

DATED

[INSERT DATE]

UK INFRASTRUCTURE BANK LIMITED
(as the Guarantor)

- and -

[*NAME OF COMPANY***]**
(as the Company)

GUARANTEE AND REIMBURSEMENT AGREEMENT

- in respect of -

[INSERT DESCRIPTION OF GUARANTEED BONDS]

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THIS AGREEMENT is made on [insert date]

BETWEEN:

- (1) **UK Infrastructure Bank Limited**, a private limited company incorporated in England and Wales (with company number 06816271) whose registered office address is One Embankment, Neville Street, Leeds, England, LS1 4DW (the "**Guarantor**"); and
- (2) **[***Name of Company***]**, a [private limited company] incorporated in [England and Wales] (with company number [***]) whose registered office address is [***] (the "**Company**").

RECITAL

The Company has issued or will issue the Guaranteed Bonds and wishes the Guarantor to issue the UKIB Guarantee in respect of certain payment obligations of the Company under the Guaranteed Bonds and in accordance with this Agreement.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless otherwise defined in this Agreement expressions defined in the UKIB Guarantee shall have the same meanings when used in this Agreement, and the following expressions have the following meanings:

"**Claim**" is as defined in clause 5.1(a) (*Reimbursement*).

"**[Covenanted Agreement]**¹" means the [***] agreement entered into between the Parties on or about the date of this Agreement².

"**Default Rate**" means, at any time, [***]% per annum over the base rate of [the Bank of England] (or in the absence of such base rate, such base rate as the Guarantor may determine) prevailing at that time.

"**Effective Date**" means [***] or such other date as may be agreed by the Parties.

"**Event of Default**" is as defined in [the Bond Trust Deed].

"**Guarantee Document**" means:

- (a) this Agreement;
- (b) any Guaranteed Bonds Document;
- (c) [the Security Sharing and Intercreditor Agreement];
- (d) the UKIB Guarantee;
- (e) the UKIB Guarantee Fee Letter;
- (f) the UKIB Security Assignment; and
- (g) any other document designated as such by the Guarantor and the Company.

¹ This defined term to be changed to better suit the relevant document(s) on the particular transaction.

² The role and nature of this agreement is likely to change depending on the particular transaction.

"Guaranteed Bonds" means the [insert description of guaranteed bonds], as constituted by the Bond Trust Deed.

["Guaranteed Bonds Document" means:

- (a) the Bond Trust Deed;
- (b) [***]; or
- (c) any other document from time to time designated as such by the Parties.]

"Increased Cost" means:

- (a) an additional or increased cost;
- (b) a reduction in the rate of return from the UKIB Guarantee; or
- (c) a reduction of an amount due and payable under any Guarantee Document,

which is incurred or suffered by the Guarantor but only to the extent attributable to the Guarantor having entered into any Guarantee Document or funding or performing its obligations under any Guarantee Document.

"Indemnified Parties" means:

- (a) the Guarantor; and
- (b) any present or future directors, officials, officers, employees or agents of the Guarantor.

"Parties" means the Guarantor and the Company as parties to this Agreement.

"Preference" means:

- (a) a preference pursuant to Section 239 of the Insolvency Act;
- (b) an avoidance of any property disposition pursuant to Section 127 of the Insolvency Act; or
- (c) a transaction at an undervalue pursuant to Section 238 of the Insolvency Act,

any analogous judgment, declaration, decision or similar pursuant to any Insolvency Law.

["Security Sharing and Intercreditor Agreement" means the [***name of document***] (governed by [English law]) dated on or about the date of this Agreement between the Company, the Beneficiary, [the Holders] and the Guarantor, among others, relating to certain security sharing and other arrangements concerning the Guaranteed Bonds.]³

"SIG" means the Sovereign Infrastructure Guarantee (SIG) (governed by English law) dated [***] between HMT, as payer, and the Guarantor, as payee (a copy of which has been provided by the Guarantor to the Company).

"Tax" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

³ References to a Security Sharing and Intercreditor Agreement required only where such arrangements are a feature of the relevant transaction

"Tax Credit" means a credit against, relief or remission for, or repayment of any Tax.

