

Capital Works Management Framework

Model Forms

for Use with Public Works and Construction Services Contracts

MF 1

Model Forms
for use with Public Works Contracts
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Foreword

Purpose of this document

This document presents model forms that may be used with Public Works and Construction Services Contracts.

- Part 1 presents a brief description of how to use the model forms; and
 - Part 2 presents the model forms themselves.
-

Abbreviations

Many of the forms in the document are used only in the context of certain forms of contract. The forms of contract are referred to by codes, as follows:

Code	Contract
PW-CF1	Public Works Contract for Building Works Designed by the Employer
PW-CF2	Public Works Contract for Building Works Designed by the Contractor
PW-CF3	Public Works Contract for Civil Engineering Works Designed by the Employer
PW-CF4	Public Works Contract for Civil Engineering Works Designed by the Contractor
PW-CF5	Public Works Contract for Minor Building and Civil Engineering Works Designed by the Employer
PW-CF6	Short Public Works Contract
PW-CF7	Investigation Contract
PW-CF8	Short Investigation Contract

1. Model Forms Guidance

Model Forms and When to Use Them

Overview

Part 1 of this document describes each of the model forms associated with the Capital Works Management Framework, and the conditions under which it is used.

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Document Execution (signing)

Most of the forms offer a number of alternative ways in which they can be executed by the different parties involved.

For guidance on the appropriate method to be used in any given circumstance, refer to *Public Works Contracts* (GN 1.5).

Bid Bond (MF 1.1)

Accessing the model form Download the file MF 1.1 from the Department of Finance website.

Usage Where a Bid Bond is required (PW-CF1 to PW-CF5 only), this form is included with the Tender documentation.

Fields to be completed by the Employer prior to issue

Employer details

- The Employer
- Address of Employer

Contract details

- The Contract (short description)

Bond requirements

- Percentage of Contract Sum for which bond is required
- Maximum amount to be covered by bond
- Expiry date for bond

Fields to be completed by Tenderer Tenderer name and address

Fields to be completed by Surety

- Date
- Surety name and address
- Name and address of agent for service
- One signature block (witnessed as appropriate)

Letter to Apparently Unsuccessful Tenderer (MF 1.2)

The Letter to Apparently Unsuccessful Tenderer (MF 1.2) is currently being revised so as to be compliant with the debriefing requirements in the new Remedies Directive.

Letter of Intent (MF 1.3)

Accessing the model form

Download the file MF 1.3 from the Department of Finance website.

Usage

Sent by Employer to the Tenderer deemed to be the most economically advantageous (MEAT).

Fields to be completed by the Employer prior to issue

Text is transcribed by the Employer onto Employer's letterhead.

Specific details are included:

- Tenderer 's name and address
- Short description of the contract
- Date of letter
- Requirements that must be fulfilled before the Letter of Acceptance can be issued
- Other conditions that must be met before the contract can be awarded
- Name of Employer
- Name of Tenderer (in acknowledgement section)

Letter is signed on behalf of the Employer.

Fields to be completed by Tenderer

On receipt of the letter, the Tenderer signs and dates a copy and returns it to the Employer.

Letter of Acceptance (MF 1.4)

Accessing the model form

Download the file MF 1.4 from the Department of Finance website.

Usage

Sent by Employer to the successful Tenderer (the Contractor), to form the Contract (PW-CF1 to PW-CF5 only – a separate form of acceptance is included with the form of tender for PW-CF6 to PW-CF8).

Fields to be completed by the Employer prior to issue

Text is transcribed by the Employer onto Employer's letterhead.

Specific details are included:

- Contractor's name and address
- Short description of the contract
- Date of letter
- Date of tender to which the Contract refers
- Name of Employer
- Form of Contract. Choose from:
 - Public Works Contract for Civil Engineering Works Designed by the Employer
 - Public Works Contract for Civil Engineering Works Designed by the Contractor
 - Public Works Contract for Building Works Designed by the Employer
 - Public Works Contract for Building Works Designed by the Contractor
 - Public Works Contract for Minor Building and Civil Engineering Works Designed by the Employer
- References to any post-tender clarifications
- The Contract Sum
- Name of Employer
- Name of Contractor (in acknowledgement section)

Letter is signed on behalf of the Employer.

Fields to be completed by Contractor

On receipt of the letter, the Contractor signs and dates a copy and returns it to the Employer.

Letter to Tenderers Notifying Award (MF 1.5)

Accessing the model form

Download the file MF 1.5 from the Department of Finance website.

Usage

Sent by Employer to the unsuccessful Tenderers after the Contract has been awarded.

Fields to be completed by the Employer prior to issue

Text is transcribed by the Employer onto Employer's letterhead.

Specific details are included:

- Tenderer 's name and address
- Short description of the contract
- Date of letter
- Name of Employer

Letter is signed on behalf of the Employer.

Performance Bond (MF 1.6)

Accessing the model form

Download the file MF 1.6 from the Department of Finance website.

Usage

Where a Performance Bond is required, the Employer includes this form in the Works Requirements. This form is used only with PW-CF1 to PW-CF5. Some other forms of contract have a separate form for this purpose included with the contract template.

Fields to be completed by the Employer prior to issue

Prior to issue of the form, the Employer completes the following details:

- Employer name and principal office
 - Short description of the works
 - Bond amount and maximum liability under the Bond
 - Time limit on liability under the Bond. This is normally 450 days after the certificate of Substantial Completion has been issued.
-

Fields to be completed by Contractor

- Contractor name and registered office
 - One Contractor's signature block (witnessed as appropriate) (or in the case of a partnership or joint venture, one block for each member)
-

Fields to be completed by Surety

- Bond No. and Date
- Surety name and registered office
- Name and address of agent for service (if Surety does not have a registered office in Ireland). If the Surety Company has a registered office in Ireland, clause 14 should be deleted.
- One Surety's signature block (witnessed)

The Contractor returns the form to the Employer before the Starting Date.

Parent Company Guarantee (MF 1.7)

Accessing the model form

Download the file MF 1.7 from the Department of Finance website.

Usage

Where a Parent Company Guarantee is required (PW-CF1 to PW-CF4 only), the Employer includes this form in the Works Requirements.

Fields to be completed by the Employer prior to issue

Prior to issue of the form, the Employer completes the following details:

- Employer name and principal office
 - Short description of the works
-

Fields to be completed by the Contractor and the Guarantor

- Contractor name and registered office
- Guarantor name and registered office
- Name and address of agent for service (if Guarantor does not have a registered office in Ireland)
- One Guarantor's signature block (witnessed)
- One Contractor's signature block (witnessed) (or in the case of a partnership or joint venture, one block for each member)

The Contractor returns the form to the Employer before the Starting Date.

Novation and Guarantee Agreement (MF 1.8)

Accessing the model form

Download the file MF 1.8 from the Department of Finance website.

Usage

Where a Contract has been awarded to a joint venture, and the joint venture wishes to novate the Contract to a new legal entity, the Employer provides this form to the members of the joint venture. (Relevant only to PW-CF1 to PW-CF5.)

Fields to be completed by the Employer prior to issue

Prior to issue of the form, the Employer completes the following details:

- Employer name and principal office
 - Short description of the works
-

Fields to be completed by the members of the joint venture (the Guarantors)

- Date
- Contractor name and registered office
- For each Guarantor, the Guarantor name and registered office
- Name and address of agent for service (if no Guarantor has a registered office in Ireland)
- One Guarantor's signature block for each Guarantor
- One Contractor's signature block (witnessed) (or in the case of a partnership or joint venture, one block for each member)

The Contractor returns the form to the Employer.

Fields to be completed by the Employer on execution

The Employer signs or seals the form. Copies of the completed form should be sent to the Contractor and separately to each Guarantor.

Novation Agreement (MF 1.9)

Accessing the model form

Download the file MF 1.9 from the Department of Finance website.

Usage

This form is used when the Employer has an existing contract with a Specialist, and that contract is to be novated to the Contractor. Relevant only to PW-CF1 to PW-CF5. A blank version of the form is included in the Works Requirements.

Fields to be completed by the Employer prior to issue

- Contractor name and registered office
 - Specialist name and registered office
 - Employer name and principal office
 - Date and description of the Specialist Contract
 - Name (short description) of the main Contract
-

Fields to be completed on execution

- Date of Agreement
 - One Specialist signature block (witnessed)
 - One Main Contractor signature block (witnessed)) (or in the case of a partnership or joint venture, one block for each member)
 - One Employer signature block (witnessed)
-

Appointment of Project Supervisor (MF 1.10)

Accessing the model form

Download the file MF 1.10 from the Department of Finance website.

Usage

This form is used when the Contractor is appointed as PSCS or PSDP and PSCS. It is also used when a Contractor's nominee is appointed as PSDP. (In other cases, the Standard Conditions of Engagement are used.)

This form is used only with PW-CF1 to PW-CF5. Other forms of contract have a separate form for this purpose included with the contract template.

Fields to be completed by the Client prior to issue

Prior to issue of the form, the Client completes the following details:

- Client name and principal office
 - Date of Letter of Acceptance
 - Name of Contractor *or* 'the Project Supervisor'
 - Name (short description) of the Contract (the Works)
 - (In three places) Specify, by choosing from the drop-down list, whether the Project Supervisor is to be appointed as PSCS, PSDP and PSCS, or PSDP. The third option (PSDP only) relates only to a situation where a Contractor nominee is appointed as PSDP and the Contractor itself (or a different nominee) is appointed as PSCS.
 - Any additional scope for which the Project Supervisor is to be appointed PSCS – for example, a process installation. Together with the Works, this will form the Project.
-

Fields to be completed by Project Supervisor

- Project Supervisor name and registered office
 - One Project Supervisor's signature block (witnessed)
-

Fields to be completed by the Client on execution

- Date
 - One Client signature block (witnessed as appropriate)
-

Professional Indemnity Insurance Certificate (MF 1.11)

Accessing the model form

Download the file MF 1.11 from the Department of Finance website.

