Appendix 10 – Form of on demand guarantee

Date of Issue: [●]

Olje- og Energidepartementet
Akersgata 59, 0180 Oslo

We refer to the [●] dated on or about [●] and issued by [●] (the "**Applicant**") to the Ministry of Petroleum and Energy ("**OED**" or the "**Beneficiary**”) pursuant to which, the Applicant has assumed the liability for liquidated damages in the amount of NOK 400,000,000 (the "**Agreement**").

At the request of the Applicant, we, [*Insert name of Issuing Bank*] (the “Issuing Bank”), issue this irrevocable on-demand guarantee in favour of the Beneficiary to secure all the obligations of the Applicant under the Agreement.

# Definitions

"**Business Day**" means a day on which banks are open in Norway for general business.

"**Demand**" means a written demand substantially in the form set out in Annex A.

"**Expiry Date**" means [●].

"**Total Amount**" means NOK 400,000,000.

# Guarantee

## This Guarantee is an on-demand guarantee independent of the underlying relationship. The Issuing Bank undertakes to the Beneficiary that it will within five Business Days of receipt by it of a Demand, pay the amount requested to the Beneficiary. Payment will be made notwithstanding any objections from the Applicant, without any set-off, counterclaim, reduction or defense of any kind and without any examination of, or request for documentation for the basis of the Demand.

## The Beneficiary may make a demand under this Guarantee by delivering to the Issuing Bank a duly completed Demand in paper or electronic form. A Demand must be received on a Business Day by the Issuing Bank and no later than 17:00 (Oslo time) on the Expiry Date. The Beneficiary may make partial and/or multiple demands under this Guarantee.

## The liability of the Issuing Bank under this Guarantee is limited to the Total Amount, plus the amount of any interest.

## The obligations of the Issuing Bank under this Guarantee are absolute and unconditional and shall not be discharged or impaired by reason of any time or other indulgence granted to any party under the Agreement or by any amendment to, or variation or waiver of any of the terms of the Agreement and irrespective of any invalidity, illegality or unenforceability affecting the Agreement.

## If payment of any sum due by the Issuing Bank under this Guarantee is not made on its due date, the overdue amount shall accrue interest at the prevailing rate in accordance with Section 3 of the Act on interest on overdue payments of 17. December 1976 No. 100 (lov om renter ved forsinket betaling) from the due date until the date of payment.

# Expiry

At 17:00 (Oslo time) on the Expiry Date the obligations of the Issuing Bank under this Guarantee will cease with no further liability on the part of the Issuing Bank except in respect of any Demand validly received in accordance with Clause2.2 of this Guarantee before that time that remains unpaid.

The Expiry Date of the Guarantee may be extended by amendment with the Issuing Bank serving a notice to the Beneficiary in the form set out in Annex B.

# Payment

All payments under this Guarantee shall be made in Norwegian kroner to the account specified in the Demand.

# Delivery of Demand

Each Demand shall be in writing substantially in the form set out in Annex A to this Guarantee. The Issuing Bank may assume that any person signing and/or delivering a Demand or other written communication on behalf of the Beneficiary is duly authorised to do so.

# Credit rating

The Issuing Bank confirms that it has a credit rating equivalent of at least A- (S&P / Fitch) or A3 (Moody's)

# Notices

Any communication made in relation to this Guarantee shall be made in writing and shall be deemed duly delivered when received in accordance with the notice details set out below or such substitute details as may be notified by a party in writing.

|  |
| --- |
| The Issuing Bank |
| [●] |
| To: | [●] |
| Email: | [●] |
| Attention: | [●] |

|  |
| --- |
| The Beneficiary |
| Olje- og Energidepartementet |
| To: | [●] |
| Email: | [●] |
| Attention: | [●] |

# Assignment

We acknowledge and accept that the Beneficiary may transfer and/or assign its rights and claims under this Guarantee.

# Governing law and jurisdiction

This Guarantee and any non-contractual obligations arising out of or in connection with the Guarantee are governed by Norwegian Law. Any dispute arising out of this Guarantee shall be subject to the jurisdiction of the Norwegian courts with Oslo district court as the court of first instance.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of authorised signatory

For and on behalf of the Issuing Bank

Name:

Title

Annex A: Form of Demand by the Beneficiary

Date: [*Date*]

To: [*Insert Issuing Bank name*]

Cc: [*Applicant*]

On-demand guarantee dated [●] (the "Guarantee")

1. We refer to the Guarantee. Terms defined in the Guarantee have the same meaning when used in this Demand.

2. We certify that the sum of NOK [400,000,000] has become payable to us by the Applicant under the Agreement. We therefore demand payment from the Issuing Bank of the sum of NOK [400,000,000].

3. Payment shall be made to the following bank account:

|  |  |
| --- | --- |
| Account Bank: | [●] |
| Account holder: | [●] |
| [Account No.]: | [●] |
| [IBAN:] | [●] |
| [SWIFT:] | [●] |

The Demand and any non-contractual obligations arising out of or in connection with it are governed by Norwegian Law.

Yours faithfully

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of authorised signatory

For and on behalf of the Beneficiary

Name:

Title:

Annex B: Form of Notice to Beneficiary for extension of Guarantee

[*Letterhead of Issuing Bank*]

Date: [*Date*]

To: [*Insert Beneficiary details*]

Cc: [*Insert Applicant details*]

Guarantee dated [●] (the "Guarantee")

We refer to the above Guarantee. Please be informed that the Expiry Date of the Guarantee has been extended to [*Insert date of extension*].

Yours faithfully,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of authorised signatory

For and on behalf of the Issuing Bank

Name:

Title