



Home Office

AUTHORITY: The Secretary of State for the Home Department

SCHEDULE 18
PARENT COMPANY GUARANTEE

NEXT GENERATION OUTSOURCED VISA SERVICES

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DATED

HER MAJESTY'S PRINCIPAL SECRETARY OF STATE
FOR THE HOME DEPARTMENT

and

Teleperformance S.A

GUARANTEE

relating to the provision of Next Generation Outsourced Visa Services

DEED OF GUARANTEE

BETWEEN:

- 1) **HER MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR THE HOME DEPARTMENT** (the "**Authority**"); and
- 2) Teleperformance S.A (registered under number 301 292 702 (RCS PARIS) a company incorporated under the laws of France whose registered office is at 21/25 rue Balzac 75008 Paris - the "**Guarantor**")

WHEREBY IT IS AGREED as follows:

1. DEFINITIONS

- 1.1 In this Deed of Guarantee, the following words and expressions shall, except where the context otherwise requires, have the meanings hereby assigned to them:

"Accounting Date"	means the Sunday closest to the <i>[insert date]</i> ;
"Affiliate"	means in relation to any person, a subsidiary or a Holding Company of that person and any other subsidiary of a Holding Company of that person;
"Contract"	means the contract between the Authority and the Supplier for the provision of Next Generation Outsourced Visa Services for the Authority dated 27 September 2013
"Contract Counterparty"	means a party, other than the Supplier to a Sub-contract (as defined in the Contract);
"Contract Default"	means a default by the Supplier of the terms of any of its Sub-contracts (as defined in the Contract) with a Contract Counterparty, or an event of Default under the Contract, which, if unremedied, would lead to the termination of the Sub-contract or the Contract as applicable;
"Holding Company"	means an entity of which another person is a subsidiary; and
"Supplier"	means Teleperformance S.A.

- 1.2 Except to the extent that the context requires otherwise, words and phrases defined in the Contract shall have the same meaning herein.

2. GUARANTEE

- 2.1 In consideration of the Authority entering into the Contract with the Supplier, and subject always to Clause 9, the Guarantor, for itself, its successors and assignees, hereby agrees by way of deed:

- 2.1.1 absolutely, irrevocably and unconditionally guarantees to the Authority as a continuing guarantee the due, proper and punctual performance by the Supplier of all the obligations of the Supplier in the Contract (including, without limitation, the payment of monies);
- 2.1.2 agrees that if the Supplier shall in any respect fail to perform any of the terms, conditions, obligations and agreements on its part arising under the Contract (including, without limitation, the payment of monies) or shall commit any breach of or fail to fulfil any warranty as set out in the Contract, then the Guarantor will forthwith perform and fulfil in place of the Supplier each and every term, condition, obligation, agreement or warranty in respect of which the Contractor has defaulted or as may be unfulfilled by the Supplier. The Guarantor shall be liable to the Authority for any and all losses, damages, expenses, liabilities, claims, costs or proceedings which the Authority may suffer or incur by reason of the said failure or breach;
- 2.1.3 unconditionally confirms the truth and accuracy of the representations and warranties given by the Supplier under the Contract;
- 2.1.4 agrees that, with respect to any Affiliate (or, as the case may be, itself) which is a Contract Counterparty, if any Contract Default occurs, it shall, upon receiving notice from the Authority that the Authority so requires, procure that the Supplier and the Contract Counterparty enter into such documentation with the Authority as the Authority may reasonably require in order to give the Authority a direct contractual relationship vis-à-vis the Contract Counterparty with respect to all the rights of the Supplier under any contracts relating to the Services that the Supplier has against the Contract Counterparty. The documentation shall not require the Authority to assume any obligations except those which relate to the payment for Services to be performed by the Contract Counterparty to the extent that the Authority has not already made payment therefore to the Supplier and any such payment to the Contract Counterparty shall reduce *pro tanto* the amount (if any) payable to the Supplier by the Authority; and
- 2.1.5 agrees, without prejudice to the generality of the foregoing, that it will perform or procure the performance of any obligation of the Supplier under the Contract which the Supplier has failed to perform upon being required to do so by notice from the Authority.