Usage

If required, the Employer may include this form in the Works Requirements. This form is used only with PW-CF1 to PW-CF5.

Fields to be completed by the Employer prior to issue

Prior to issue of the form, the Employer completes the following details:

- Employer name and address
 - Name (short description) of the contract
-

Fields to be completed by other parties

The Contractor has the form completed and signed by their insurance broker or underwriter and returns it to the Employer.

Collateral Warranty (MF 1.12)

Accessing the model form

Download the file MF 1.12 from the Department of Finance website.

Usage

If a Collateral Warranty is required from any Specialist, the Employer may include this form in the Works Requirements. (Relevant only to PW-CF1 to PW-CF5.)

Fields to be completed by the Employer prior to issue

Prior to issue of the form, the Employer completes the following details:

- Employer name and principal office
- Name (short description) of the Works Contract
- Required level of professional indemnity insurance
- Maximum excess required for professional indemnity insurance

In addition, the Employer chooses between sub-clause 1.2a and 1.2b, deletes whichever does not apply, and initials the deletion. Specialists should be required to covenant fitness for purpose (1.2b) when a works item they are to provide is to be fit for its intended purpose.

Similarly, the Employer chooses between 2.1a and 2.1b, deletes whichever does not apply, and initials the deletion. Use 2.1a if the Specialist is a Consultant; otherwise use 2.1b.

Fields to be completed by the Contractor

- Contractor name and registered office
 - Specialist name and registered office
 - Date and description of the Specialist Contract
 - Amount payable by the Contractor to the Specialist under the Specialist Contract
-

Fields to be completed on execution

- Date of Deed
 - One Specialist signature block (witnessed as appropriate)
 - One Contractor signature block (witnessed as appropriate) (or in the case of a partnership or joint venture, one block for each member)
 - One Employer signature block (witnessed as appropriate)
-

Rates of Pay and Conditions of Employment Certificate (MF 1.13)

Accessing the model form

Download the file MF 1.13 from the Department of Finance website.

Usage

This form is used only with PW-CF1 to PW-CF5, when it is included in the Works Requirements.

Other forms of contract have a separate form for this purpose included with the contract template.

Fields to be completed by the Employer prior to issue

Prior to issue of the form, the Employer completes the following details:

- Employer name, address and contact person
 - Name (short description) of the Contract
-

Fields to be completed by the Contractor

A certificate in this form should accompany each statement seeking interim payment. The Contractor completes the following details:

- Date
 - Contractor's Representative
 - Period of interim statement
 - Signature
-

Bond – Unfixed Works Items (MF 1.14)

Accessing the model form

Download the file MF 1.14 from the Department of Finance website.

Usage

When an interim payment includes an amount for Unfixed Works Items, a bond is required. This form is included in the Works Requirements (PW-CF1 to PW-CF5 only). It is completed by the Contractor and the Surety and returned to the Employer with each statement seeking interim payment.

Fields to be completed by the Employer prior to issue

Prior to issue of the form, the Employer completes the following details:

- Employer name and principal office
 - Name (short description) of the Contract
 - Maximum liability required of the Surety
-

Fields to be completed by Contractor and Surety

- Number, amount and date of Bond
 - Contractor name and registered office
 - Surety name and registered office
 - Name and address of agent for service (if Surety does not have a registered office in Ireland)
 - One Contractor signature block (witnessed)) (or in the case of a partnership or joint venture, one block for each member)
 - One Surety signature block (witnessed)
-

Retention Bond (MF 1.15)

Accessing the model form

Download the file MF 1.15 from the Department of Finance website.

Usage

The Employer includes the form with the Works Requirements (PW-CF1 to PW-CF5 only).

The Contractor completes this form and returns it to the Employer within 10 days of issue of the certificate of Substantial Completion. The Contractor is then entitled to invoice the Employer for the retained amounts.

Fields to be completed by the Employer prior to issue

Prior to issue of the form, the Employer completes the following details:

- Employer name and address
 - Name (short description) of the Contract
 - Maximum liability required of the Surety
-

Fields to be completed by the Contractor and Surety

- Date of Bond
 - Date of Contract
 - Contractor name and address
 - Surety name and registered office
 - Person to whom demands under the Bond should be addressed
 - Name and address of agent for service (if Surety does not have a registered office in Ireland)
 - One Surety signature block (witnessed)
-

Appointment of Conciliator (MF 1.16)

Accessing the model form

Download the file MF 1.16 from the Department of Finance website.

Usage

When a dispute arises under the Contract, and the Employer and the Contractor agree on a conciliator, this form is used to appoint the Conciliator and set out their terms of appointment.

The Employer includes the form with the Works Requirements (PW-CF1 to PW-CF5 only).

Fields to be completed by the three parties

When required, the Employer, the Contractor and the Conciliator complete the form.

The form is signed by each party and witnessed.

Bond – Conciliator’s Recommendation (MF 1.17)

Accessing the model form

Download the file MF 1.17 from the Department of Finance website.

Usage

If the Conciliator recommends the payment of money, and a notice of dissatisfaction is given, the payment should be effected, but the recipient of the money is required to provide the payer with a Bond in this form to guarantee the repayment of the money should it subsequently be determined that it was not due.

The Employer includes the blank form with the Works Requirements (PW-CF1 to PW-CF5 only).

Fields to be completed by the recipient

When required, the recipient of the money under the Conciliator’s recommendation and their Surety complete the form. It is signed by the Surety and given to the payer of the money.

2. Model Forms

Model Forms Compendium

Overview

This Part is a compendium of all of the model forms.

The model forms presented here are for reference only. When you need to use a model form, download it from the Construction Procurement website (www.constructionprocurement.gov.ie/model_forms).

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Bid Bond¹

To: *The Employer*

Address of Employer

Date:

Regarding:

The Contract

and

The Tenderer

Address of Tenderer

From:

The Surety

Address of Surety

The Tenderer proposes to submit a tender to you for the above contract. It is a requirement for submitting the tender that a bond, in these terms and in the amount of 10%² of the amount of the tendered contract sum, be submitted with the tender.

BY THIS BID BOND, we, the Surety, guarantee to you that, if you accept the above tender, the Tenderer will, within the time required by the contract formed by that acceptance, execute under seal and deliver the Agreement referred to in that contract and give you the fully executed and delivered performance bond and other documents required under clause 9.1 of the Conditions of that contract, all in compliance with the contract. If the Tenderer fails to do so, or otherwise repudiates its tender, we will, subject to this bond, pay all the loss you sustain as a result, up to the maximum of € [] .

This bond will expire on []³ when we will be released of liability under it, unless you have before that date notified us that the Tenderer has defaulted in any of the obligations guaranteed by this bond.

We will not be released in any way or discharged by time, indulgence, waiver, alteration, release or compromise or any other circumstances that might operate as a release of a guarantor at law or in equity.

This bond is governed by and construed according to Irish law and we submit to the jurisdiction of the Irish courts to determine all matters concerning it.

We appoint as our agent for the service of legal proceedings:

Name of Agent

Address of Agent

We confirm that the named agent has been irrevocably appointed and the agent's failure to notify us of receipt of a document will not invalidate any proceedings or the service of the document⁴.

¹ If the Surety is not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

² If not otherwise specified, read as 10%

³ Date to be inserted which is 120 days after the last date for receipt of tender

⁴ An address in Ireland is required when the Surety does not have a registered office in Ireland.

Given under the common seal of

Name of Surety

Affix common seal

*Signatures of persons authorised
to authenticate the seal*

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of the Surety under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Letter to Apparently Unsuccessful Tenderer⁵

The Letter to Apparently Unsuccessful Tenderer (MF 1.2) is currently being revised so as to be compliant with the debriefing requirements in the new Remedies Directive.

⁵ To be transcribed onto the Employer's letterhead paper.
MF1 v 1.1 31/03/2010

Letter of Intent⁶

To: [Name and address of tenderer]

Regarding: [Name of contract]

Date:

Subject to Contract/Contract Denied

A Dhaoine Uaisle

I refer to your tender for the above contract.

I write to inform you that we intend to issue a Letter of Acceptance to you after receiving all the following items:

- Performance Bond in the form included in the Works Requirements
- Evidence of the insurances required by the contract
- Tax Clearance Certificate
- [add any other requirements, e.g. parent company guarantee, collateral warranties]

If any of the above listed items is not provided within 14 days of the date of this letter, we may proceed to award the contract to another tenderer.

[Award of the contract will also be conditional on [add any other conditions, e.g. funding approval, manager's order, board approval]].

This is not the Letter of Acceptance. The Employer has not accepted your tender.

Please return a copy of this letter acknowledging receipt as indicated below.

Is mise, le meas

Signed _____
On behalf of [Name of Employer].

ACKNOWLEDGEMENT

We acknowledge receipt of this letter on _____ (date).

Signed _____
On behalf of [Name of the Tenderer]

⁶ To be transcribed onto the Employer's letterhead paper.
MF1 v 1.1 31/03/2010

Letter of Acceptance⁷

To:

Regarding:

Date:

A Dhaoine Uaisle

I refer to your tender for the above Contract dated ⁸ (the **Tender**). Terms used in this letter that are defined in the Conditions of that Contract have the same meaning in this letter.

I write to inform you that accepts the Tender. This is the Letter of Acceptance referred to in the Conditions.