"Tax Deduction" means a deduction or withholding for or on account of Tax from a payment under a Guarantee Document.

"Tax Payment" means either the increase in a payment made by the Company to the Guarantor under clause 12.1 (*Tax gross-up*) or a payment under clause 12.2 (*Tax indemnity*).

"UKIB Guarantee" means the guarantee (governed by English law) in respect of the Guaranteed Bonds issued by the Guarantor in materially the same form as set out in the Schedule (*Agreed form of UKIB Guarantee*).

"UKIB Guarantee Fee Letter" means the fee letter (governed by English law) dated on or about the date of this Agreement between the Guarantor and the Company.

"UKIB Guarantee Issuance Cut-off Date" means [***], or such later date at the Guarantor may agree from time to time.

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature which may be imposed in place thereof from time to time.

1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
- (i) an **"amendment"** includes a supplement, novation, extension (whether of maturity or otherwise), restatement, re-enactment or replacement (however fundamental and whether or not more onerous) and amended will be construed accordingly;
 - (ii) a **"clause"** or **"schedule"** is a reference to a clause of, or a schedule to, this Agreement;
 - (iii) a **"person"** includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, fund, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality;
 - (iv) this **"Agreement"** shall be deemed to be a reference to this guarantee and reimbursement agreement as a whole and not limited to the particular clause, schedule or provision in which the relevant reference appears and to this Agreement as varied, amended, supplemented or substituted from time to time;
 - (v) **"Sterling"** or **"£"** means the lawful currency from time to time of the United Kingdom;
 - (vi) a Party or any other person includes its successors in title, permitted assigns and permitted transferees;
 - (vii) a provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;
 - (viii) a Guarantee Document or other document or security includes (without prejudice to any prohibition on amendments) any amendment to that Guarantee Document or other document or security, including any change

in the purpose of, any extension for or any increase in the amount of a facility or any additional facility; and

- (ix) a time of day is a reference to London time.
- (b) Unless a contrary indication appears, a term used in the UKIB Guarantee or the Guaranteed Bonds has the same meaning in this Agreement.
- (c) The headings in this Agreement are inserted for convenience only and shall be of no legal effect.
- (d) Unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa.
- (e) Unless the contrary intention appears:
 - (i) a reference to a Party will not include that Party if it has ceased to be a Party under this Agreement;
 - (ii) a word or expression used in any other Guarantee Document or in any notice given in connection with any Guarantee Document has the same meaning in that Guarantee Document or notice as in this Agreement; and
 - (iii) any obligation of the Company under the Guarantee Documents which is not a payment obligation remains in force for so long as any payment obligation of the Company is, may be or is capable of becoming outstanding under the Guarantee Documents.

1.3 Third Party Rights

- (a) Unless expressly provided to the contrary, a person who is not a party to this Agreement (other than an Indemnified Party) may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- (b) Subject to clause 13(a) (*Amendments and Waivers*), no consent of any third party is required for any amendment (including any release or compromise of any liability) or termination of any Guarantee Document.

2. COVENANTS

2.1 Payment

In consideration for the Guarantor's issuance of the UKIB Guarantee and entry into this Agreement, the Company shall, on the terms and subject to the conditions of this Agreement:

- (a) pay or procure the payment, from time to time, of any amount due and payable by the Company to the Guarantor under and in accordance with any Guarantee Document; and
- (b) indemnify and reimburse the Guarantor on the terms of this Agreement.

2.2 General Covenants

The Company agrees:

- (a) that subject to any applicable law and the rules of any regulatory authority within a competent jurisdiction, its duties and obligations set out in this Agreement shall

continue in full force and effect until all of its obligations under the Guarantee Documents have been fully and irrevocably discharged, notwithstanding payment by it of all amounts due in respect of the Guaranteed Bonds;

- (b) that to the best of its knowledge, no statute, rule, regulation or order has been executed, given or deemed applicable by any government or governmental or administrative agency or court having any relevant jurisdiction that would make the transactions contemplated by the Guarantee Documents illegal, invalid or unenforceable in any respect under any jurisdiction; and
- (c) [that it will observe and comply with all of its obligations, warranties and undertakings as set out in the [Covenanted Agreement]].

