

## DEED OF GUARANTEE – PARENT COMPANY’S GUARANTEE OF PERFORMANCE BY CONTRACTOR OF A PARTICULAR CONTRACT (UNLIMITED)

**THIS DEED** is made this <<Insert day>> of <<Insert Month>> of <<Insert Year>>

### BETWEEN

<<Insert name of Parent Company>> a company incorporated in England & Wales under number <<Insert number>> whose registered office address is at <<Insert address>> and its successors and assigns (“the Guarantor”)

### AND

<<Insert name of client or customer of the Contractor>> [of <<Insert client or customer's principal business address>>] **OR** [a company incorporated in England & Wales under number <<Insert number>> whose registered office address is at <<Insert client or customer's registered office address>>] and its successors and assigns (“the Beneficiary”)

### AND

<<Insert Contractor's name>> a company incorporated in England & Wales under number <<Insert number>> whose registered office address is at <<Insert address>> and its successors and assigns (“the Contractor”)

### RECITALS:

- A. The Guarantor is the parent company of the Contractor
- B. The Beneficiary and the Contractor are to enter into the Contract as defined below
- C. The Beneficiary requires, as a condition of it entering into the Contract, a performance guarantee and indemnity to be provided by the parent company of the Contractor in respect of the Contract, and the Guarantor has agreed to provide such a guarantee of and indemnity for the Contractor’s performance and liabilities under the Contract

**THE PARTIES HEREBY AGREE** as follows:-

#### 1. Definitions

“the Contract”	means an agreement [a draft copy of which is attached] to be entered into between the Contractor and the Beneficiary under which the Contractor is to [execute and complete [a project] [certain works] for] [provide certain [goods and][services] to] the Beneficiary
“the Guaranteed Obligations”	means all obligations of or owed by, the Contractor to the Beneficiary under the Contract
“the Guaranteed Liabilities”	means all monies, debts and liabilities of any nature owed by the Contractor to the Beneficiary under the Contract or in respect of the Guaranteed Obligations

#### 2. Guarantee and Indemnity

- 2.1 In consideration of the Beneficiary entering into the Contract the Guarantor irrevocably and unconditionally guarantees and undertakes to the Beneficiary as a primary obligation and not merely as a surety that:

**2.1.1** the Contractor will duly and punctually perform all of the Guaranteed Obligations and the Guarantor will immediately upon first written demand of the Beneficiary pay to the Beneficiary the Guaranteed Liabilities as if the Guarantor were the principal obligor; and

**2.1.2** if the Contractor is in breach of the Guaranteed Obligations, the Guarantor will upon first written demand of the Beneficiary make good the breach at its own cost and expense

but the Guarantor shall not have any liabilities or obligations under Sub-Clauses 2.1.1 and 2.1.2 which in aggregate are any greater than those imposed on the Contractor under the Contract

**2.1.3** the Guarantor will upon first written demand of the Beneficiary indemnify and keep indemnified the Beneficiary in full against all costs, claims, liabilities and expenses (including legal expenses) suffered or incurred by the Beneficiary due to the Contractor's breach of any of the Guaranteed Obligations or any failure by the Contractor to duly and punctually perform all of the Guaranteed Obligations

**2.2** The Guarantor shall pay interest on all sums demanded under this Deed from the date of demand until the actual date of payment (before as well as after judgment) at the rate of <<Insert percentage rate>> above the base rate of <<Insert name of bank>>, accruing on a daily basis and compounded on the last business day (on which bank are open for general business in London) of each month

**2.3** The obligations of the Guarantor under this Deed shall extend to, and the Guarantor consents to, any extension or variation of or amendment to the Contract and to any supplemental agreement between the Beneficiary and the Contractor

**2.4** In the event of default by the Contractor, the Beneficiary may enforce its rights against the Guarantor under this Agreement without first having to exhaust all of its remedies against the Contractor

**2.5** This Deed shall be additional to any other guarantee or security now or later held from the Guarantor in respect of the Guaranteed Obligations or the Guaranteed Liabilities, and shall not merge with or prejudice any other security or right or remedy and may be enforced notwithstanding the same

### **3. Commencement and Expiry**

**3.1** The obligations in this Deed shall commence on the Contractor and the Beneficiary entering into the Contract on or after the date set out above

**3.2** This Deed shall continue in force until the date when all of the Guaranteed Obligations have been performed by the Contractor or the date when all of the obligations in this Deed have been duly discharged, whichever is later, and this Deed shall automatically terminate on such date