The contract formed by this acceptance consists of the following documents:

- This Letter of Acceptance
- The Agreement
- The Conditions of ⁹
- The Schedule appended ¹⁰ to this Letter of Acceptance and the Works Requirements, Pricing Document and Works Proposals identified in the Schedule (including any Novated Design Documents identified in the Schedule)
- The Tender and Schedule
- The following post-tender clarifications ¹¹:

The Contract Sum is euro *excluding VAT /including VAT at standard and zero rates only /including VAT at standard, reduced and zero rates* ¹²,

I draw attention to your obligations in clause 9.1 of the Conditions about documents to be provided before the Starting Date.

Please return to me a copy of this letter acknowledging receipt as indicated below.

Is mise, le meas

Signed _____
On behalf of , duly authorised to accept the Tender

ACKNOWLEDGEMENT

We acknowledge receipt of this letter on _____ (date).

⁷ To be transcribed onto the Employer's letterhead paper.

⁸ Insert date of tender

⁹ Insert one of the following, as appropriate:

Public Works Contract for Civil Engineering Works Designed by the Employer

Public Works Contract for Civil Engineering Works Designed by the Contractor

Public Works Contract for Building Works Designed by the Employer

Public Works Contract for Building Works Designed by the Contractor

Public Works Contract for Minor Building and Civil Engineering Works Designed by the Employer

¹⁰ Ensure that Schedule is appended to the letter

¹¹ Insert references to any post-tender clarifications

¹² Keep the one that is relevant and delete the other two.

Signed _____
On behalf of *[Name of the Contractor]*.

Letter to Tenderers Notifying Award¹³

To: [Name and address of tenderer]

Regarding: [Name of contract]

Date:

A Dhaoine Uaisle

I write to inform you that the above contract has been awarded to [name of winning tenderer].

I would like to thank you again for the interest you have shown in this competition.

Please acknowledge receipt of this letter by signing the acknowledgement below and returning to me.

Is mise, le meas

Signed:

On behalf of [Name of Employer]

ACKNOWLEDGEMENT

We acknowledge receipt of this letter on _____ (date).

Signed _____

On behalf of [Name of the unsuccessful Tenderer].

¹³ To be transcribed onto the Employer's letterhead paper.

Performance Bond¹⁴

(Clause 1.5)

Bond No.

BOND AMOUNT: €

THIS BOND is made on **BETWEEN**

1.	<i>The Contractor</i>	<input type="text"/>
	<i>Registered office of Contractor</i>	<input type="text"/>
2.	<i>The Surety</i>	<input type="text"/>
	<i>Registered office of Surety</i>	<input type="text"/>
and		
3.	<i>The Employer</i>	<input type="text"/>
	<i>Principal office of Employer</i>	<input type="text"/>

BACKGROUND

- A. The Employer and the Contractor have or will enter into a contract for
Description of Works
(the **Contract**).
- B. The Contractor has agreed to furnish a performance bond to the Employer.
- C. Terms defined in the Contract have the same meaning in this Bond.

IT IS AGREED AS FOLLOWS:

1. If the Contractor's obligation to complete the Works is terminated under clause 12.1 of the Conditions the Surety will, subject to this Bond, pay the Employer any amount for which the Contractor is liable under clause 12.2.11 of the Conditions.
2. If the Contractor breaches the Contract the Surety will, subject to this Bond, pay the Employer any amount for which the Contractor is liable to the Employer as damages for breach of the Contract, as established under the Contract, taking into account all sums due to the Contractor under the Contract.
3. The liability of the Surety under this Bond will not exceed € . This amount will be reduced by half on issue of the Certificate of Substantial Completion of the Works under the Contract.
4. No alteration in the Contract or in the extent or nature of the works to be done under it, and no allowance of time under the Contract, and no forbearance or forgiveness concerning the Contract by the Employer, will in any way release the Surety from liability under this Bond.
5. The Surety will be released from its liability under this Bond days¹⁵ after the certificate of Substantial Completion of the Works has been issued, except in relation to any breach by the Contractor or termination that has occurred before that date, written notice (including particulars of the breach or termination) of which has been given to the Surety earlier than 4 weeks after this expiry date.
6. The Contractor undertakes to the Surety to perform its obligations under the Contract. This undertaking does not limit any rights or remedies of the Employer or the Surety.
7. The Employer may, but is not required to, provide to the Surety a copy of any notice that the Employer gives to or receives from the Contractor under clause 12 of the Conditions.
8. The decision of a court or arbitrator in a dispute between the Employer and the Contractor will be binding on the Surety as to all matters concerning a breach of the Contract, termination under the Contract, and the Contractor's liability.
9. If the Surety is called on to pay the Employer's loss following a termination under clause 12.1 of the Conditions, the Surety may suggest a completion contractor to the Employer, provided the proposed completion contractor is acceptable to the Employer.

¹⁴ If the Contractor and/or Surety is/are not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

¹⁵ If not otherwise specified, read as 450 days.

- 10. The Surety will not be liable under this Bond for a breach or termination caused solely and directly by war, invasion, act of foreign enemies, hostilities (whether war is declared or not), terrorism, civil war, rebellion, revolution, or military or usurped power.
- 11. The Employer may assign the benefit of this Bond, without the Surety's or the Contractor's consent, by giving written notice to the Surety.
- 12. This Bond is governed by and construed according to Irish law and the parties submit to the jurisdiction of the Irish courts to determine all matters concerning it.
- 13. Money payable by the Surety under this Bond will be paid in euro in Ireland.
- 14. The Surety appoints
Name of Agent:
Address of Agent:
as its agent for service of legal proceedings. The Surety confirms that the named agent has been irrevocably appointed and the failure of the agent to notify the Surety of receipt of a document will not invalidate any proceedings or the service of the document.¹⁶

Given under the Contractor's common seal

<i>Affix Contractor's common seal</i>	
<i>Signatures of persons authorised to authenticate the seal</i>	

OR

Signed, sealed and delivered by

<i>Name of attorney</i>	
<i>Signature of attorney</i>	
<i>As lawful attorney of the Contractor under a power of attorney dated</i>	
<i>Affix attorney's personal seal</i>	

In the presence of

<i>Name of witness</i>	
<i>Signature of witness</i>	
<i>Witness's occupation</i>	
<i>Witness's address</i>	

OR

Signed on behalf of

<i>Name of Contractor</i>	
<i>Signature of authorised person</i>	

In the presence of

<i>Name of witness</i>	
<i>Signature of witness</i>	
<i>Witness's occupation</i>	

¹⁶ An address in Ireland is required when the Surety does not have a registered office in Ireland.

Witness's address

OR (if the Contractor is an individual)

Signed, sealed and delivered by

Name of Contractor

Signature of Contractor

Affix personal seal

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR
Signed by

Name of Contractor

Signature of Contractor

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR (if the Contractor is a joint venture, execution must be by each member, using the blocks below)

Joint Venture Member 1

Given under the common seal of

Name of joint venture member 1

--

Affix common seal

--

Signatures of persons authorised to authenticate the seal

--

OR

Signed, sealed and delivered by

Name of attorney

--

Signature of attorney

--

As lawful attorney of joint venture member 1 under a power of attorney dated

--

Affix attorney's personal seal

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

OR

Signed on behalf of

Name of joint venture member 1

--

Signature of authorised person

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

Joint Venture Member 2

Given under the common seal of

Name of joint venture member 2

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 2 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 2

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 3

Given under the common seal of

Name of joint venture member 3

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 3 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 3

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Given under the Surety's common seal

Affix Surety's common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of the Surety under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Parent Company Guarantee¹⁷

(Clause 1.6)

THIS GUARANTEE is made on BETWEEN

1.	<i>The Contractor</i>	<input type="text"/>
	<i>Registered office of Contractor</i>	<input type="text"/>
2.	<i>The Guarantor</i>	<input type="text"/>
	<i>Registered office of Guarantor</i>	<input type="text"/>
and 3.	<i>The Employer</i>	<input type="text"/>
	<i>Whose principal office is at</i>	<input type="text"/>

BACKGROUND

A. The Employer and the Contractor have or will enter into a contract for

Description of Works

(the **Contract**).

B. The Guarantor has agreed to guarantee the Contractor's performance of the Contract.

C. Terms defined in the Contract have the same meaning in this Guarantee.

IT IS AGREED AS FOLLOWS:

1 Guarantee

The Guarantor irrevocably and unconditionally:

- 1.1 guarantees to the Employer that the Contractor will punctually perform all its obligations under the Contract and
- 1.2 undertakes to the Employer to fully perform the Contractor's obligations under the Contract if the Contractor fails to perform them.

2 Indemnity

If the Contractor's obligations under the Contract or the Guarantor's obligations under clause 1 above are or become void or unenforceable then, as between the Guarantor and the Employer (but without affecting the Contractor's obligations), the Guarantor will as principal obligor indemnify the Employer against any resulting loss and be liable to the Employer for the same amount as the Guarantor would have been liable for if the obligations had not been void or unenforceable.

3 Contractor's failure to perform

- 3.1 If the Contractor goes into liquidation, administration, examinership or receivership or becomes subject to any other form of insolvency proceedings, or if the Contractor's obligation to complete the Works is lawfully terminated under sub-clause 12.1 of the Conditions of the Contract, any such event will be conclusive evidence, for the purposes of this Guarantee, that the Contractor has failed to perform the Contract.
- 3.2 The decision of a court or arbitrator or an agreement between the Contractor and the Employer will be binding on the Guarantor in relation to any failure by the Contractor to perform the Contract.

4 Guarantee is in addition to other security

The Guarantor's obligations are in addition to and independent of any other security the Employer may at any time hold for the Contractor's obligations under the Contract.

