bank (on the date set out in the Schedule) to draw the Loan, the Bank explained the risks described in Clause 8.1 to the Borrower and supplied examples of the possible calculations that may arise in such event;
- (b) that such examples were calculated on the basis of assumptions as to movements in interest rates as explained to the Borrower, but that the actual Breakage Loss may be greater, depending on financial market conditions; and
- (c) that it is possible in some financial market conditions for the amount of the Breakage Loss to equal or exceed the Loan.

8.3 If the Loan is not drawn in full on or by the Backstop Drawdown Date is repaid in whole or in part (other than as stated in Clause 7.1) (either being "early repayment") (including any repayment following the occurrence of an Event of Default) the Borrower shall pay to the Bank within 7 days of demand, a sum of money representing the Breakage Loss in respect of the failure to draw or the early repayment.

8.4 The Bank and the Borrower agree that the Bank will calculate the Breakage Loss by utilising information consisting of relevant market data in the relevant market which may be obtained from a source within the Bank or any third party including, without limitation, relevant rates, prices, yields, yield curves, volatilities, spreads and correlations and where available the systems and internal models used generally by the Bank for that purpose.

8.5 If the Borrower wishes to make an early repayment, it may request a statement from the Bank setting out an estimate (which estimate shall not be binding on the Bank) of the amount of the Breakage Loss in respect of the proposed early repayment and showing in reasonable detail how such amount was calculated.

8.6 A notice signed by the Bank certifying the amount of Breakage Loss due shall, in the absence of manifest error, be conclusive and binding on the Borrower.

9 PAYMENTS

9.1 All payments to be made by the Borrower under this Agreement shall be made to the Bank on the due date.

9.2 All payments to the Bank must be made without set-off and without any deduction on account of any tax, duty or other charge. If the Borrower is required by law to make any such deduction or withholding the Borrower shall immediately repay the Loan in full with accrued interest. In that event the Bank may suffer Breakage Loss which the Borrower will be required to pay.

10 UNDERTAKINGS

The Borrower undertakes that:-

Financial Information

- (a) it shall place its audited financial statements on its website as soon as they become available but in any event no later than 270 days after the end of the accounting period to which they relate.

Limits

- (b) no financial limits will be exceeded and/or breached as a result of the Bank providing the Loan.

11 EVENT OF DEFAULT

If:-

Failure to drawdown

- (a) the Borrower gives the Bank notice that it does not intend to draw or fails to draw the Loan

in full on or by the Backstop Drawdown Date; or

Non Payment

- (b) the Borrower fails to pay any amount payable under this Agreement on the due date (other than where the Borrower demonstrates to the reasonable satisfaction of the Bank that such failure is due to an administrative or technical payment error, in which case the Borrower shall have 3 Business Days from the due date to make such payment); or

Breach of Other Obligations and Cross Default

- (c) there is a default or a failure to pay on demand under any liability of the Borrower to the Bank or any other creditor;

then the Bank may by written notice to the Borrower declare the Loan, all interest accrued and all other sums (including Breakage Loss) payable by the Borrower under this Agreement to be immediately due and payable.

12 BROKERAGE FEES

The Bank may pay a fee to one or more brokers in consideration for services provided by such broker to the Bank and the Borrower with respect to the pricing of a Loan. The fee shall be calculated by reference to the "value of a basis point" with respect to the applicable Loan. Further details of the amount of the fee paid to the broker by the Bank will be made available upon request to the Bank by the Borrower. The Bank shall have no responsibility for any advice or recommendations made by the broker to the Borrower in respect of the Loan.

13 NOTICES

- 13.1 Every notice or other communication made under this Agreement shall be in writing (by way of letter, e-mail or facsimile transmission) and shall be given:-

(a)

(b)

...ower from time to time

- 13.2 Every notice or other communication shall be deemed to have been received:-

(a) in the case of a letter when delivered personally or two days after its posting by first class post; and

(b) in the case of a facsimile transmission when despatched.