3. **CONDITIONS PRECEDENT**

- (a) The Guarantor is under no obligation to issue the UKIB Guarantee unless and until the Guarantor has notified the Company that it has received (or waived receipt of) all of the documents and evidence set out in the [Covenanted Agreement] in form and substance satisfactory to the Guarantor.
- (b) The Guarantor shall give the notification referred to in paragraph (a) above to the Company promptly upon being so satisfied and, upon giving such notice, but subject to paragraph (c) below, the Guarantor shall within [***] Business Days issue the UKIB Guarantee.
- (c) The Guarantor shall have no obligation to issue the UKIB Guarantee:
 - (i) if an [Event of Default] has occurred and is continuing at the expiry of [***] Business Day period referred to in paragraph (b) above; or
 - (ii) if the expiry of [***] Business Day period referred to in paragraph (b) above falls after the UKIB Guarantee Issuance Cut-off Date.]⁴

4. **SUBROGATION**

- (a) Upon the Guarantor making any payment in respect of any Guaranteed Obligations pursuant to the UKIB Guarantee, the Company agrees that the Guarantor shall, to the extent of any such payment, be fully and automatically subrogated pursuant to applicable law to all of the Beneficiary's and the Holders' rights to payment of any amounts payable in respect of such Guaranteed Obligations (including without limitation:
 - (i) any rights and benefits attached to, and any security conferred or granted by law, contract or otherwise in respect of, the Affected Guaranteed Obligations; and
 - (ii) any default interest on any of the Affected Guaranteed Obligations accrued pursuant to the Guaranteed Bonds after the date of payment by the Guarantor).
- (b) The Company agrees that it shall not, by reason of any payment by the Guarantor under the UKIB Guarantee, be discharged from its obligations under this

⁴ The timing of when the UKIB Guarantee is issued is likely to be dealt with in the bond documentation and so these provisions will need to be tailored to match.

Agreement. For the avoidance of doubt, this paragraph (b) is without prejudice to the terms of the [Covenanted Agreement].

- (c) The Company must, on request, take such actions as are, in the sole judgment of the Guarantor, necessary to evidence such subrogation and to ensure that, to the extent of any payment made by the Guarantor under the UKIB Guarantee, the Guarantor receives any moneys paid or payable in respect of the Guaranteed Obligations.

5. REIMBURSEMENT AND INDEMNITIES

5.1 Reimbursement

- (a) The Company irrevocably and unconditionally authorises the Guarantor to pay any claim made or purported to be made against it under the UKIB Guarantee which appears on its face to be in order (a "**Claim**").
- (b) The Company shall immediately on demand pay to the Guarantor an amount equal to the amount of any Claim (including the amount by which the Guarantor is required to gross up when it pays or is to pay that Claim). To avoid doubt clause 11.7 (*Timing of payments*) shall not apply to this paragraph (b).
- (c) The Company acknowledges that the Guarantor:
 - (i) is not obliged to carry out any investigation or seek any confirmation from any other person before paying a claim; and
 - (ii) is not concerned with the legality of a claim or any underlying transaction or any available set-off, counterclaim or other defence of any person.
- (d) The obligations of the Company under this clause 5 will not be affected by:
 - (i) the sufficiency, accuracy or genuineness of any claim or any other document; or
 - (ii) any incapacity of, or limitation on the powers of, any person signing a claim or other document.

5.2 Indemnities

- (a) The Company shall immediately on demand indemnify the Guarantor against any cost, loss or liability incurred by the Guarantor (otherwise than by reason of the Guarantor's gross negligence or wilful misconduct) under the Guarantee Documents.
- (b) The Guarantor shall not be obliged to pursue first any recovery under any other indemnity or reimbursement obligation before seeking recovery under any indemnity or reimbursement obligation of the Company under this Agreement.