5 Continuing guarantee

The Guarantor's liability will continue until the Contractor has performed all its obligations in full, and will

¹⁷ If the Contractor and/or the Guarantors is/are not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

not be satisfied or diminished by any payment or recovery of an amount due from the Contractor to the Employer.

6. Guarantor's liability not impaired

The Guarantor's liability under this Guarantee is as principal obligor and not merely as surety. Neither the Guarantor's liability under this Guarantee nor the Employer's rights under it will be affected by any of the following, whether or not known to any of the parties:

- 6.1 the Contractor's obligations under the Contract being or becoming illegal, invalid or unenforceable, if it would not be illegal for the Guarantor to fulfil the obligation
- 6.2 bankruptcy, insolvency, liquidation, examinership, dissolution, amalgamation, winding up, reorganisation or any similar proceeding concerning the Contractor
- 6.3 change in the status, function, control or ownership of the Contractor
- 6.4 death or incapacity of the Contractor
- 6.5 amendment to the Contract or change to the works to be done under it (whether or not the amendment or change increases the Guarantor's liability)
- 6.6 time being given to the Contractor
- 6.7 a concession, arrangement, waiver or other indulgence being granted or made or agreed to be granted or made by the Employer
- 6.8 anything that the Employer or the Contractor do or fail to do, including without limitation:
 - (1) asserting or pursuing (or failing or delaying to assert, perfect or enforce) rights or remedies or
 - (2) giving security or releasing, modifying, or exchanging security or
 - (3) having or incurring any liability
- 6.9 assignment of the benefit of the Contract
- 6.10 whole or partial discharge (whether of the Contractor's obligations or security for them or otherwise) or arrangement made on the faith of payment, security or other disposition that is avoided or must be repaid on bankruptcy, liquidation or otherwise
- 6.11 rights against third parties that the Employer may have relating to performance of the Contractor's obligations
- 6.12 a reduction in, or other arrangement relating to, the Contractor's liability to the Employer as a result of an arrangement or composition under the Companies (Amendment) Act, 1990 or any similar provision
- 6.13 any other act, event, fact, circumstance, rule of law, or omission.

7. Guarantor not to claim against or in competition with the Employer

For as long as the Contractor has actual or contingent obligations or liability under the Contract, the Guarantor shall not:

- 7.1 be entitled to share in the Employer's rights under the Contract or any other rights or security of the Employer or
- 7.2 in competition with the Employer, seek to enforce any rights concerning the Guarantor performing or having obligations under this Guarantee
and if the Guarantor receives money from the Contractor in relation to a payment of the Guarantor under this Guarantee, the Guarantor will hold the money in trust for the Employer as long as the Guarantor has any liability (contingent or otherwise) under this Guarantee.

8. No preconditions upon Employer

The Employer may enforce this Guarantee without exercising rights against the Contractor or anyone else.

9. Assignment

The Employer may assign the benefit of this Guarantee without the Guarantor's or Contractor's consent. The Employer shall give notice to the Guarantor within 28 days after any assignment.

10. Partial invalidity

If at any time any part of this Guarantee is or becomes illegal, invalid or unenforceable, the rest of this Guarantee will remain legal, valid and enforceable.

11. Law and Jurisdiction

This Guarantee is governed by and construed according to Irish law and the parties submit to the jurisdiction of the Irish courts to determine all matters concerning it.

12. Notices

Any communication given in connection with this Guarantee must be in writing and delivered to, or sent by pre-paid registered post to the relevant party's address at the top of this Guarantee, or the Guarantor's agent's address in clause 13 below, or another address notified in writing by the relevant party. Pre-paid registered post is taken to have been received 2 days after it was sent.

13. Agent for Service¹⁸

The Guarantor appoints

Name of Agent

Address of Agent

as its agent for service of legal proceedings. The Guarantor confirms that the named agent has been irrevocably appointed and the failure of the agent to notify the Guarantor of receipt of a document will not invalidate any proceedings or the service of the document.

14. Representations and Warranties

The Guarantor represents and warrants to the Employer that:

- 14.1 the execution, delivery and performance of this Guarantee by the Guarantor has been duly and validly authorised by all requisite corporate action by the Guarantor and
- 14.2 this Guarantee is the Guarantor's legal, valid and binding obligation in accordance with its terms and
- 14.3 no approval or consent from any governmental entity or any other person or entity is required in connection with the execution, delivery or performance of this Guarantee by the Guarantor.

Given under the Guarantor's common seal

Affix Guarantor's common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of the Guarantor under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Given under the Contractor's common seal

Affix Contractor's common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

¹⁸ An address in Ireland is required when the Guarantor does not have a registered office in Ireland.

Name of attorney

Signature of attorney

As lawful attorney of the Contractor under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of Contractor

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR (if the Contractor is an individual)

Signed, sealed and delivered by

Name of Contractor

Signature of Contractor

Affix personal seal

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR
Signed by

Name of Contractor

Signature of Contractor

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR (if the Contractor is a joint venture, execution must be by each member, using the blocks below)

Joint Venture Member 1

Given under the common seal of

Name of joint venture member 1

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 1 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 1

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 2

Given under the common seal of

Name of joint venture member 2

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 2 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 2

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 3

Given under the common seal of

Name of joint venture member 3

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 3 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 3

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Novation and Guarantee Agreement¹⁹

(To be used when the Contract is to be novated to a joint venture company)

THIS AGREEMENT is made on

BETWEEN

1.	<i>The Contractor</i>			
	<i>Registered office of Contractor</i>			
2.	<i>Name of Guarantor 1</i>	<i>Name of Guarantor 2</i>	<i>Name of Guarantor 3</i>	
(hereinafter together referred to as the Guarantors)				
	<i>Registered office of Guarantor 1</i>	<i>Registered office of Guarantor 2</i>	<i>Registered office of Guarantor 3</i>	

and

3.	<i>The Employer</i>			
	<i>Whose principal office is at</i>			

BACKGROUND

- A. The Employer and the Guarantors have entered or will enter into a contract for
Description of Works
(the **Contract**).
- B. The Guarantors have formed the Contractor as their subsidiary for the purpose of completing the Contract.
- C. This Agreement is for the Contract to be novated from the Employer and the Guarantors to the Employer and the Contractor, and for the Guarantors jointly and severally to guarantee the Contractor's performance of the Contract.
- D. Terms defined in the Contract have the same meaning in this Agreement.

IT IS AGREED AS FOLLOWS:

- 1 No amount due**
The Guarantors acknowledge that no amount is due to them under the Contract on the date of this Agreement.
- 2 Novation**
The Contract is novated from the Employer of the one part and the Guarantors of the other to the Employer of the one part and the Contractor of the other.
- 3 Contract affirmed**
- 3.1 Subject to this Agreement, the Contract remains in effect.
- 3.2 The Contractor is bound and treated as if always bound to perform the Contractor's obligations and observe the Contract as if the Contractor were and always had been named as "the Contractor" in the Contract in place of the Guarantors.
- 3.3 The Employer is bound and treated as if always bound to perform the Employer's obligations and observe the Contract for the benefit of the Contractor as if the Contractor were and always had been named as "the Contractor" in the Contract in place of the Guarantors.
- 4 Warranty**
The Guarantors and the Contractor represent and warrant to the Employer that the Contractor's duties

¹⁹ If the Contractor and/or the Guarantors is/are not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

and obligations under the Contract have been performed in accordance with the Contract.

5. Guarantee

The Guarantors irrevocably and unconditionally:

- 5.1 guarantee to the Employer that the Contractor will punctually perform all its obligations under the Contract and
- 5.2 undertake to the Employer to fully perform the Contractor's obligations under the Contract if the Contractor fails to perform them

6 Indemnity

If the Contractor's obligations under the Contract or the Guarantor's obligations under clause 5 above are or become void or unenforceable then, as between the Guarantor and the Employer (but without affecting the Contractor's obligations), the Guarantor will as principal obligor indemnify the Employer against any resulting loss and be liable to the Employer for the same amount as the Guarantor would have been liable for if the obligations had not been void or unenforceable.

7 Contractor's failure to perform

- 7.1 If the Contractor goes into liquidation, administration, examinership or receivership or becomes subject to any other form of insolvency proceedings, or if the Contractor's obligation to complete the Works is lawfully terminated under sub-clause 12.1 of the Conditions of the Contract, any such event will be conclusive evidence, for the purposes of this Agreement, that the Contractor has failed to perform the Contract.
- 7.2 The decision of a court or arbitrator or an agreement between the Contractor and the Employer will be binding on the Guarantors in relation to any failure by the Contractor to perform the Contract.

8 Guarantee is in addition to other security

The Guarantors' obligations are in addition to and independent of any other security the Employer may at any time hold for the Contractor's obligations under the Contract.

9 Continuing guarantee

The Guarantors' liability will continue until the Contractor has performed all its obligations in full, and will not be satisfied or diminished by any payment or recovery of an amount due from the Contractor to the Employer.

10 Joint and several liability

The Guarantors' liability under this Agreement is joint and several.