3. PRINCIPAL OBLIGOR

- 3.1 The Authority may make, assert or pursue any claim or remedy against the Guarantor at its discretion. Without prejudice to the Authority's rights against the Supplier, the Guarantor shall be deemed a principal obligor in respect of its obligations under this Guarantee and not merely a surety and, accordingly, the Guarantor shall not be discharged nor shall its liability hereunder be affected by any act or thing or means whatsoever by which such liability would have been discharged or affected if the Guarantor had not been a principal obligor.
- 3.2 As a separate and alternative, continuing primary obligation, the Guarantor unconditionally and irrevocably agrees that any sum payable by it or any obligation to be performed by it under this

Guarantee but which is for any reason (whether or not now existing and whether or not known or becoming known to the Guarantor) not recoverable from or enforceable against the Guarantor on the basis of a guarantee shall nevertheless be recoverable from or enforceable against the Guarantor as if the Guarantor were the sole principal debtor or obligor (where relevant).

- 3.3 Except where specifically provided under this Guarantee, where any discharge (whether in respect of the liabilities hereby guaranteed under this Guarantee or otherwise) is made in whole or in part on the faith of any payment, security or other disposition which is or must be repaid, the Guarantor's liability under this Guarantee shall continue as if there had been no such discharge or arrangement.

4. CONTINUING GUARANTEE

- 4.1 This Guarantee shall be a continuing guarantee and remain in force notwithstanding any intermediate settlement of account or payment or any change in the constitution or control of the Supplier, or the appointment of a receiver, administrative receiver or administrator of any of Supplier's assets, insolvency or any bankruptcy, winding-up, reorganisation, amalgamation, reconstruction or analogous matter or proceedings relating to the Supplier.
- 4.2 Each assurance, security or payment made hereunder which may be avoided under any enactment relating to bankruptcy or insolvency from time to time shall remain in force or payable notwithstanding any matter referred to in Clause 4.1 above.
- 4.3 No single exercise of any right, power or privilege conferred by this Guarantee shall preclude any other or future exercise thereof or the exercise of any other right, power or privilege.

5. REPRESENTATION AND WARRANTY

The Guarantor unconditionally represents and warrants that all financial information provided by it to the Authority, either in connection with this Guarantee or the Contract, is true, complete, accurate and not misleading and that since the Accounting Date there has been no material adverse change in the financial position of the Guarantor.

6. NO EFFECT

- 6.1 The obligations of the Guarantor under this Guarantee shall not be affected by any act, omission, or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Guarantee including (without limitation):
- 6.1.1 any alteration to any provision of the Contract in accordance with its terms or in the extent or nature of the services or obligations to be performed pursuant to the Contract in accordance with its terms or the granting of any time or other indulgence or the making of any concession or arrangement pursuant to or in connection with the same;
- 6.1.2 the taking, variation, compromise, renewal or release of or refusal or neglect to effect take up or enforce any rights against or security over assets of the Supplier or any other person

or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

- 6.1.3 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members of status, function, control or ownership of the Supplier or any other person;
- 6.1.4 any unenforceability, illegality or invalidity of any obligation or liability of the Supplier or any person under the Contract or under any other document or security to the intent that the Guarantor's liability under this Guarantee shall remain in full force as a principal obligation and this Guarantee be construed accordingly as if there were no unenforceability, illegality or invalidity;
- 6.1.5 any present or future law purporting to reduce or prejudice any of the obligations or liabilities of the Supplier pursuant to the Contract or the Guarantor's liability under this Guarantee; and
- 6.1.6 any dealings, agreements or arrangements (including any release or waiver) between or amongst the Authority and the Guarantor.