6. EXPENSES

6.1 Initial costs

The Company must pay to the Guarantor on demand the amount of all costs and expenses (including legal and other adviser fees) reasonably incurred by it in connection with the negotiation, preparation, printing and execution of the Guarantee Documents.

6.2 **Subsequent costs**

The Company must pay to the Guarantor the amount of all costs and expenses (including legal and other adviser fees) reasonably incurred by it in connection with:

- (a) the negotiation, preparation, printing and execution of any Guarantee Document entered into after the date of this Agreement; or
- (b) any amendment, waiver or consent requested by or on behalf of the Company or specifically allowed by a Guarantee Document.

6.3 **Enforcement costs**

The Company must pay to the Guarantor the amount of all costs and expenses (including legal fees) incurred by it in connection with:

- (a) the enforcement of, or the preservation of any rights under, any Guarantee Documents; or
- (b) any proceedings instituted by or against the Guarantor as a consequence of it entering into a Guarantee Document.

7. **INCREASED COSTS**

7.1 **Increased Costs**

Except as provided below in this clause 7, the Company must pay to the Guarantor the amount of any Increased Cost incurred by the Guarantor as a result of:

- (a) the introduction of, or any change in, or any change in the interpretation, administration or application of, any law or regulation; or
- (b) compliance with any law or regulation made after the date of this Agreement.

7.2 **Exceptions**

The Company need not make any payment for an Increased Cost to the extent that the Increased Cost is:

- (a) compensated for under another clause or would have been but for an exception to that clause; or
- (b) attributable to the Guarantor wilfully failing to comply with any law or regulation.

7.3 **Claims**

- (a) The Guarantor must promptly notify the Company of the circumstances giving rise to and the amount of the claim.
- (b) The Guarantor must, as soon as practicable after a demand by it, provide a certificate confirming the amount of its Increased Cost.

8. **INDEMNITIES**

8.1 **Currency indemnity**

- (a) The Company must, as an independent obligation, indemnify the Guarantor against any loss or liability which the Guarantor incurs as a consequence of:

- (i) the Guarantor receiving an amount in respect of the Company's liability under the Guarantee Documents; or
 - (ii) that liability being converted into a claim, proof, judgment or order, in a currency other than the currency in which the amount is expressed to be payable under the relevant Guarantee Document, or clause 11.4 (*Currency*) (as the case may be).
- (b) Unless otherwise required by law, the Company waives any right it may have in any jurisdiction to pay any amount under the Guarantee Documents in a currency other than that in which it is expressed to be payable.

8.2 Other indemnities

- (a) The Company must indemnify each Indemnified Party against any loss or liability which such Indemnified Party incurs as a consequence of:
- (i) any representation or warranty of the Company under any Guarantee Document not being true or correct when given;
 - (ii) a breach by the Company of any covenants set out in any Guarantee Document;
 - (iii) the occurrence of any event of default or potential event of default (however described) under any Guaranteed Bonds Document;
 - (iv) without prejudice to the generality of paragraph (iii) above, any failure by the Company to pay any amount due under any Guarantee Document on its due date;
 - (v) any such Indemnified Party being obliged to indemnify, for whatever reason (other than as a direct result of the fraud, gross negligence or wilful default of such Indemnified Party), any party to, or any agent, delegate or contractor of a party to, the Guaranteed Bonds or any Guaranteed Bonds Document;
 - (vi) investigating any event which the Guarantor reasonably believes to be a default or any other event or circumstance which the Guarantor in good faith believes might be or become one of those matters referred to in this paragraph (a) or in disputing or defending any claim in relation thereto; and/or
 - (vii) acting or relying on any notice which the Guarantor reasonably believes to be genuine, correct and appropriately authorised.
- (b) The Company's liability in each case includes any loss or expense on account of funds borrowed, contracted for or utilised to fund any amount payable under any Guarantee Document.

8.3 Payments

Any amount that becomes payable by the Company under this clause 8 shall be immediately due and payable on demand.