11 Guarantor's liability not impaired

The Guarantor's liability under this Guarantee is as principal obligor and not merely as surety. Neither the Guarantors' liability under this Agreement nor the Employer's rights under it will be affected by any of the following, whether or not known to any of the parties:

- 11.1 the Contractor's obligations under the Contract being or becoming illegal, invalid or unenforceable, if it would not be illegal for the Guarantor to fulfil the obligation
- 11.2 bankruptcy, insolvency, liquidation, examinership, dissolution, amalgamation, winding up, reorganisation or any similar proceeding concerning the Contractor
- 11.3 change in the status, function, control or ownership of the Contractor
- 11.4 death or incapacity of the Contractor
- 11.5 amendment to the Contract or change to the works to be done under it (whether or not the amendment or change increases the Guarantors' liability)
- 11.6 time being given to the Contractor
- 11.7 a concession, arrangement, waiver or other indulgence being granted or made or agreed to be granted or made by the Employer

- 11.8 anything that the Employer or the Contractor do or fail to do, including without limitation:
 - (1) asserting or pursuing (or failing or delaying to assert, perfect or enforce) rights or remedies or
 - (2) giving security or releasing, modifying, or exchanging security or
 - (3) having or incurring any liability
- 11.9 assignment of the benefit of the Contract
- 11.10 whole or partial discharge (whether of the Contractor's obligations or security for them or otherwise) or arrangement made on the faith of payment, security or other disposition that is avoided or must be repaid on bankruptcy, liquidation or otherwise
- 11.11 rights against third parties that the Employer may have relating to performance of the Contractor's obligations
- 11.12 a reduction in, or other arrangement relating to, the Contractor's liability to the Employer as a result of an arrangement or composition under the Companies (Amendment) Act, 1990 or any similar provision
- 11.13 any other act, event, fact, circumstance, rule of law, or omission.

12 Guarantors not to claim against or in competition with the Employer

For as long as the Contractor has actual or contingent obligations or liability under the Contract, the Guarantors shall not:

- 12.1 be entitled to share in the Employer's rights under the Contract or any other rights or security of the Employer or
- 12.2 in competition with the Employer, seek to enforce any rights concerning the Guarantor performing or having obligations under this Agreement
and if a Guarantor receives money from the Contractor in relation to a payment of the Guarantor under this Guarantee, the Guarantor will hold the money in trust for the Employer as long as the Guarantor has any liability (contingent or otherwise) under this Guarantee.

13 No preconditions upon Employer

The Employer may enforce this Agreement without exercising rights against the Contractor or anyone else.

14 Assignment

The Employer may assign the benefit of this Guarantee without the Guarantors' or Contractor's consent. The Employer shall give notice to the Guarantor within 28 days after any assignment.

15 Partial invalidity

If at any time any part of this Agreement is or becomes illegal, invalid or unenforceable, the rest of this Guarantee will remain legal, valid and enforceable.

16 Law and Jurisdiction

This Agreement is governed by and construed according to Irish law and the parties submit to the jurisdiction of the Irish courts to determine all matters concerning it.

17 Notices

Any communication given in connection with this Agreement must be in writing and delivered to, or sent by pre-paid registered post to the relevant party's address at the top of this Guarantee, or a Guarantor's agent's address in clause 18 below, or another address notified in writing by the relevant party. Pre-paid registered post is taken to have been received 2 days after it was sent.

18 Agent for Service²⁰

The Guarantors appoint

Name of Agent

Address of Agent

as their agent for service of legal proceedings. The Guarantors confirm that the named agent has been irrevocably appointed and the failure of the agent to notify the Guarantors of receipt of a document will not invalidate any proceedings or the service of the document.

19 Representations and Warranties

The Guarantors and the Contractor represent and warrant to the Employer that:

- 19.1 The Guarantors own the entire beneficial interest in the share capital and issued share capital of the Contractor and no-one else is entitled to appoint members of the Contractor's board of directors or to vote at meetings of the members of the Contractor.

²⁰ An address in Ireland is required when none of the Guarantors has a registered office in Ireland.

- 19.2 the execution, delivery and performance of this Guarantee by the Guarantors and the Contractor has been duly and validly authorised by all requisite corporate action by the Guarantors and the Contractor and
- 19.3 this Agreement is the Guarantors' and the Contractor's legal, valid and binding obligation in accordance with its terms and
- 19.4 no approval or consent from any governmental entity or any other person or entity is required in connection with the execution, delivery or performance of this Agreement by the Guarantors or the Contractor.

Given under the Guarantors' common seals

Guarantor 1

Affix Guarantor 1's seal

--

Signatures of persons authorised to authenticate the seal

--

Guarantor 2

Affix Guarantor 2's seal

--

Signatures of persons authorised to authenticate the seal

--

Guarantor 3

Affix Guarantor 3's seal

--

Signatures of persons authorised to authenticate the seal

--

Given under the Contractor's common seal

Affix Contractor's common seal

--

Signatures of persons authorised to authenticate the seal

--

OR

Signed, sealed and delivered by

Name of attorney

--

Signature of attorney

--

As lawful attorney of the Contractor under a power of attorney dated

--

Affix attorney's personal seal

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

OR

Signed on behalf of

Name of Contractor

--

Signature of authorised person

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

OR (if the Contractor is an individual)

Signed, sealed and delivered by

Name of Contractor

Signature of Contractor

Affix personal seal

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR

Signed by

Name of Contractor

Signature of Contractor

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR (if the Contractor is a joint venture, execution must be by each member, using the blocks below)

Joint Venture Member 1

Given under the common seal of

Name of joint venture member 1

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 1 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 1

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 2

Given under the common seal of

Name of joint venture member 2

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 2 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 2

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 3

Given under the common seal of

Name of joint venture member

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 3 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 3

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Given under the Employer's seal

Affix Employer's seal

*Signatures of persons authorised
to authenticate the seal*

OR

Signed on behalf of the Employer

Signature of authorised person

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

Novation Agreement²¹

(Clause 5.4)

THIS AGREEMENT is made on BETWEEN:

1.	The Main Contractor	<input type="text"/>
	<i>Registered office of Main Contractor</i>	<input type="text"/>
2.	The Specialist	<input type="text"/>
	<i>Registered office of Specialist</i>	<input type="text"/>
and		
3.	The Employer	<input type="text"/>
	<i>Whose principal office is at</i>	<input type="text"/>

BACKGROUND

A. By written agreement dated (the Specialist Contract) the Employer has appointed the Specialist to

Description of works, services or supply

in connection with

Name of main Contract

- B. The Employer has appointed the Main Contractor to do Works, which include what the Specialist is to do under the Specialist Contract.
- C. The parties to this Agreement have agreed to the novation of the Specialist Contract from the Employer and Specialist to the Main Contractor and Specialist.
- D. Terms defined in the Contract have the same meaning in this Agreement.

IT IS AGREED as follows:

1. Payment

The Specialist confirms that all money due under the Specialist Contract to the date of this Agreement has been paid in full.

2. Novation

The Specialist Contract is novated from the Employer and the Specialist to the Main Contractor and the Specialist.

3. Affirmation of Subcontract

3.1 Subject to this Agreement, the Specialist Contract remains in effect.

3.2 The Specialist is bound, and considered always to have been bound, to perform the Specialist's obligations for the benefit of the Main Contractor, as if the Main Contractor were and always had been named as 'the Employer' in the Specialist Contract in place of the Employer.

²¹ If the Contractor and/or the Guarantors is/are not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

3.3 Similarly, the Main Contractor is bound, and considered always to have been bound, to perform the Employer's obligations for the benefit of the Specialist as if the Main Contractor were and always had been named as 'the Employer' in the Specialist Contract in place of the Employer.

4. Employer's Representative

From the date of this Agreement, the person named in or under the Specialist Contract as Employer's Representative will cease to be the Employer's Representative and the Main Contractor will be the Employer's Representative under the Specialist Contract.

5. Warranty

The Specialist warrants to the Main Contractor that it has not breached any of its obligations under the Specialist Contract.

6. Release from Obligations

6.1 The Specialist will no longer owe any obligation to the Employer under the Specialist Contract. This does not affect any collateral warranty between the Specialist and the Employer.

6.2 Similarly, the Employer will no longer owe any obligation to the Specialist under the Specialist Contract.

7. Law

This Agreement is governed by and construed according to Irish law. The parties submit to the jurisdiction of the Irish courts in relation to all matters concerning it.

Given under the Specialist's common seal

Affix Specialist's common seal

--

Signatures of persons authorised to authenticate the seal

--

OR

Signed, sealed and delivered by

Name of attorney

--

Signature of attorney

--

As lawful attorney of the Specialist under a power of attorney dated

--

Affix attorney's personal seal

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

OR

Signed on behalf of

Name of Specialist

--

Signature of authorised person

--

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR (if the Specialist is an individual)

Signed, sealed and delivered by

Name of Specialist

Signature of Specialist

Affix personal seal

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR
Signed by

Name of Specialist

Signature of Specialist

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

Given under the Main Contractor's common seal

Affix Main Contractor's common seal

Signatures of persons authorised to authenticate the seal

OR
Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of the Main Contractor under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR
Signed on behalf of

Name of Main Contractor

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR (if the Main Contractor is an individual)

Signed, sealed and delivered by

Name of Main Contractor

Signature of Main Contractor

Affix personal seal

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR

Signed by

Name of Main Contractor

Signature of Main Contractor

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR (if the Main Contractor is a joint venture, execution must be by each member, using the blocks below)

Joint Venture Member 1

Given under the common seal of

Name of joint venture member 1

--

Affix common seal

--

Signatures of persons authorised to authenticate the seal

--

OR

Signed, sealed and delivered by

Name of attorney

--

Signature of attorney

--

As lawful attorney of joint venture member 1 under a power of attorney dated

--

Affix attorney's personal seal

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

OR

Signed on behalf of

Name of joint venture member 1

--

Signature of authorised person

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

Joint Venture Member 2

Given under the common seal of

Name of joint venture member 2

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 2 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 2

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 3

Given under the common seal of

Name of joint venture member 3

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 3 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 3

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Given under the Employer's seal

Affix Employer's seal

*Signatures of persons authorised
to authenticate the seal*

OR

Signed on behalf of the Employer

Signature of authorised person

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

Appointment of Project Supervisor²²

THIS AGREEMENT is made on [] BETWEEN

1. *The Client* []
Whose principal office is at []

and

2. *The Project Supervisor* []
Whose registered office is at []

BACKGROUND

- A. By a contract (the **Contract**) made on or about []²³, the Client, as employer, has appointed []²⁴ as contractor (the **Contractor**) for
Name of Contract []
(the **Works**).
- B. This Agreement is collateral to the Contract.
- C. Terms defined in the Contract have the same meaning in this Agreement. The terms **competent person** and **relevant statutory provisions** are construed according to section 2 of the Safety, Health and Welfare at Work Act 2005 and any amendment to it.

