

EXHIBIT - FORMS OF PERFORMANCE GUARANTEES

PART 1: FORM OF PERFORMANCE GUARANTEE (PARENT COMPANY)

THIS PERFORMANCE GUARANTEE AGREEMENT (hereinafter referred to as the "Guarantee") effective on _____, is entered into by and between

Company Name _____ (Registered Number: _____)

(hereinafter referred to as "Company") of the one part and

Contractor's Ultimate Parent Company _____

(hereinafter referred to as "Guarantor") of the second part.

WHEREAS

The Guarantor is an Affiliated company who is the ultimate parent company of

Contractor's Name _____

(hereinafter referred to as the "Affiliate") which is to supply certain goods and/or services under a certain contract identified as Agreement No. _____ dated _____ (hereinafter referred to as the "Agreement")

with

Company Name _____

and Company is desirous of Guarantor guaranteeing the due and proper performance of the Affiliate's obligations under said Agreement and otherwise, and Guarantor who is the ultimate parent company of the Affiliate is willing to grant the performance guarantee hereinafter provided.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. In consideration of Company entering into the Agreement with the Affiliate, the Guarantor hereby covenants and agrees unconditionally with Company, its successors and assigns that:

(a) The Affiliate shall properly, diligently and in good time observe the provisions of and perform and discharge any and all its obligations contained in or arising from the Agreement, as supplemented and amended from time to time.

(b) If the Affiliate defaults in any manner whatsoever in the due and proper performance of the Agreement, or commits any breach of the provisions thereof or of any of the duties above mentioned, the Guarantor shall, forthwith upon written request from Company so to do, assume and properly and diligently perform and discharge any and all of said obligations or duties remaining unfulfilled.

(c) Guarantor shall pay to Company on demand all monies due and owing by Affiliate to Company under the Agreement or pursuant to any claim made by Company relating to or arising out of the Agreement.

(d) This Guarantee shall be a primary obligation of Guarantor and accordingly Company shall not be obliged before enforcing this Guarantee to take any action in court against the Affiliate, to make any claim against or any demand of Affiliate, to enforce any other security held by it in respect of the obligations of Affiliate under the Agreement or to exercise any diligence against Affiliate.

(e) Guarantor shall, on demand, indemnify and hold Company harmless from and against any and all losses and expenses, of whatsoever nature (including, without limitation, all legal fees and expenses),

in any way connected with breach by the Affiliate of its obligations contained in or arising from the Agreement, and any supplement or amendments thereto, and/or breach by the Guarantor of the duties described herein, whether or not any such breach is caused, wholly or in part, by negligence of the Affiliate or the Guarantor.

Any clauses providing limitation of liability or indemnities in favour of Affiliate in the Agreement shall also apply to Guarantor. The total liability and indemnities in the Guarantee shall therefore not exceed the accumulated liabilities and indemnities in the Agreement.

2. This Guarantee shall be in addition to, and not in substitution for, any rights or remedies that Company may have against the Affiliate arising under the Agreement or otherwise, and the Guarantor shall not be released from the obligations hereunder by reason of any time or forbearance granted by Company to the Affiliate or the Guarantor.

3. In the event of any Claim or dispute arising out of or relating to this Performance Guarantee, the provisions of the Agreement with regard to applicable law and conflict resolution shall apply as if fully repeated herein. An award obtained pursuant to the Agreement by Company against Affiliate shall also be binding on Guarantor.

AS WITNESS the hand of the duly authorised representatives of the parties hereto:

(Guarantor)

Signature: _____

Name: _____

Date: _____

PART 2: FORM OF PERFORMANCE GUARANTEE (BANK)

This Guarantee is made (date) by (Name of Bank) whose registered office is at (Address of Bank) (hereinafter referred to as the "Guarantor")

TO

Company Name _____ (Registered No.: _____)

(hereinafter referred to as the "Company").

WHEREAS the Company and _____ (Insert name of Contractor) whose registered office is at _____ (Insert address of Contractor) entered into an Agreement dated _____, Agreement No. _____, for the performance of _____ (insert short description of the SOW) (hereinafter referred to as the "Agreement");

AND WHEREAS under the terms of the Agreement, Contractor has covenanted to obtain a Bank Guarantee in respect of its obligations thereunder in favour of Company;

NOW THEREFORE in consideration of Company having entered into the Agreement with Contractor and in consideration for value received from Contractor, the Guarantor hereby irrevocably agrees and undertakes as follows:

- 1) The Guarantor hereby unconditionally and irrevocably guarantees to pay Company from time to time any or all monies due and owing to the Company from the Contractor under the Agreement arising out of the default or non-performance by Contractor of its obligations thereunder, of which Company shall be the sole judge; provided that in no event shall the liability of the Guarantor hereunder exceed the sum of (Amount and Currency alpha-numerical).
- 2) The Company may make multiple demands under this Bank Guarantee up to the maximum amount allowed under clause 1 above.
- 3) The Guarantor agrees to make such payments immediately upon written demand by Company and to accept such written demand as conclusive and sufficient evidence of the existence of a default or of non-performance on the part of Contractor as aforesaid.
- 4) Any written demand submitted by Company to Guarantor shall be accompanied by a copy of an official Notice from Company to Contractor which advises Contractor of any default or non-performance under the Agreement and which is dated at least 10 calendar days prior to any demand submitted by Company to Guarantor.
- 5) The liability of the Guarantor hereunder shall not in any way be discharged, diminished or affected by:
 - a) The granting of any time or indulgence to the Guarantor or to Contractor by Company;
 - b) The effecting of any compromise whatsoever with Contractor by Company;
 - c) Suspension or termination of the Contractor's services or the Agreement by Company;
 - d) Any change in the constitution or business organisation of Contractor;
 - e) The amendment of any terms or conditions of the Agreement by Company.

6) This Guarantee shall be in full force and effect from the date hereof or date of commencement of work under the Agreement, whichever first occurs, and shall remain in operation until _____, 20__ or until the expiration of the warranty and/or guarantee periods in the Agreement, whichever first occurs. This Guarantee may be extended to such later date as officially requested by the Company and agreed with the Contractor and may be enforced without first having recourse to any rights under the Agreement or without taking any steps or proceedings against Contractor.

7) This Guarantee shall be binding on Guarantor and its successors and assigns and shall be irrevocable.

8) In the event of any Claim or dispute arising out of or relating to this Guarantee, the provisions of the Agreement with regard to applicable law and conflict resolution shall apply as if fully repeated herein. An award obtained pursuant to the Agreement by Company against Affiliate shall also be binding on Guarantor.

AS WITNESS the hand of the duly authorised representative of the Guarantor hereto:

(Guarantor) [INSERT NAME OF BANK]

Signature: _____

Name: _____

Date: _____