8.4 Continuing Indemnity

Each indemnity in this Agreement shall be a continuing indemnity and shall:

- (a) extend to the ultimate balance of the sums and liabilities which are or may become owing to an Indemnified Party under this Agreement; and
- (b) continue in force notwithstanding any intermediate payment in whole or in part of the sums and liabilities which are or may become owing to the Guarantor under this Agreement.

9. TERM OF THIS AGREEMENT

- (a) Subject to paragraph (b) below, this Agreement shall take effect on the Effective Date and shall terminate on the date which is the later of:
 - (i) the date on which the Guarantor is no longer subject to a claim (including any claim arising from a payment made by the Company being declared a Preference) under the UKIB Guarantee, in accordance with clause 8 (*Termination*) of the UKIB Guarantee; and
 - (ii) the date on which all amounts payable to the Guarantor by the Company under this Agreement and all amounts (actually or contingently) payable under the Guaranteed Bonds have been paid in full.
- (b) The provisions of clauses 1 (*Definitions and Interpretation*), 4 (*Subrogation*), 5 (*Reimbursement*) and 8 (*Indemnities*) and this clause 9 shall survive any termination of this Agreement.

10. NATURE OF PARTIES' RIGHTS AND OBLIGATIONS

- (a) Neither the obligations of the Company under this Agreement nor the rights, powers and remedies conferred on the Guarantor in respect of the Company by this Agreement or by law shall be discharged, impaired or otherwise affected by:
 - (i) the winding-up, dissolution, administration or re-organisation of the Company or any other person or any change in its status, control or ownership;
 - (ii) any of the obligations of the Company under any of the Guarantee Documents being or becoming illegal, invalid, unenforceable or ineffective in any respect;
 - (iii) any time or other indulgence being granted to the Company in respect of its respective obligations under any of the Guarantee Documents;
 - (iv) any amendment to, or any variation, waiver, exchange or release of, any obligation of the Company under any of the Guarantee Documents;
 - (v) the existence of any claim, set-off or any other right that the Company (as the case may be) may have against the Guarantor;
 - (vi) any other circumstances, other than payment in full, that might otherwise constitute a defence available to, or discharge of, the Company in respect of the Guarantee Documents;
 - (vii) any document presented in connection with the Guarantee Documents proving to be forged, fraudulent, invalid or insufficient in any respect or any statement in any document being untrue or inaccurate in any respect; and

- (viii) any payment by the Guarantor under the UKIB Guarantee against presentation of a certificate or other document that does not strictly comply with the terms of the UKIB Guarantee.
- (b) Neither the Guarantor nor any other Indemnified Party shall be liable or responsible for:
 - (i) the use of the UKIB Guarantee by the Beneficiary or the Holders;
 - (ii) any acts or omissions of the Beneficiary or the Holders in connection with the use of the UKIB Guarantee by the Beneficiary or the Holders; or
 - (iii) the validity of documents delivered to the Guarantor in connection with any claim under the UKIB Guarantee, or of any signatures thereon, even if such documents or signatures should in fact prove to be in any or all respects invalid, insufficient or (unless relevant officers of the Guarantor shall have actual knowledge thereof) fraudulent or forged.

11. PAYMENT PROCEDURE

11.1 Payments by the Guarantor

The Guarantor may rely on any documents delivered to it in connection with any claim under the UKIB Guarantee which appear on their face to be in order, without responsibility for further investigation.

11.2 Place

Unless a Guarantee Document specifies that payments under it are to be made in another manner, all payments by a Party to the other Party under a Guarantee Document must be made to the other Party in immediately available funds to its account at such office or bank in London, as it may notify to the first Party for this purpose.

11.3 Funds

Payments under the Guarantee Documents to the Guarantor must be made for value on the due date at such times and in such funds as the Guarantor may specify to the Company as being customary at the time for the settlement of transactions in that currency in the place for payment.

