

## **Section VII: Contract Terms and Conditions**

### **Bank Guarantee Forms**

#### **Preamble**

This section of the Procurement Document contains model forms of bank demand guarantees, which may be required to be provided by the successful Participant under the Contract as the security for proper performance under the Contract, as well as in support of advance payment and retention money payment.

The models provided herewith are based on the Uniform Rules for Demand Guarantees, as set forth by the International Chamber of Commerce publication URDG 758.

Unless issued via SWIFT, in which case it shall include an appropriate SWIFT identification code, a bank guarantee shall be issued by a guarantor on stationery with its letterhead clearly showing the guarantor's complete name and address, and bear the identification number. The guarantee shall be signed by an authorised person and sealed, as appropriate.

In the forms provided, the terms "Principal" and "Beneficiary" shall refer to appropriate parties to the Contract, which the issuing bank may choose to use in a guarantee. Such references may be made to the "Supplier", the "Contractor", the "Consultant", the "Provider", the "Purchaser", the "Employer" and/or the "Client", as appropriate.

The Bank shall be consulted if alternative internationally recognised model forms of the guarantees are proposed to be used by the parties to the Contract.

## PERFORMANCE SECURITY

To: *[Insert the name and address of the Beneficiary]*

Date: *[Insert the date of issue]*

Type of Guarantee: *Performance Guarantee*

Guarantee No.: *[Insert guarantee reference number]*

The Guarantor: *[Insert name and address of place of issue]*

The Principal: *[Insert name and address of the Principal]*

The Beneficiary: *[Insert name and address of the Beneficiary]*

The Underlying Relationship: *The Principal's obligation in respect of [insert the reference number, the title and the date of the Contract]*

Guarantee Amount and currency: *[Insert in figures and words the maximum amount(s) payable and the currency(ies) in which it is payable]*

Any document required in support of the demand for payment, apart from the supporting statement that is explicitly required in the text below: *The Beneficiary's demand in writing stating that the Principal is in breach of its obligation(s) under the Contract, without needing to prove or to show grounds for the demand or the sum specified therein.*

Language of any required documents: *[Insert the language]*

Form of Presentation: *[Insert paper or electronic form.*

- If paper form is used, indicate mode or delivery.*
- If electronic indicate the format, system for data delivery and the electronic address for presentation]*

Time as from which a demand can be presented if different from the date of issue:

Variation of Amount Clause

Guarantee Expiry: *This Guarantee shall expire no later than the [insert number] day of [insert month] [insert year]*

Governing Law: *[Insert the governing law]*

Any demand for payment under this guarantee must be received by the Guarantor on or before the expiry date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

## ADVANCE PAYMENT SECURITY

To: *[Insert name and address of Beneficiary]*

Date: *[Insert date of issue]*

Type of Guarantee: *Advance Payment Guarantee*

Guarantee No.: *[Insert guarantee reference number]*

The Guarantor: *[Insert name and address of place of issue]*

The Principal: *[Insert name and address of the Principal]*

The Beneficiary: *[Insert name and address of the Beneficiary]*

The Underlying Relationship: *The Principal's obligation in respect of [insert the reference number, the title and the date of the Contract]*

Guarantee Amount and currency: *[Insert in figures and words the maximum amount(s) payable and the currency(ies) in which it is payable]*

Any document required in support of the demand for payment, apart from the supporting statement that is explicitly required in the text below: *The Beneficiary's demand in writing accompanied by a written statement stating that*

- (a) the Principal is in breach of its obligation(s) under the Contract, including, but not limited to, any use of the advance payment by the Principal for purposes other than those envisaged under the Contract;*
- (b) the advance payment have been paid by the Beneficiary in full to the Principal's account; and*
- (c) the Principal has failed to repay the advance payment in accordance with the conditions of the Contract, and stating the amount, which the Principal has failed to repay.*

Language of any required documents: *[Insert the language]*

Form of Presentation: *[Insert paper or electronic form.*

- If paper form is used, indicate mode or delivery.*
- If electronic indicate the format, system for data delivery and the electronic address for presentation]*

Time as from which a demand can be presented if different from the date of issue:

Variation of Amount Clause *The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Principal, as demonstrated by copies of payment documents, issued in accordance with the Contract and presented to the Guarantor*

Guarantee Expiry: *This guarantee shall expire at the latest, upon our receipt of a copy of the payment documents, issued in accordance with the Contract and demonstrating that the Principal has repaid the advance payment in full, or on the [insert day] day of [insert month] [insert year], whichever is earlier.*

Governing Law: *[Insert the governing law]*

Any demand for payment under this guarantee must be received by the Guarantor on or before the expiry date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

## RETENTION MONEY SECURITY

To: *[Insert name and address of Beneficiary]*

Date: *[Insert date of issue]*

Type of Guarantee: *Retention Money Guarantee*

Guarantee No.: *[Insert guarantee reference number]*

The Guarantor: *[Insert name and address of place of issue]*

The Principal: *[Insert name and address of the Principal]*

The Beneficiary: *[Insert name and address of the Beneficiary]*

The Underlying Relationship: *The Principal's obligation in respect of [insert the reference number, the title and the date of the Contract]*

Guarantee Amount and currency: *[Insert in figures and words the maximum amount(s) payable and the currency(ies) in which it is payable]*

Any document required in support of the demand for payment, apart from the supporting statement that is explicitly required in the text below: *The Beneficiary's demand in writing accompanied by a written statement stating that:*

- (a) the Principal has failed to carry out his obligation(s) to rectify defect(s) for which he is responsible under the Contract; and*
- (b) the balance of the Retention Money have been paid by the Beneficiary in full to the Principal's account.*

Language of any required documents: *[Insert the language]*

Form of Presentation: *[Insert paper or electronic form.*

- If paper form is used, indicate mode or delivery.*
- If electronic indicate the format, system for data delivery and the electronic address for presentation]*

Time as from which a demand can be presented if different from the date of issue:

Variation of Amount Clause

Guarantee Expiry: *This guarantee shall expire, at the latest, 28 days after the date when the Guarantor has received a copy of the document issued in accordance with the Contract, confirming that the performance of the Principal's obligations under the Contract have been completed and stating the date on which the Principal completed his obligations under the Contract.*

Governing Law: *[Insert the governing law]*

Any demand for payment under this guarantee must be received by the Guarantor on or before the expiry date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.