IT IS AGREED AS FOLLOWS:

1. The Client appoints the Project Supervisor as project supervisor for the construction stage according to the Safety, Health and Welfare (Construction) Regulations 2006 and any amendment to them (the **Construction Regulations**) for the project comprising the Works
[]²⁵
and []²⁵
(the **Project**).
2. The Project Supervisor's appointment starts on the date of this Agreement and continues for as long as, under the Construction Regulations, the Client is required to have a project supervisor for the construction stage for the Project, unless the appointment is terminated earlier.
3. The Project Supervisor accepts the appointment.
4. The Project Supervisor shall perform all of its duties under the Construction Regulations as project supervisor for the construction stage for the Project.
5. The Project Supervisor represents and warrants to the Client that the Project Supervisor is and will continue to be a competent person to carry out its duties under this Agreement and the Construction Regulations and has allocated and will allocate sufficient resources to enable itself to comply with the requirements and prohibitions imposed on the Project Supervisor by this Agreement and under the relevant statutory provisions. In this Agreement, **competent person** and **relevant statutory provisions** are construed according to section 2 of the Safety, Health and Welfare at Work Act 2005 and any amendment to it.
6. The Project Supervisor represents and warrants to the Client that the time allowed by the Contract for the completion of the Works is appropriate and sufficient to enable the Project Supervisor to perform its duties under this Agreement and the Construction Regulations.
7. The Project Supervisor represents and warrants to the Client that the information provided by the Client to the Project Supervisor about the state or condition of the Site (as defined in the Contract) and any premises on it is appropriate and sufficient to enable the Project Supervisor to perform its duties under this Agreement and the Construction Regulations.
8. The Project Supervisor shall ensure that it is insured by insurances in the same terms as the insurances

²² If the Project Supervisor is not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

²³ Date of letter of acceptance

²⁴ Insert "the Project Supervisor" or the name of the Contractor, as appropriate.

²⁵ Specify any additional scope for which this Project Supervisor is to be appointed – for example, a process installation.

the Contractor is required to have under clauses 3.6 and 3.7 of the Conditions of the Contract, and that those insurances comply with all the requirements of the Contract, and are kept in force for the same period as required by the Contract, and include cover for death or injury resulting from the Project Supervisor's performance or non-performance of its duties under this Agreement and the Construction Regulations.

9. Payment for the Project Supervisor's service is provided for under the Contract. Accordingly, the Client is not liable under this Agreement for the Project Supervisor's fees or expenses.
10. If the Project Supervisor breaches its obligations or warranties under this Agreement, or if the Contractor's duty to complete the Works is terminated under the Contract, the Client may terminate the Project Supervisor's appointment under this Agreement.
11. Without limiting its obligations under the Construction Regulations, the Project Supervisor shall give the Client all documents it prepares in the course of and for the purpose of performing its duties under this Agreement (**Project Supervisor's Documents**). If the Project Supervisor's appointment under this Agreement terminates, the Project Supervisor shall give all Project Supervisor's Documents to the Client immediately. Ownership of and copyright in the Project Supervisor's Documents shall become the Client's when the Project Supervisor delivers them to the Client, or the appointment is terminated, whichever is earlier. The Project Supervisor shall indemnify the Client against any liability resulting from the use or copying of the Project Supervisor's Documents infringing the property (including intellectual property) rights of any person.
12. This Agreement is governed by and construed according to Irish law. The parties submit to the jurisdiction of the Irish courts in relation to all matters concerning it.

Given under the Client's seal

Affix Client's seal

*Signatures of persons authorised
to authenticate the seal*

OR

Signed on behalf of the Client

Signature of authorised person

--

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Given under the Project Supervisor's common seal

Affix Project Supervisor's common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of the Project Supervisor under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of the Project Supervisor

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR (if the Project Supervisor is an individual)

Signed, sealed and delivered by

Name of Project Supervisor

Signature of Project Supervisor

Affix personal seal

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR

Signed by

Name of Project Supervisor

Signature of Project Supervisor

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Professional Indemnity Insurance Certificate

(Clause 3.9.6)

To: *The Employer*

Address of Employer

Date:

Regarding:

The Contract

Name of Contractor

From:

*Name of Broker/
Underwriter*

*Address of Broker/
Underwriter*

A Dhaoine Uaisle

We are the insurance brokers/underwriter in relation to the Contractor's professional indemnity insurance. We confirm that the details of the Contractor's professional indemnity insurance set out below are true and accurate in all respects.

Name of Insurance Company		
Address of Insurance Company		
Policy No.(s)		
Retroactive Date(s)		
Renewal Date(s)		
Occupation as stated in the policy(ies)		
Limit of Indemnity	Any One Claim	€
	Any One Period	€
Amount of Policy Excess, if any		€
Territorial Limits in relation to the insurance		
Jurisdiction is limited to		

The insurance includes legal liability in respect of	death, bodily injury or disease to persons (other than employees) resulting from breach of the Contractor's professional duties	Yes
	damage to third party property resulting from breach of the Contractor's professional duties	Yes
The insurance covers claims arising out of the sub-contracting of design or supervision activities, if any, to sub-contractors		Yes
The adequacy of the professional indemnity insurances arranged by such sub-contractors has been investigated and confirmed		Yes
The insurance includes	Liability as project supervisor for design process	Yes
	Liability as project supervisor for construction stage	Yes
	Liability under Collateral Warranties or Duty of Care Agreements	Yes
The insurance provides full policy cover in respect of	Date Recognition / Year 2000 problems	Yes
	Pollution / contamination	Yes
	Composite panels	Yes
	Asbestos	Yes

Is mise, le meas

Signed

On behalf of the Insurer or Insurance Broker

Collateral Warranty²⁶

(Clause 5.5)

THIS DEED is made on [] BETWEEN:

1. *The Specialist*
Registered office of Specialist
2. *The Contractor*
Registered office of Contractor
- and
3. *The Employer*
Whose principal office is at

BACKGROUND

- A. The Employer has entered or is about to enter into a contract with the Contractor for
Name of Contract []
(the **Works**)
on behalf of the Employer.
- B. Terms defined in the Contract have the same meaning in this Deed.
- C. By written agreement dated [] (the **Contract**) the Contractor has appointed the Specialist to
Description of contract works or services or supply []
in connection with the Works.
- D. The total amount to be paid by the Contractor to the Specialist under the Contract for completing the Specialist's obligations under the Contract is € [].

IT IS AGREED as follows in consideration of the payment of €1 by the Employer to the Specialist (receipt of which the Specialist acknowledges):

1. Specialist's Undertakings to the Employer

- 1.1 The Specialist warrants and undertakes to the Employer that it has not broken and will not break any express or implied term of the Contract.
- 1.2a The Specialist covenants with the Employer that, in carrying out the Contract, the Specialist has exercised and will continue to exercise the standard of skill, care and diligence reasonably to be expected of properly qualified persons providing works, services or supply comparable in value, size, scope, complexity and quality to that required under the Contract.
- 1.2b The Specialist covenants with the Employer that, in carrying out the Contract, the part of the Works to be undertaken by the Specialist, when complete, will be fit for its intended purpose as described in the Contract.

2. Insurance

2.1a²⁷ *This paragraph is not being used*

The Specialist shall maintain professional indemnity insurance in the amount of at least € []

²⁶ If the Specialist and/or the Contractor is/are not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

²⁷ 1.2a and 1.2b are alternatives: if 1.2b applies it means that the Specialist is not a consultant and therefore the text in 1.2a 'This paragraph is not being used' should remain and the rest of the text deleted. The text in 1.2b 'This paragraph is not being used' should be deleted and the rest of the text should remain. All deleted text should be initialled. Specialists should be required to covenant fitness for purpose (1.2b) when a works item (including design) they are to provide is to be fit for its intended purpose.

[] covering the Specialist's obligations under this Deed for each and every claim or series of claims arising from the same originating cause until a date no earlier than six years from the date Substantial Completion of the Works is certified under the Contract.

2.1b²⁸ *This paragraph is not being used.*

The Specialist shall maintain professional indemnity insurance in the amount of at least €

[] which may be an annual aggregate limit until a date no earlier than six years from the date Substantial Completion of the Works is certified under the Contract.

2.2 The maximum excess shall be € [].

2.3 When it is reasonably requested to do so by the Employer, the Specialist shall produce for inspection satisfactory documentary evidence that its professional indemnity insurance is being maintained.

2.4 The Specialist shall immediately notify the Employer of any cancellation, non-renewal or material reduction in the insurance.

3. Copyright

3.1 Ownership of and copyright in all Contractor's Documents provided or produced by or on behalf of the Specialist will transfer to the Employer when the Employer receives them.²⁹

3.2 The copyright in all drawings, designs, reports, specifications, calculations and other similar documents and written information (including all information stored on any disk, computer or processing facility) obtained or provided by or on behalf of the Specialist in connection with the Works, [other than Contractors Documents]³⁰ (**Design Information**) will remain vested in the Specialist.