### **4. Continuing Security etc.**

This Deed is a guarantee and indemnity in respect of the Guaranteed Obligations and the Guaranteed Liabilities, it shall cover the balance from time to time owing by the Contractor to the Beneficiary in respect of the Guaranteed Liabilities irrespective of payment in whole or part of them, it shall remain in full force and effect and not be discharged or affected by, and the liability of the Guarantor shall not be affected by:

**4.1** the death, incapacity, bankruptcy, insolvency, dissolution, administration,

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receivership, reorg  
or style of the Guar

change in the constitution, name  
r the Beneficiary; or

4.2 the grant by the  
forbearance or con  
by the Beneficiary  
Obligations or the C

tractor of any time, indulgence,  
ding or making of an arrangement  
in respect of the Guaranteed

5. Subrogation

5.1 At any time when th  
Guaranteed Obligat  
Guarantor in the pe  
Guarantor may only

performance of any of the  
nd/or any default by the  
bligations under this Deed, the  
ay have:

5.1.1 of subrogati

5.1.2 to take the b  
guarantee o

orce any security or other  
actor's obligations; or

5.1.3 to prove in t

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as permitted by the  
as a result of the ex  
same to the Benefic

d shall hold any amount recovered  
rust for the Beneficiary and pay the

5.2 The Guarantor her  
the Contractor and  
payable under this  
clause on trust for t

t has not taken any security from  
til Beneficiary receives all monies  
y security taken in breach of this

5.3 Following the taking  
or any other compr  
Contractor, the Gu  
have against the C  
performed by the G

on with any voluntary arrangement  
r the benefit of any creditor of the  
e any right or remedy that it may  
ny amount paid or other obligation  
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6. Payments by Guarantor t

6.1 All payments to be

under this Deed shall be made:

6.1.1. in full without

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6.1.2 free and cle  
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eduction or withholding for or on  
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6.2 Any certificate giv  
payable or the an  
manifest error, be b  
purposes

e Beneficiary stating the interest  
Deed shall, in the absence of  
n and against the Guarantor for all

6.3 If any deduction or  
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making the deduct  
net sum equal to th  
or withholding been

y any applicable law to be made in  
Deed, the sum payable shall be  
necessary to ensure that, after  
Beneficiary receives and retains a  
ve received had no such deduction

6.4 The Guarantor sh  
amount received by

ication by the Beneficiary of any  
is Deed

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**7. Beneficiary's Waiver**

Any waiver by the Beneficiary of the Guarantor's Obligations shall only be effective if it is made in writing upon the terms and conditions set out in this Deed.

of this Deed, or of any Guaranteed Obligations, shall be effective only for the purpose and to the extent given.

**8. Severability**

Any unenforceability of any provision of this Deed shall not affect the enforceability of any other provisions.

of this Deed shall not affect the enforceability of any other provisions.

**9. Assignment by Beneficiary**

The Beneficiary may assign its rights and obligations under this Deed to any person at any time without the consent of the Guarantor or Contractor, provided that the Beneficiary notifies the Guarantor before any such assignment.

at any time without the consent of the Guarantor or Contractor, provided that the Beneficiary notifies the Guarantor before any such assignment.

**10. Notices**

Any notice or demand given in connection with this Deed shall be in writing, served on an individual either at that other party's above address by post or by hand on that other party, and marked as such.

in connection with this Deed shall be in writing, served on an individual either at that other party's above address by post or by hand on that other party, and marked as such.

**11. Applicable Law and Jurisdiction**

This Deed and the rights and obligations created by it shall be governed by, and construed in accordance with, the law of England and be subject to the exclusive jurisdiction of the English Courts.

ties under it shall be governed by, and be subject to the exclusive jurisdiction of the English Courts.

[Attachment: Copy of Contract]

**IN WITNESS** whereof each of the parties has signed and delivered this document as a Deed the date and year first above written.

and delivered this document as a Deed the date and year first above written.

**GUARANTOR**

<<Insert name of Guarantor>> [Limited by guarantee]

acting by

<<Insert name of director of Guarantor>>  
[signature of director] .....

Director

<<Insert name of director or secretary of Guarantor>>  
[signature of director/secretary] .....

Director/Secretary

**BENEFICIARY**

[<<Insert name of Beneficiary>> Limited by guarantee]

acting by

<<Insert name of director of Beneficiary>>

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[signature of director] .....Director

<<Insert name of director or secre

[signature of director/secretary] ... Director/Secretary]

**OR**

[<<Insert name of Beneficiary if ar

[signature of Beneficiary] .....

In the presence of

<<Insert name & address of witne

Occupation: .....

[signature of witness] .....]

**CONTRACTOR**

<<Insert name of Contractor>> Lir

acting by

<<Insert name of director of Contr

[signature of director] .....Director

<<Insert name of director or secre

[signature of director/secretary] ... Director/Secretary

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