6.2 The liabilities and obligations of the Guarantor under this Guarantee shall remain in force notwithstanding any act, omission, neglect, event or matter whatsoever, and the foregoing shall apply, without limitation, in relation to:

- 6.2.1 anything which would have discharged the Guarantor (wholly or in part) whether as principal, surety, co-obligor or otherwise or which would have afforded the Guarantor any legal defence;
- 6.2.2 any winding up, dissolution, reconstruction or reorganisation, legal limitation, incapacity or lack of corporate power or authority or other circumstances of, or any change in the constitution or corporate identity or loss of corporate identity by the Supplier, the Guarantor or any other person; or
- 6.2.3 anything which renders the Supplier's or the Guarantor's obligations, warranties, representations or liabilities invalid or unenforceable under the Contract or, as the case may be, this Guarantee.

7. PRESERVATION OF RIGHTS

7.1 Whilst this Guarantee is in full force and effect, the Guarantor shall not by virtue of or as a result of any payment or performance under this Guarantee:

- 7.1.1 be subrogated to any rights, security or monies held or received or receivable by the Authority; or
- 7.1.2 be entitled to exercise any right of contribution in respect of such payment or performance under any other guarantee or security from, or arrangement or agreement with, the Supplier

or (if and for so long as the Authority has any claim outstanding or pending against any co-surety under or in respect of the Supplier's obligations under the Contract and such claim has not been satisfied by any payment made by the Guarantor or any other co-surety) any co-surety; or

- 7.1.3 receive, claim or have the benefit of any payment, distribution, security or indemnity from the Supplier or (if and for so long as the Authority has any claim outstanding or pending against any co-surety under or in respect of its guarantee of the Supplier's obligations under the Contract and such claim has not been satisfied by any payment made by the Guarantor or any other co-surety) any such Guarantor or other co-surety.

- 7.2 The Guarantor shall hold in trust for the Authority and forthwith pay or transfer (as appropriate) to the Authority any payment (including an amount equal to any set-off), distribution or benefit of such security, indemnity or claim in fact received by it in breach of this Clause 7.

8. DISCHARGE OF LIABILITY AND RELEASE

- 8.1 Notwithstanding any composition, release or arrangement effected by the Authority with the Supplier, the Guarantor's liability under this Guarantee shall be discharged only by payment and discharge by the Guarantor to the Authority in full of all sums, obligations and liabilities which may from time to time be respectively due or owing or incurred from or by the Supplier.
- 8.2 This Guarantee is not revocable and is in addition to and not in substitution for and shall not merge with any other right, remedy, guarantee or security which the Authority may at any time hold for the performance of such obligations and may be enforced without first having recourse to any such security.
- 8.3 Any discharge or release of the Guarantee, and any composition or arrangement which the Guarantor may effect with the Authority, shall be deemed to be made subject to the condition that it will be void if any payment or security which the Authority has received or may receive from any person in respect of the obligations of the Supplier is set aside or reduced under any applicable law.

9. AGGREGATE LIABILITY OF GUARANTOR

- 9.1 Notwithstanding anything else in this Guarantee, the liability of Guarantor under this Guarantee shall, in respect of the Agreement, be co-extensive with the liability of Supplier under the Agreement and (for the avoidance of doubt) the aggregate liability of

- 9.2 Guarantor under this Guarantee; and

- 9.2.1 Supplier under the Agreement, shall in no event be greater than Supplier's aggregate liability under the Agreement.

10. INDEMNITY

As a separate, additional, continuing and primary obligation, the Guarantor irrevocably and unconditionally agrees as a primary obligation to indemnify and hold harmless the Authority from time to time on demand by the Authority from and against any losses incurred by the Authority as a result of the non-performance or breach of any of the obligations of the Supplier under or pursuant to the Contract from time to time or as a result of any breach or any default by the Guarantor under or pursuant to this Guarantee and all expenses and legal fees reasonably incurred by the Authority in connection with the Authority seeking to enforce any of the above or any default in respect of such obligations or liabilities.

11. INVALIDITY

If at any time any one or more of the provisions of this Guarantee is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions hereof shall not be in any way affected or impaired thereby.

12. UNDERTAKING

Without prejudice to any of the Guarantor's other obligations under this Guarantee, the Guarantor undertakes to provide the Supplier with any and all such assistance which it may require, in the reasonable opinion of the Authority, to fulfil its obligations under the Contract.