14 MISCELLANEOUS

- 14.1 If an Option Date, the last day of an Interest Period or any due date for payment is not a Business Day, it will be extended to the next Business Day unless the next Business Day is in the following calendar month in which case the relevant date will be the immediately preceding Business Day.

- 14.2 The Borrower may not assign or transfer any of its rights or obligations under this Agreement.

- 14.3 The Bank may assign all or any part of its rights or benefits under this Agreement without the consent of the Borrower. The Bank may disclose to a prospective assignee or to any other person who may propose entering into contractual relations with the Bank in relation to this Agreement such information about the Borrower as the Bank shall consider appropriate.

- 14.4 If the Bank waives any of its rights under this Agreement, it does not mean the Bank will waive that right in future.

- 14.5 If any of the provisions of this Agreement is determined to be unlawful or unenforceable, the provision will be severed from the remaining provisions which will continue in full effect.

15 LAW

This Agreement shall be governed by and construed in accordance with English law and the Borrower hereby submits to the exclusive jurisdiction of the English courts.

Schedule 1

Loan details agreed between the Bank and the Borrower on 16 February 2010 (the "Agreement Date")

1. Loan: £ 11,500,000
2. Term: the period commencing on the Agreement Date and expiring on 16 February 2060
3. Backstop Drawdown Date: 16 February 2012
4. First Period: From the Agreement Date to 16 February 2017 (being 5 years commencing on the Backstop Drawdown Date)
5. Rate of interest for the First Period: 0.25% above LIBOR plus Mandatory Costs (LIBOR Related Rate) up to and including 15 February 2012 and thereafter 4.39%
6. Rate of interest for each Interest Period for the balance of the Term or until a Replacement Rate is agreed: 4.39%
7. Option Date: The last day of the First Period and the last day of each following 5 year periods.

Your attention is drawn to the provisions of Clause 8 which apply if the Borrower fails to draw or gives notice that it does not intend to draw the Loan by the applicable Backstop Drawdown Date; makes any early repayment of the Loan or the Loan is declared repayable following an Event of Default.

Schedule 2

This Schedule applies if interest is to be paid at a rate of the Margin above LIBOR plus Mandatory Costs ("LIBOR Related Rate")

1. Definitions

"LIBOR" means the British Bankers Association Interest Settlement Rate for Sterling for the relevant Interest Period at 11.00 a.m. on the first day of the relevant Interest Period.

"Margin" means the margin above LIBOR agreed between the Bank and the Borrower

"Mandatory Costs" means such costs (in relation to the Loan) as the Bank determines are necessary to compensate the Bank for complying with any reserve asset and/or special deposit or liquidity requirements (or other requirements having the same or similar purpose) of the Bank of England, the Financial Services Authority (or any successor or similar regulatory authority) including a requirement for the payment of any fees to the Financial Services Authority (whether or not any such requirements have the force of law)

2. A LIBOR Related Rate will apply from the date the Loan is drawn down until the applicable Backstop Drawdown Date.
3. If at any time a LIBOR Related Rate applies and the Bank is unable (whether due to any change in operation or structure of the London Interbank Market or any other reason), to quote a LIBOR rate or the Bank advises the Borrower that the LIBOR rate is less than the cost to the Bank of funding the Loan, the Borrower shall, in respect of each Interest Period, pay to the Bank interest at a percentage rate equal to the aggregate of :-
 - (i) the Margin per annum above the rate representing the cost to the Bank of funding the Loan from whatever source it may reasonably select; and
 - (ii) Mandatory Costs

The Bank shall promptly notify the Borrower of any such amendments and the rate to apply

Your attention is drawn to the provisions of Clause 8 which apply if the Borrower fails to draw or gives notice that it does not intend to draw the Loan in full on or by the Backstop Drawdown Date or makes any early repayment of the Loan.

Signed for and on behalf of The Royal Bank of Scotland plc

Signature

Date.....

East Sussex County Council having decided that the Loan arrangements set out in this Agreement are in its best interests accepts this Agreement

Signed:

Office held

Date.....

28/3/10