

Dated 2015

**EASTLEIGH BOROUGH COUNCIL (1)**

**and**

**[PARENT COMPANY GUARANTOR] (2)**

**Parent Company Guarantee**

**in relation to [ ]**



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**THIS PARENT COMPANY GUARANTEE** is dated 2015

**BETWEEN:**

**(1) EASTLEIGH BOROUGH COUNCIL** of Eastleigh House, Upper Market Street, Eastleigh, Hampshire S050 9YN (the ”**Employer**”); and

**(2) [*PARENT COMPANY*] LIMITED** (registered in England and Wales under company number ) whose registered office is at [ ]) (the “**Guarantor**”)

**NOW IT IS AGREED** as follows:

1. **DEFINITIONS AND INTERPRETATIONS**

In this Guarantee where the context so admits:

* 1. The following expression shall have the following meanings:

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| **“Contract”** | means a contract to be entered into between the Employer and the Contractor to carry out the Works by the Contractor at the Property and any other amendments agreed by the Contractor and the Employer during the period of this Guarantee; |
| **“Contractor”** | means [*insert name of building contractor*]; |
| **“Expiry”** | means the payment by the Employer of the final payment to the Contractor (or the payment by the Contractor to the Employer of any sums owed to the Employer) in accordance with clause 4.12 of the Contract; |
| **“Property”** | means the site for the Works at ; |
| **“Works”** | means at the Property as set out in the Contract; |

* 1. **Successors in Title**

The Employer and the Guarantor shall include both parties’ successors in title and assigns.

* 1. **Headings**

The headings in this Guarantee are inserted for convenience only and shall be ignored in construing the terms and provisions hereof.

1. **GUARANTEE**

The Guarantor guarantees to the Employer that in the event of a breach of the Contract by the Contractor the Guarantor shall, subject to the provisions of this Guarantee, indemnify the Employer against all damages, losses, costs and expenses which may be incurred by the Employer by reason of any such breach, as are established and ascertained pursuant to and in accordance with the provisions or by reference to the Contract and taking into account all sums due or to become due to the Contractor. For the avoidance of doubt the decision of a court or tribunal of competent jurisdiction or agreement reached between the Contractor and the Employer shall be binding on the Guarantor. The Employer does not have to pursue any remedy against the Contractor before proceeding against the Guarantor under this Guarantee.

1. **RELEASE**

The Guarantor shall be, and continue to be, liable under this Guarantee even if the Contract is or becomes not binding on or unenforceable against the Contractor for any reason whatsoever. No alterations in the Contract or in the works and no extensions of time, forbearance or forgiveness, nor any act, matter, or thing whatsoever, except an express release by the Employer, shall in any way release or reduce any liability of the Guarantor hereunder. References to the Contract in this Guarantee shall include all amendments, variations or additions to it whether made before or after the date hereof.

1. **LIMITATION ON GUARANTOR’S LIABILITY**

The Employer hereby agrees that the Guarantor’s liability under this Guarantee shall be limited to and shall not exceed the obligations assumed by the Contractor under the Contract.

1. **ASSIGNMENT**

The Employer shall be entitled to assign the benefit of this Guarantee to any party to whom it assigns its interest under the Contract but not otherwise provided the Guarantor and Contractor shall be entitled to receive notice of such assignment in writing within a reasonable period of the assignment taking place.

1. **DURATION**

The obligations of the Guarantor under this Guarantee shall be released and discharged absolutely upon Expiry save in respect of a demand made by the Employer prior to such date.

1. **JURISDICTION**

This Guarantee shall be governed by and construed in accordance with the laws of England and Wales and the courts of England and Wales have non-exclusive jurisdiction with regard to all matters arising in connection with or under this Guarantee.

**IN WITNESS** whereof this Guarantee has been duly executed and delivered on the date and year stated above.

**EXECUTED AS A DEED** by affixing )

THE COMMON SEAL of **EASTLEIGH )**

**BOROUGH COUNCIL** )

in the presence of: )

…………………………………………….

Head of Legal & Democratic Services

|  |  |
| --- | --- |
| **EXECUTED** as a **DEED** by **THE GUARANTOR** by the signatures of: |  |
| Director |  |
| Director/Company Secretary |  |