3.3 The Specialist grants to the Employer, and all those authorised by it, an irrevocable royalty free non-exclusive licence to copy and use Design Information and to reproduce the designs contained in them for any purpose related to the Works including, but without limitation, to construct, complete, maintain, extend, let, sell, promote, advertise, reinstate and repair the Works.

3.4 The Specialist will not be liable for any use by the Employer of the Contractor's Documents or Design Information for any purpose other than that for which the Specialist prepared and provided them.

3.5 The Specialist shall pay and indemnify the Employer against all royalties and other sums for the supply and use of any patented or copyrighted articles, processes, information or investigations required to perform its duties under the Contract.

3.6 The Specialist shall, on reasonable demand, produce to the Employer a copy of all the Contractor's Documents and Design Information.

3.7 The Specialist shall indemnify the Employer against losses, liability, damages, claims, proceedings and costs suffered or incurred by reason of the Specialist infringing or being held to have infringed any copyright or other intellectual property rights in any Contractor's Documents or Design Information.

4. Assignment

The benefit of this Deed is assignable.

5. Step In

5.1 The Employer has no authority under this Deed to issue any instruction to the Specialist in relation to the Specialist's duties under the Contract, unless and until the Employer has given notice under sub-clause 5.3 below.

5.2 The Specialist agrees that it will not, without first giving the Employer at least 28 days written notice, exercise any right of termination of the Contract, or treat the Contract as having been repudiated, or discontinue carrying out the Contract. The notice to the Employer must be accompanied by all of the information referred to in sub-clause 5.5 below. The Specialist's rights of termination (and the like) will cease if, within the 28 day period, the Employer gives notice to the Specialist under sub-clause 5.3 below.

5.3 The Specialist agrees that, if the Employer gives notice requiring the Specialist to accept the Employer's instructions to the exclusion of the Contractor, the Specialist will deal with and accept instructions solely from the Employer in substitution for the Contractor as if the Employer had appointed the Specialist originally on the terms of the Contract.

5.4 Only if the Employer gives notice under sub-clause 5.3 above, the Employer will become liable for payment of the amounts payable to the Specialist under the Contract (except for amounts due for work for which the Employer has already paid the Contractor) and for performance of the Contractor's other obligations under the Contract, but the Employer's liability will not exceed the amounts particulars of which were given in the notice under sub-clause 5.2 above.

5.5 The Specialist and the Contractor shall, if so required by the Employer at any time, give the Employer a

²⁸ 1.2a and 1.2b are alternatives: if 1.2a applies it means that the Specialist is a consultant and therefore the text in 1.2b 'This paragraph is not being used' should remain and the rest of the text deleted. The text in 1.2a 'This paragraph is not being used' should be deleted and the rest of the text should remain. All deleted text should be initialled.

²⁹ Include 3.1 only if required under the main contract (Schedule, part 1C); otherwise delete it and initial the deletion.

³⁰ Only include if assignment of copyright is required.

copy of the whole Contract, particulars of the amounts paid to the Specialist under the Contract, particulars of amounts due and unpaid to the Specialist, particulars of amounts remaining to be paid to the Specialist under the Contract but not yet due, and any information requested by the Employer that is relevant to these amounts.

- 5.6 If the Contractor's obligation to complete the Works is terminated under the contract between the Employer and the Contractor for the Works, and the Employer so requires, the Specialist shall enter into a contract with the Employer or a replacement contractor for the Specialist to complete its obligations under the Contract, in the same terms as the Contract with all necessary changes.
- 5.7 The Contractor releases the Specialist from any obligation to inquire about whether the Employer's rights under this clause have become exercisable, and from any liability to the Contractor for complying with this clause.

6. Notices

Any notice to be given under this Deed must be in writing and will be considered given if delivered by hand or sent by prepaid registered post to the address of the relevant party at the top of this Deed, or at any other address the relevant party may specify by written notice to the other parties. A notice will be taken to have been received on the day of delivery if delivered by hand, or 48 hours later if sent by prepaid registered post.

7. Common Law Rights

Nothing in this Deed limits the Employer's rights at law.

8. Law

This Deed is governed by and construed according to Irish law. The parties submit to the jurisdiction of the Irish courts in relation to all matters concerning it.

9. Procedure

If there is a conflict between this Deed and the Contract, this Deed takes precedence.

10. Joint and Several Liability

The obligations in this Deed of the persons comprising the Specialist are joint and several.

Given under the Specialist's common seal

Affix Specialist's common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of the Specialist under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of Specialist

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR (if the Specialist is an individual)

Signed, sealed and delivered by

Name of Specialist

Signature of Specialist

Affix personal seal

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR

Signed by

Name of Specialist

Signature of Specialist

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

Given under the Contractor's common seal

Affix Contractor's common seal

*Signatures of persons authorised
to authenticate the seal*

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of the Contractor under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of Contractor

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR (if the Contractor is an individual)

Signed, sealed and delivered by

Name of Contractor

Signature of Contractor

Affix personal seal

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR

Signed by

Name of Contractor

Signature of Contractor

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR (if the Contractor is a joint venture, execution must be by each member, using the blocks below)

Joint Venture Member 1

Given under the common seal of

Name of joint venture member 1

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 1 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 1

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 2

Given under the common seal of

Name of joint venture member 2

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 2 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 2

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 3

Given under the common seal of

Name of joint venture member 3

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 3 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 3

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Given under the Employer's seal

Affix Employer's seal

Signatures of persons authorised to authenticate the seal

OR

Signed on behalf of the Employer

Signature of person authorised to sign contracts on behalf of the Employer

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

Rates of Pay and Conditions of Employment Certificate³¹

To: *The Employer*

Address of Employer

For the attention of

Date:

From: *The Contractor's Representative*

Regarding: *The Contract*

Period of interim statement

From	To
------	----

A Dhaoine Uaisle

We refer to the above Contract.

Terms defined in the Conditions of the Contract have the same meaning in this certificate.

The Contractor certifies that, in respect of the work to which the interim statement referred to above relates, clause 5.3 of the Contract has been observed by the Contractor and the employers of all work persons on the Site. This certification includes, but is not limited to, the following:

- the rates of pay and the conditions of employment (including in relation to pension contributions) of each work person comply with all applicable statutory provisions, and those rates and conditions have been no less favourable than those for the relevant category of work person in any employment agreements registered under the Industrial Relations Acts 1946 to 2004
- all wages and other money due to each work person have been paid in accordance with the Payment of Wages Act 1991 and have not been more than 1 month in arrears or unpaid
- payments due to be paid on behalf of each work person (including pension contributions, where applicable) have been paid
- all pension contributions and other amounts due to be paid on behalf of each work person, have been paid
- all deductions from payments to work persons required by law have been made and paid on, as required by Law
- in relation to the employment of work persons on the Site, the Safety, Health and Welfare at Work Act, 2005 and all employment law including the Employment Equality Act 1998, the Industrial Relations Acts 1946 to 2004, the National Minimum Wage Act 2000, regulations, codes of practices, legally binding determinations of the Labour Court and registered employment agreements under those Laws have been observed.

Is mise, le meas

Contractor's Representative.

³¹ To be submitted on Contractor's letterhead with each interim statement under Clause 11.1
MF1 v 1.1 31/03/2010

Bond – Unfixed Works Items³²

(Clause 11.2)

Bond No. _____

BOND AMOUNT: €

THIS BOND (the Bond) is made on
BETWEEN

1.	<i>The Contractor</i>	
	<i>Registered office of Contractor</i>	
2.	<i>The Surety</i>	
	<i>Registered office of Surety</i>	
and		
3.	<i>The Employer</i>	
	<i>Principal office of Employer</i>	

BACKGROUND

- A. The Contractor has been appointed by the Employer for
Name of Contract _____
(the Contract).
- B. The Contractor has agreed to furnish this bond to the Employer as a condition of payment for certain offsite Works Items.
- C. Terms defined in the Contract have the same meaning in this Bond.

IT IS AGREED AS FOLLOWS:

- The Surety guarantees to the Employer that if the Contractor breaches the Contract or the Contractor's obligation to complete the Works is terminated under clause 12.1 of the Conditions the Surety will, subject to this Bond, pay all amounts for which the Contractor is liable under or as damages for breach of the Contract, as established under the Contract, taking into account all sums due to the Contractor under the Contract.
- The liability of the Surety under this Bond will not exceed € _____.
When the Employer's Representative notifies the Employer
2.1 that any of the off-site Works Items referred to in recital B above have been delivered to the Site and all of the requirements of clause 11.2(1) of the Conditions have been met in regard to them and
2.2 the amount that the Contractor would be entitled to be paid when the Works Items have been delivered to the Site and all the requirements of clause 11.2(1) of the Conditions met
the Surety's maximum liability will be reduced by the amount so notified.
- No alteration in the Contract or in the extent or nature of the Works, and no allowance of time under the Contract, and no forbearance or forgiveness concerning the Contract by the Employer, will in any way release the Surety from liability under this Bond.
- The Surety will be released from its liability under this Bond on certification of Substantial Completion of the Works, except in relation to any breach by the Contractor or termination that has occurred before that date, written notice (including particulars of the breach or termination) of which the Employer has given the Surety within 4 weeks after this expiry date.
- The Contractor undertakes to the Surety to perform its obligations under the Contract. This undertaking does not limit any rights or remedies of the Employer or the Surety.
- The Contractor must promptly, and the Employer may, provide to the Surety by registered or hand-delivered letter to the Surety's registered office given above or to the agent named in clause 12 below a copy of any notice that the Contractor gives to or receives from the Employer under clause 12 of the Conditions. Breach by the Contractor of this obligation or failure to give notice will not give any defence to

³² If the Contractor and/or Surety is/are not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

a call on this Bond.

