**APPENDIX B**

**FORM OF PARENT COMPANY GUARANTEE**

**THIS DEED** is made the day of 2024

**BY**

**(1) [PARENT COMPANY NAME]** (Company Registration No. ) whose registered office is at [ADDRESS] ("the Guarantor")

**IN FAVOUR OF**

**(2) HAWKINGE TOWN COUNCIL,** Town Council Offices, Hawkinge Community Centre, Heron Forstal Avenue, Hawkinge, Kent, CT18 7FP ("the Employer")

**WHEREAS**

A. This Deed is supplemental to a contract ("the Contract") made between the Employer of the one part and [CONTRACTOR] ("the Contractor") of the other part whereby the Contractor has agreed to provide [WORKS] (“the Works”) upon the terms and conditions more particularly described in the Contract.

B. The Guarantor has control over the Contractor, within the meaning of section 1124 of the Corporation Tax Act 2010.

C. The Guarantor has agreed to guarantee the due performance of the Contract.

**NOW THE GUARANTOR HEREBY COVENANTS** with the Employer as follows:

1. The Guarantor unconditionally and irrevocably guarantees to the Employer that if any sums are due and owing to the Employer by the Contractor pursuant to the terms of the Contract and there is any default in any payment of such sums the Guarantor shall forthwith on first demand by the Employer unconditionally pay such sums to the Employer in full together with all costs and expenses which the Employer may incur in enforcing this Guarantee.

2. The Guarantor unconditionally and irrevocably undertakes fully and promptly to indemnify the Employer against all damages, costs, claims, losses, demands, liabilities and expenses that may be suffered or incurred by the Employer by reason of any default on the part of the Contractor in performing and observing the terms and conditions of the Contract and in particular such costs and expenses as may be incurred as a result of a third party providing all or any part of the Works (as defined in the Contract) by reason of a failure by the Contractor to provide the Works in accordance with the terms of the Contract.

3. Upon being required to do so by the Employer by notice in writing, the Guarantor shall at its own expense perform or take whatever steps may be necessary to procure the performance of the Contractor’s obligations under the Contract and shall from the date of such notice assume jointly and severally with the Contractor all the rights and obligations of the Contract in every way as if the Guarantor were a party thereto, and the performance of the Contract shall continue as if the Guarantor and the Employer had been the original parties to the Contract;

4. The Guarantor shall not be discharged or released from this Guarantee nor shall its liability under this Guarantee be affected or impaired:

(i) by any agreement, conduct or forbearance between or afforded to the Contractor by the Employer;

(ii) by reason of any alteration in the obligations undertaken by the Contractor;

(iii) by any forbearance whether as to payment, time, performance or otherwise; or

(iv) as a result of any change in the constitution of the Guarantor, the Contractor or the Employer.

5. The Employer shall not be obliged to require payment from the Contractor before enforcing the terms of this Guarantee and the Guarantor shall be treated in all respects as being jointly and severally liable with the Contractor for all liabilities obligations and undertakings of the Contractor as provided in the Contract.

6. This Guarantee shall remain in full force and effect until the expiry of the Contract and until all the obligations of the Contractor under the Contract have been satisfied in full and this Guarantee is in addition to and not in substitution for any other guarantee, undertaking, indemnity, security or other obligation given or owing to the Employer in respect of sums due or liabilities arising pursuant to the terms of the Contract.

7. If any monies shall become payable under or in respect of this Guarantee then, so long as any monies due and owing by the Contractor to the Employer under the terms of the Contract remain unpaid, Guarantor shall not:

1. in respect of the amounts paid by the Guarantor under this Guarantee seek to enforce repayment by subrogation or otherwise;

(ii) in the event of the insolvency, winding up, liquidation or dissolution of the Contractor prove in competition with the Employer in respect of any monies owing to the Guarantor by the Contractor on any account whatsoever but will give to the Employer the benefit of any such proof and all monies to be so received in respect thereof.

8. All demands made by the Employer under this Guarantee shall be made in writing and sent to the Guarantor at the address set out above or such other address as may be notified in writing by the Guarantor to the Employer. Such demands shall be deemed to have been received by the Guarantor on the next working day after the date of transmission, whether by post or facsimile transmission.

9. No failure to exercise or delay in exercising any right, power or privilege hereunder on the part of the Employer shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or exercise of any other right, power or privilege. The rights and remedies provided herein are cumulative and exclusive of any rights or remedies provided by the law.

10. The Guarantor hereby warrants and represents to the Employer that it has full power and authority to enter into and perform its obligations under this Guarantee.

11. The Guarantor shall procure that, during the term of this guarantee, there shall be no change of control of the Contractor. “Control” shall bear the meaning given in section 1124 of the Corporation Tax Act 2010.

12. This Guarantee shall be governed by and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

**IN WITNESS** whereof the Guarantor has executed this Guarantee as a deed the day and year first before-written

**EXECUTED BY [PARENT COMPANY NAME]**

acting by two directors or by one director and the company secretary

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| --- | --- |
| **Director** | **Signature:** |
| **Name IN CAPITALS:** |

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| **Director / Company Secretary** | **Signature:** |
| **Name IN CAPITALS:** |