11.4 Currency

- (a) Subject to paragraphs (b) and (c) below, unless a Guarantee Document specifies that payments under it are to be made in a different manner, each amount payable by one Party to the other Party under the Guarantee Documents is payable in Sterling, save where a payment relates to a Claim or otherwise directly in relation to the UKIB Guarantee such payment shall be made in the currency in which the UKIB Guarantee is denominated.
- (b) Amounts payable in respect of Taxes, fees, costs and expenses are payable in the currency in which they are incurred.
- (c) If a change in any currency of a country occurs (including where there is more than one currency or currency unit recognised at the same time as the lawful currency of a country), the Guarantee Documents (for these purposes excluding the Guaranteed Bonds Document) will be amended to the extent the Guarantor (acting

reasonably and after consultation with the Company) determines is necessary to reflect the change.

11.5 **No set-off or counterclaim**

All payments made by the Company to the Guarantor under the Guarantee Documents must be calculated and made without (and free and clear of any deduction for) set-off or counterclaim.

11.6 **Business Days**

- (a) The Company must make any and all payments to be made under this Agreement on the date on which such payment becomes due and payable (and in respect of any payment made by the Guarantor under the UKIB Guarantee, the date on which the Guarantor makes such payment).
- (b) Subject to the terms of the Guaranteed Bonds, if a payment under the Guarantee Documents is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not) or whatever day the Guarantor determines is market practice.
- (c) During any extension of the due date for payment of any principal under this Agreement interest is payable on that principal at the rate payable on the original due date.

11.7 **Timing of payments**

If a Guarantee Document does not provide for when a particular payment is due, that payment will be due within three Business Days of demand by the Guarantor.

11.8 **Interest on late payments**

All payments to be made by the Company under this Agreement shall bear interest at the Default Rate from the date due to (and including) the date paid (both before and after any judgment or other order of a court of competent jurisdiction).

11.9 **Determination of amount due**

Any certification or determination by the Guarantor of a rate or amount made pursuant to the terms of this Agreement will be, in the absence of manifest error, conclusive evidence of the matters to which it relates.

12. **TAX**

12.1 **Tax gross-up**

- (a) The Company shall make all payments to be made by it under any Guarantee Document without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Company shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Guarantor accordingly.
- (c) If a Tax Deduction is required by law to be made by the Company, the amount of the payment due from the Company shall be increased to an amount which (after

making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

- (d) If the Company is required to make a Tax Deduction, that the Company shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (e) Within 30 days of making either a Tax Deduction or a payment required in connection with a Tax Deduction, the Company shall deliver to the Guarantor evidence reasonably satisfactory to the Guarantor that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.

12.2 Tax indemnity

- (a) The Company shall (within three Business Days of demand by the Guarantor) pay to the Guarantor an amount equal to the loss, liability or cost which the Guarantor determines will be or has been (directly or indirectly) suffered for or on account of Tax by the Guarantor in respect of a Guarantee Document.
- (b) Paragraph (a) above shall not apply to the extent a loss, liability or cost is compensated for by an increased payment under clause 12.1 (*Tax gross-up*).

12.3 Tax Credit

If the Company makes a Tax Payment and the Guarantor determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) the Guarantor has obtained and utilised that Tax Credit,

the Guarantor shall pay an amount to the Company which the Guarantor determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Company.

12.4 Value added taxes

- (a) All amounts expressed to be payable under a Guarantee Document by the Company to the Guarantor which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, if VAT is or becomes chargeable on any supply made by the Guarantor to the Company under a Guarantee Document and the Guarantor is required to account to the relevant tax authority for the VAT, the Company must pay to the Guarantor (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and the Guarantor must promptly provide an appropriate VAT invoice to the Company).
- (b) Where a Guarantee Document requires the Company to reimburse or indemnify the Guarantor for any cost or expense, the Company shall reimburse or indemnify (as the case may be) the Guarantor for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that the Guarantor reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

- (c) Any reference in this clause 12.4 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term "representative member" to have the same meaning as in the Value Added Tax Act 1994).
- (d) In relation to any supply made by the Guarantor to the Company under a Guarantee Document, if reasonably requested by the Guarantor, the Company must promptly provide the Guarantor with details of the Company's VAT registration and such other information as is reasonably requested in connection with the Guarantor's VAT reporting requirements in relation to such supply.

