



Form of Parent Company Guarantee

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Name of Organisation: _____



Lewisham

Community Services Directorate

HEALTHWATCH

Form of Parent Company Guarantee

THIS DEED OF GUARANTEE is made the _____ day of _____ 200

BETWEEN

whose registered office is at _____ (hereinafter called the "Guarantor") of the one part and **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF LEWISHAM** of Lewisham Town Hall Catford London SE6 4RU (hereinafter called the "Council" which expression shall include its successors and assigns) of the other part

WHEREAS

1. The Council has entered into a contract dated the _____ day of _____ 200 (hereinafter called the "Contract" which expression shall include any variation or addition to the Contract) with [_____] whose registered office is at _____ (hereinafter called "the Contractor") for the [_____] of [_____] at [_____] (hereinafter called the "Services") for the sum mentioned in the Contract; and
2. The Guarantor has agreed to guarantee the due performance of the Contract in the manner hereinafter appearing

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NOW IN CONSIDERATION OF THE SUM OF ONE POUND (£1) (RECEIPT OF WHICH THE GUARANTOR HEREBY ACKNOWLEDGES) THE GUARANTOR HEREBY COVENANTS WITH THE COUNCIL as follows:-

1. The Guarantor hereby irrevocably and unconditionally guarantees the due and proper performance of the Contract and the due observance and punctual performance of all the obligations, duties, undertakings, covenants and conditions by or on the part of the Contractor contained therein or arising from or in any way related thereto and to be observed and performed by it, which guarantee shall for the avoidance of doubt extend to include any variation or addition to the Contract.
- 2.1 In the event of the Contractor in any respect failing to carry out, observe or perform all or any of the said obligations, duties, undertakings, covenants and conditions (unless relieved from the performance of any part of the Contract by statute or by the decision of a court or tribunal of competent jurisdiction) the Guarantor will be liable for and shall indemnify the Council against all losses, damages, costs and expenses whatsoever which the Council may incur by reason or in consequence of any such failure to carry out observe or perform on the part of the Contractor under the Contract.
- 2.2 Without prejudice and in addition to its rights under clause 2.1 the Council may at its sole discretion in the event of the failure for any reason of the Contractor to carry out and/or complete the Services in accordance with the Contract require the Guarantor to carry out and complete the Services or to procure the carrying out and completion of the Services and the Guarantor shall be bound by the terms of the Contract as though it were a party to the same.
- 2.3 The Council will not be bound first to make demand on or enforce any rights against the Contractor or any other guarantor or other person before enforcing this Guarantee.
3. The Guarantor shall not be discharged or released or otherwise exonerated from this Guarantee by the occurrence of any one or more of the following:-
 - 3.1 any alteration to the nature or extent of the Services or otherwise to the terms of the Contract;
 - 3.2 any allowance of time, forbearance, indulgence or other concession granted to the Contractor under the Contract or any other compromise or settlement of any dispute between the Council and the Contractor (but so that the Council shall not pursue against the Guarantor a remedy contrary to the terms of any such compromise or settlement insofar as the Contractor shall have complied with such terms);
 - 3.3 the liquidation, bankruptcy, administration, absence of legal personality, dissolution, incapacity, or any change in the name, composition or constitution of the Contractor or the Guarantor;
 - 3.4 any other act, omission, matter or thing which but for this provision might operate to discharge release or otherwise exonerate the Guarantor from this guarantee.
4. This Guarantee is a continuing guarantee and accordingly shall remain in operation until all obligations, duties, undertakings, covenants, conditions and warranties now or hereafter to be carried out or performed by the Contractor under the Contract or arising out of or in any way related to the Contract shall have been satisfied or performed in full and is in addition to and not in substitution for any other security which the Council may at any time hold for the performance of such obligations and may be enforced without first having recourse to any such security and without taking any other steps or proceedings against the Contractor. For the avoidance of doubt it is hereby agreed and declared that the Employer may make more than one demand under this Guarantee.
5. So long as any sums are payable (contingently or otherwise) by the Contractor to the Council under the terms of the Contract then the Guarantor shall not exercise any right of

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set off or counterclaim against the Contractor or any other person or prove in competition with the Council in respect of any payment by the Guarantor hereunder and in case the Guarantor receives any sums from the Contractor or any other person in respect of any payment of the Guarantor hereunder the Guarantor shall hold such monies in trust for the Council so long as any sums are payable (contingently or otherwise) under this Guarantee.

6. The Guarantor will not, without the prior written consent of the Council hold any security from the Contractor or any other person in respect of the Guarantor's liability hereunder or in respect of any liabilities or other obligations of the Contractor to the Guarantor. The Guarantor will hold any security held by it in breach of this provision in trust for the Council.
7. This Guarantee is in addition to and not in substitution for any present and future guarantee lien or other security held by the Council. The Council's rights under this Guarantee are in addition to and not exclusive of those provided by law.
8. If any provision of this Guarantee is held by any competent authority to be invalid unlawful or unenforceable in whole or in part the validity lawfulness and enforceability of the other provisions of this Guarantee and the remainder of the provision in question shall not be affected thereby.
9. It is hereby expressly agreed and declared that none of the provisions of this Guarantee are intended to or will operate to confer any benefit pursuant to the Contracts (Rights of Third Parties) Act 1999 on any person who is not named as a party to this Guarantee

IN WITNESS WHEREOF the Guarantor has executed this Deed of Guarantee the day and year first before written