# Reliance Guarantee[[1]](#footnote-1)

(Required, at contract award stage, of an entity on which the Consultant has relied with regard to criteria relating to economic or financial standing)

## THIS GUARANTEE is made on BETWEEN the Guarantor and the Client with respect to a Contract between the Consultant and the Client (the Contract) particulars of which are as follows:

|  |  |  |
| --- | --- | --- |
| 1. | *The* ***Consultant*** |  |
|  | *Registered office of the Consultant* |  |
| 2. | *The* ***Guarantor*** |  |
|  | *Registered office of the Guarantor* |  |
| 3. | *The Client* |  |
|  | *Whose principal office is at* |  |
| 4. | *Description of the Contract* |  |

## BACKGROUND

A. In connection with its tender for the Contract, the Consultant relied on the economic or financial standing of the Guarantor.

B. The Guarantor has agreed to guarantee the Consultant’s performance of the Contract.

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

## THE GUARANTOR AGREES WITH THE CLIENT AS FOLLOWS:

### Guarantee

The Guarantor irrevocably and unconditionally:

* 1. guarantees to the Client that the Consultant will punctually perform all its obligations under the   
     Contract and
  2. undertakes to the Client to fully perform the Consultant’s obligations under the Contract if the  
     Consultant fails to perform them.

### Indemnity

If the Consultant’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 Client (but without affecting the Consultant’s obligations), the Guarantor will, as principal obligor, indemnify the Client against any resulting loss and be liable to the Client for the same amount as the Guarantor would have been liable for if the obligations had not been void or unenforceable.

### 3. Consultant’s failure to perform

3.1 If the Consultant goes into liquidation, administration, examinership or receivership or becomes subject to any other form of insolvency proceedings, any such event will be conclusive evidence, for the purposes of this Guarantee, that the Consultant has failed to perform the Contract.

3.2 The decision of a court or arbitrator or an agreement between the Consultant and the Client will be binding on the Guarantor in relation to any failure by the Consultant 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 Client may at any time hold for the Consultant’s obligations under the Contract.

### 5. Continuing guarantee

The Guarantor’s liability will continue until the Consultant 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 Consultant to the Client.

### 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 Client’s rights under it will be affected by any of the following, whether or not known to any of the parties:

* 1. the Consultant’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
  2. bankruptcy, insolvency, liquidation, examinership, dissolution, amalgamation, winding up, reorganisation or any similar proceeding concerning the Consultant
  3. change in the status, function, control or ownership of the Consultant
  4. death or incapacity of the Consultant
  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. time being given to the Consultant
  7. a concession, arrangement, waiver or other indulgence being granted or made or agreed to be granted or made by the Client
  8. anything that the Client or the Consultant 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
  9. assignment of the benefit of the Contract
  10. whole or partial discharge (whether of the Consultant’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. rights against third parties that the Client may have relating to performance of the Consultant’s obligations
  12. a reduction in, or other arrangement relating to, the Consultant’s liability to the Client as a result of an arrangement or composition under the Companies Act 2014 or any similar provision.
  13. any other act, event, fact, circumstance, rule of law, or omission.

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

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

* 1. be entitled to share in the Client’s rights under the Contract or any other rights or security of the Client or
  2. in competition with the Client, seek to enforce any rights concerning the Guarantor performing or having obligations under this Guarantee

and if the Guarantor receives money from the Consultant in relation to a payment of the Guarantor under this Guarantee, the Guarantor will hold the money in trust for the Client as long as the Guarantor has any liability (contingent or otherwise) under this Guarantee.

### 8. No preconditions upon Client

The Client may enforce this Guarantee without exercising rights against the Consultant or anyone else.

### 9. Assignment

The Client may assign the benefit of this Guarantee without the Guarantor’s consent. The Client 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 Guarantor submits 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 Service[[2]](#footnote-2)

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 Client that:

* 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
  2. this Guarantee is the Guarantor’s legal, valid and binding obligation in accordance with its terms and
  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**[[3]](#footnote-3) **under the Guarantor’s common seal** | |
| *Affix Guarantor’s common seal* |  |
| *Signatures of persons authorised to authenticate the seal* |  |

|  |  |  |
| --- | --- | --- |
| OR | | |
| **Signed and delivered as a Deed by** | | |
| *Name of attorney* |  | |
| *Signature of attorney* |  | |
| *As lawful attorney of the Guarantor under a power of attorney dated* | |  |
| **In the presence of** |  | |
| *Name of witness* |  | |
| *Signature of witness* |  | |
| *Witness’s occupation* |  | |
| *Witness’s address* |  | |

1. If the Contractor and/or the Guarantor(s) is/are not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland. [↑](#footnote-ref-1)
2. An address in Ireland is required when the Guarantor does not have a registered office in Ireland. [↑](#footnote-ref-2)
3. If the Contractor and/or Guarantor is/are not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland. [↑](#footnote-ref-3)