13. NO WAIVER

13.1 No delay or omission of the Authority in exercising any right, power or privilege under this Guarantee shall impair or be construed as a waiver of such right power or privilege nor shall any single or partial exercise of any such right, power or privilege preclude any further exercise of such right, power or privilege or the exercise of any other right, power or privilege. The rights and remedies of the Authority provided for in this Guarantee are cumulative and not exclusive of any rights or remedies whether provided by law or otherwise.

13.2 A waiver given or consent granted by the Authority under this Guarantee, will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

13.3 A waiver by the Authority shall not constitute a continuing waiver and shall not prevent the Authority from subsequently enforcing any of the provisions of this Guarantee against the Guarantor.

14. NOTICES

Any notice, notification, consent, approval, direction or other communication whatsoever which the Authority is required or authorised by this Guarantee to give or make to the Guarantor shall, without prejudice to any other method of giving or making it, be sufficiently given or made if it is sent by recorded or registered post addressed to the Guarantor at its registered office and that notice or other communication shall be deemed for the purpose of this Guarantee to have been given or made at the time at which the letter would in the ordinary course of post be delivered, save where there is express contractual provision to the

contrary.

15. ASSIGNMENT BY THE AUTHORITY

The Authority shall be entitled at any time to assign the benefit of this Guarantee to any person to whom the Authority can assign under Clause 54.1.2 (Assignment) of the Contract without the consent of the Guarantor being required.

16. GOVERNING LAW

This Guarantee shall be governed by and construed in accordance with the laws of England.

17. JURISDICTION

For the benefit of the Authority:

- 17.1 The courts of England, subject to Clause 17.2 below, shall have exclusive jurisdiction to settle any disputes which may arise in connection with the creation, validity, effect, interpretation or performance of, or the legal relationships established by, this Guarantee or otherwise arising in connection with this Guarantee and for such purpose the Guarantor irrevocably submits to the jurisdiction of the English courts;
- 17.2 The agreement contained in Clause 17.1 above is included for the benefit of the Authority. Accordingly, notwithstanding the exclusive agreement in Clause 17.1 above, the Authority shall retain the right to bring proceedings in any other court which has jurisdiction;
- 17.3 The Guarantor irrevocably waives any objections on the ground of venue or *forum non conveniens* or any similar ground; and
- 17.4 The Guarantor irrevocably agrees that a judgement or order of any court referred to in this Clause in connection with this Guarantee is conclusive and binding on it and may be enforced in the courts of any other jurisdiction.

18. ASSIGNMENT BY THE GUARANTOR

- 18.1 The Guarantor shall notify the Authority as soon as reasonably practicable after it becomes aware of a likely or actual Change of Control of Guarantor. If the Guarantor cannot demonstrate, to the Authority's reasonable satisfaction, that the new parent of the Guarantor is of sufficient financial standing, then the Authority, at its option, may require the Guarantor:
 - 18.1.1 to establish, to the reasonable satisfaction of the Authority, suitable credit support arrangements to cover the Guarantor's maximum potential liability under this Guarantee (which may include the securing of a bank guarantee or letter of credit from an international bank reasonably acceptable to the Authority); or
 - 18.1.2 to procure that an alternative guarantor (reasonably satisfactory to the Authority) delivers to the Authority a written instrument (in a form and terms reasonably satisfactory to the

Authority) unconditionally assuming and agreeing to perform all of the Guarantor's obligations under this Guarantee.

- 18.2 Save as set out in Clause 18.1 above, the Guarantor may not, save with the written consent of the Authority, assign or transfer any of its rights or obligations under this Guarantee, provided that if such written consent (in a form and terms reasonably satisfactory to the Authority) is given by the Authority, the successor entity delivers to the Authority a written instrument unconditionally assuming and agreeing to perform all of the Guarantor's obligations under this Guarantee.

19. EXCLUSION OF THIRD PARTY RIGHTS

A person who is not party to this Guarantee shall have no right to enforce its terms.

IN WITNESS WHEREOF this Guarantee is executed by way of a deed as follows:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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