13. AMENDMENTS AND WAIVERS

- (a) Subject to any provisions in any Guarantee Document to the contrary, any term of the Guarantee Documents may be amended or waived with the written agreement of the Parties provided that any term of the UKIB Guarantee may only be amended or waived with the written agreement of the Company, the Guarantor and the Beneficiary.
- (b) The rights of the Guarantor under this Agreement:
 - (i) may be exercised as often as is necessary;
 - (ii) are cumulative and not exclusive of its rights under the general law;
 - (iii) are in addition to any rights and remedies provided for in the UKIB Guarantee or the Guaranteed Bonds; and
 - (iv) may be waived only in writing.
- (c) Any delay in exercising or non-exercise by the Guarantor of any right of the Guarantor under this Agreement is not a waiver of that right.
- (d) The Guarantor shall have the right to exercise in its complete discretion the waiver of any default under this Agreement by written notice setting forth the terms, conditions and extent of such waiver. Unless such notice expressly provides to the contrary, any waiver so granted shall extend only to the specific event or occurrence which gave rise to the default so waived, and not to any other similar event or occurrence which occurs subsequent to the date of such waiver.

14. FURTHER ASSURANCE

The Company shall, so far as permitted by applicable law and regulatory requirements, at its own expense, take whatever action the Guarantor may require (acting reasonably) at any time to give effect to the provisions or to facilitate the performance of the Guarantee Documents.

15. CHANGES TO THE PARTIES

- (a) The Company may not assign or transfer any of its rights and obligations under the Guarantee Documents without the prior written consent of the Guarantor.
- (b) The rights and obligations of the Guarantor under the Guarantee Documents shall not be assigned, novated or otherwise transferred (whether by virtue of any legislation or any scheme pursuant to any legislation or otherwise) to any person other than to any public body (being a single entity) acquiring the whole of the rights

and obligations of the Guarantor under the Guarantee Documents and having the legal capacity, power and authority to become a party to and to perform the obligations of the Guarantor under the Guarantee Documents being:

- (i) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) pursuant to a transfer of functions order(s) under sections 1 and/or 2 of the Ministers of the Crown Act 1975);
- (ii) a governmental body or department which has:
 - (1) sufficient financial standing or financial resources to perform the obligations of the Guarantor under the Guarantee Documents; or
 - (2) a credit rating from the credit rating agency (if any) then rating the Guaranteed Bonds at least equal to the then current rating of the Counter-Guarantor; or
- (iii) any other public body whose obligations under the Guarantee Documents are unconditionally and irrevocably guaranteed (in a form reasonably acceptable to the Company) by the Guarantor or a Minister of the Crown having the legal capacity, power and authority to perform the obligations of the Guarantor under the Guarantee Documents,

provided that:

- (1) the SIG (or a replacement on materially the same terms) provides the same support to the assigned, novated or transferred (or replacement) UKIB Guarantee as it does to the UKIB Guarantee prior to such assignment, novation or transfer (or replacement); and
 - (2) the Security Assignment (or a replacement on materially the same terms) continues to provide effective security to the Beneficiary (and a new notice of assignment is delivered thereunder to HMT).
- (c) A transfer of obligations under this clause 15 will be effective only if the new Party confirms to the other Party in form and substance satisfactory (acting reasonably) to the other Party that it is bound by the terms of the Guarantee Documents in place of the original Party. On the transfer becoming effective in this manner the original Party will be released from its obligations under the Guarantee Documents to the extent that they are transferred to the new Party.

16. DISCLOSURE OF INFORMATION

- (a) Each Party must keep confidential any information supplied to it by or on behalf of the other Party in connection with the Guarantee Documents. However, each Party is entitled to disclose information:
 - (i) which is publicly available, other than as a result of a breach by it of this clause 16;
 - (ii) in connection with any legal or arbitration proceedings;
 - (iii) if required to do so under any law or regulation or by order of a court or other public body that has jurisdiction over the relevant Party;
 - (iv) to Parliament, the European Commission, any UK government department or a governmental, banking, taxation or other regulatory authority;

- (v) to its officers, employees and professional advisers;
 - (vi) [to any rating agency, provided that the Party providing the information shall procure that the recipient of the information shall be subject to the same obligation of confidentiality as that contained in this Agreement;]
 - (vii) with the agreement in writing of the other Party; or
 - (viii) in the case of the Guarantor, for the purposes of the Freedom of Information Act 2000 or other laws or regulations relating to the disclosure of information to which the Guarantor is subject (and the Guarantor shall be responsible for determining at its absolute discretion whether it is subject to such laws or regulations and whether or not the information is exempt from disclosure).
- (b) This clause supersedes any previous confidentiality undertaking given by the Guarantor in connection with this Agreement.