7. The decision of a court or arbitrator in a dispute between the Employer and the Contractor will be binding on the Surety as to all matters concerning a breach of the Contract, termination under the Contract, and the Contractor's liability.
8. If the Surety is called on to pay the Employer's loss following a termination under clause 12.1 of the Conditions, the Surety may suggest a completion contractor to the Employer, but the Employer has no obligation to accept the suggestion.
9. The Surety will not be liable under this Bond for a breach or termination caused solely and directly by war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution or military or usurped power.
10. The Employer may assign the benefit of this Bond, without the Surety's or the Contractor's consent, by giving written notice to the Surety.
11. This Bond is governed by and construed according to Irish law and the parties submit to the jurisdiction of the Irish courts to determine all matters concerning it.
12. The Surety appoints

Name of Agent

Address of Agent

as its agent for service of legal proceedings. The Surety confirms that the named agent has been irrevocably appointed and the failure of the agent to notify the Surety of receipt of a document will not invalidate any proceedings or the service of the document.³³

13. Money payable by the Surety under this Bond will be paid in euro in Ireland.

Given under the Contractor's common seal

Affix Contractor's common seal

*Signatures of persons authorised
to authenticate the seal*

³³ An address in Ireland is required when the Surety does not have a registered office in Ireland.

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of the Contractor under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of Contractor

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR (if the Contractor is an individual)

Signed, sealed and delivered by

Name of Contractor

Signature of Contractor

Affix personal seal

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR

Signed by

Name of Contractor

Signature of Contractor

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR (if the Contractor is a joint venture, execution must be by each member, using the blocks below)

Joint Venture Member 1

Given under the common seal of

Name of joint venture member 1

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 1 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 1

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 2

Given under the common seal of

Name of joint venture member 2

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 2 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 2

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 3

Given under the common seal of

Name of joint venture member 3

Affix common seal

Signatures of persons authorised to authenticate the seal

OR

Signed, sealed and delivered by

Name of attorney

Signature of attorney

As lawful attorney of joint venture member 3 under a power of attorney dated

Affix attorney's personal seal

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR

Signed on behalf of

Name of joint venture member 3

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Given under the Surety's common seal

Affix Surety's common seal

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Signatures of persons authorised to authenticate the seal

--

OR

Signed, sealed and delivered by

Name of attorney

--

Signature of attorney

--

As lawful attorney of the Surety under a power of attorney dated

--

Affix attorney's personal seal

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

Retention Bond³⁴

(Clause 11.3)

To: *The Employer*

Address of Employer

Date:

Regarding:

The Contract for

Dated

(the **Contract**)

and

The Contractor

Address of Contractor

From:

The Surety

*Registered office of
Surety*

In consideration of you making payment to the Contractor of sums that would otherwise be retained by you under the Contract, we (the Surety) undertake to pay to you (the Employer), without further proof or conditions and without deduction or set-off, any amount or amounts up to € on receipt of your demand in writing.

Unless a demand has been made, our liability under this Bond will expire on ³⁵.
Any demand must be in writing addressed to

and must be accompanied by your declaration that:

- the Contractor has failed to perform its obligations under the Contract or
- the Contractor's obligation to complete the Works has been terminated under the Contract or
- any of the events listed in clause 12.1 of the conditions of the Contract have happened

You may make one or more drawings under this Bond.

No alteration in the Contract or in the extent or nature of the works to be done under it, and no allowance of time under the Contract, and no forbearance or forgiveness concerning the Contract by the Employer, will in any way release us from liability under this Bond.

³⁴ If the Surety is not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

³⁵ Insert date 90 days after the end of the Defects Period.

We appoint

<i>Name of Agent</i>	
<i>Address of Agent</i>	

as our agent for the service of legal proceedings. We confirm that the named agent has been irrevocably appointed and the failure of the agent to notify us of receipt of a document will not invalidate any proceedings or the service of the document.³⁶

This Bond is governed by and construed according to Irish law and the parties submit to the jurisdiction of the Irish courts to determine all matters concerning it.

Given under our common seal

<i>Affix common seal</i>	
<i>Signatures of persons authorised to authenticate the seal</i>	

OR

Signed, sealed and delivered by

<i>Name of attorney</i>	
<i>Signature of attorney</i>	
<i>As lawful attorney of the Surety under a power of attorney dated</i>	
<i>Affix attorney's personal seal</i>	

In the presence of

<i>Name of witness</i>	
<i>Signature of witness</i>	
<i>Witness's occupation</i>	
<i>Witness's address</i>	

³⁶ An address in Ireland is required when the Surety does not have a registered office in Ireland.
MF1 v 1.1 31/03/2010

Appointment of Conciliator³⁷

(Clause 13.1)

THIS AGREEMENT is made on [] BETWEEN

1.	The Employer	[]
	<i>Principal office of Employer</i>	[]
2.	The Contractor	[]
	<i>Registered office of Contractor</i>	[]
and		
3.	The Conciliator	[]
	<i>Address of Conciliator</i>	[]

Whereas

- A. The Employer and Contractor have entered into a contract dated [] (the **Contract**) for
Description of Works []
- B. The Contract provides for the appointment of a conciliator for the resolution of disputes.

NOW IT IS HEREBY AGREED as follows:

1. The Conciliator shall act in accordance with the terms of the Contract.
2. For all purposes related to this agreement the Employer's, Contractor's and Conciliator's addresses are as follows:
 - 2.1 *Employer's Address* []
 - 2.2 *Contractor's Address* []
 - 2.3 *Conciliator's Address* []
3. The Employer and the Contractor shall pay the Conciliator's fees and expenses as follows.³⁸
[]

³⁷ If the Contractor is not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

³⁸ Delete 'and expenses' if it does not apply; set out agreed terms or refer to separate letter.

4. As between themselves, the Contractor and the Employer shall each pay one half of amounts due to the Conciliator under this agreement. As between the Conciliator and the other parties, the Employer and the Contractor are jointly and severally liable to the Conciliator. If one party pays the other's share of an amount due to the Conciliator, that party is entitled to reimbursement from the other.
5. This agreement remains in effect for as long as the Conciliator continues to act in that capacity.
6. This agreement is governed by and construed in accordance with Irish law.
7. Any dispute or claim arising out of or in connection with this agreement shall be settled by arbitration in accordance with the arbitration rules referred to in the Contract, amended as required.

Signed for and on behalf of the Employer

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Signed on behalf of

Name of Contractor

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

OR (if the Contractor is an individual)

Signed by

Name of Contractor

Signature of Contractor

In the presence of

Signature of witness

Name of witness

Witness's occupation

Witness's address

OR (if the Contractor is a joint venture execution must be by each member, using the blocks below)

Joint Venture Member 1

Signed on behalf of

Name of joint venture member 1

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 2

Signed on behalf of

Name of joint venture member 2

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Joint Venture Member 3

Signed on behalf of

Name of joint venture member 3

Signature of authorised person

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

Signed by the Conciliator

Signature of Conciliator

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address

--

Bond – Conciliator’s Recommendation

(Clause 13.1)

To:	<i>The Beneficiary</i>	
	<i>Address of Beneficiary</i>	
Date:		
Regarding:	<i>The Contract for</i>	
	<i>Dated</i>	(the Contract)
between	<i>The Contractor</i>	
	<i>Address of Contractor</i>	
and	<i>The Employer</i>	
	<i>Principal office of Employer</i>	
From:	<i>The Surety</i>	
	<i>Registered office of Surety</i>	

A dispute has arisen under the Contract and the appointed conciliator has recommended that

€ [] (the **Award Amount**) be paid to [] .

Clause 13.1.11 of the conditions of the Contract provides that if a conciliator recommends payment of money, the party concerned must pay the amount recommended if the other party first provides a bond. This is that bond.

In consideration of your paying the Award Amount to [] WE, the Surety, undertake to pay to you, without further proof or conditions and without deduction or set-off, any amount or amounts up to the Award Amount on receipt of your demand in writing.

Unless a demand has been made, our liability under this Bond will expire on the earlier of:

- when you confirm to us in writing that the dispute that was the subject of the adjudication has been finally determined by an arbitrator or court, which has finally determined that [] is entitled to the Award Amount net of any amounts owed to you.
- the date 550 days after the date of this Bond.

Any demand must be in writing addressed to []

and either:

- be accompanied by your declaration that as a result of the award of an arbitrator or decision of a court, [] is not entitled to the Award Amount net of any amounts owed to you or
- be made more than 500 days after the date of this Bond.

You may make one or more drawings under this Bond.

This Bond will become operative on payment by you of the Award Amount.

We will not be released in any way or discharged by time, indulgence, waiver, alteration, release or compromise or any other circumstances that might operate as a release of a guarantor at law or in equity.

This Bond is governed by and construed according to Irish law and the parties submit to the jurisdiction of the Irish courts to determine all matters concerning it.

We appoint

Name of Agent []

Address of Agent

--

as our agent for the service of legal proceedings. We confirm that the named agent has been irrevocably appointed and the failure of the agent to notify us of receipt of a document will not invalidate any proceedings or the service of the document.³⁹

Given⁴⁰ under our common seal

Affix common seal

--

Signatures of persons authorised to authenticate the seal

--

OR

Signed, sealed and delivered by

Name of attorney

--

Signature of attorney

--

As lawful attorney of the Surety under a power of attorney dated

--

Affix attorney's personal seal

--

In the presence of

Name of witness

--

Signature of witness

--

Witness's occupation

--

Witness's address:

--

³⁹ An address in Ireland is required when the Surety does not have a registered office in Ireland.

⁴⁰ If the Surety is not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.