17. NOTICES

17.1 In writing

- (a) Any communication in connection with a Guarantee Document must be in writing and, unless otherwise stated, may be given:
 - (i) in person, by post: or
 - (ii) to the extent agreed between the Guarantor and the Company, by e-mail or other electronic communication.
- (b) For the purpose of the Guarantee Documents, an electronic communication will be treated as being in writing.
- (c) Unless it is agreed to the contrary, any consent or agreement required under a Guarantee Document must be given in writing.

17.2 Contact details

- (a) The contact details of the Company for this purpose are:
 - Address: [ADDRESS]
 - [E-mail: [E-MAIL]]
 - Attention: [ATTENTION].
- (b) The contact details of the Guarantor for this purpose are:
 - Address: One Embankment, Neville Street, Leeds, England, LS1 4DW
 - E-mail: [portfoliomanagement@ukib.org.uk]
 - Attention: [Portfolio Management].
- (c) The Company or the Guarantor may change their contact details by giving five Business Days' notice to the other Party.

- (d) Where a Party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

17.3 Effectiveness

- (a) Except as provided below, any communication in connection with a Guarantee Document will be deemed to be given as follows:
 - (i) if delivered in person, at the time of delivery;
 - (ii) if posted, when it has been received at the relevant address, or (if earlier) five Business Days after being deposited in the post, postage prepaid, in a correctly addressed envelope; and
 - (iii) if by e-mail or any other electronic communication, when received in legible form.
- (b) A communication given under paragraph (a) above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.
- (c) A communication to the Guarantor will only be effective on actual receipt by it.

17.4 English Language

- (a) Any notice given in connection with a Guarantee Document must be in English.
- (b) Any other document provided in connection with a Guarantee Document must be:
 - (i) in English; or
 - (ii) (unless the Guarantor otherwise agrees) accompanied by a certified English translation. In this case, the English translation prevails unless the document is a statutory or other official document.

18. SEVERABILITY

If a term of a Guarantee Document is or becomes illegal, invalid or unenforceable in any respect under any jurisdiction, that will not affect:

- (a) the legality, validity or enforceability in that jurisdiction of any other term of the Guarantee Documents; or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other term of the Guarantee Documents.

19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

20. SET OFF

The Guarantor may set off any matured obligation owed to it by the Company under a Guarantee Document (for these purposes excluding the Guaranteed Bonds) (to the extent beneficially owned by the Guarantor) against any obligation (whether or not matured) owed by the Guarantor to the Company, regardless of the place of payment, booking branch or

currency of either obligation. If the obligations are in different currencies, the Guarantor may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

21. **GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by, and shall be construed in accordance with, English law.

22. **JURISDICTION**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "**Dispute**").
- (b) Each Party agrees that the courts of England are the most appropriate and convenient courts to settle Disputes.
- (c) This paragraph is for the benefit of the Guarantor only. To the extent allowed by law, the Guarantor may take:
 - (i) proceedings in any other court; and
 - (ii) concurrent proceedings in any number of jurisdictions.
- (d) References in this clause to a dispute in connection with a Guarantee Document includes any dispute as to the existence, validity or termination of the Guarantee Document.

23. **WAIVER OF IMMUNITY**

- (a) The Guarantor waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction, including immunity in respect of:
 - (i) the giving of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues; and
 - (ii) the issue of any process against its assets or revenues for the enforcement of a judgment or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues.
- (b) The Guarantor agrees that in any proceedings in England & Wales this waiver shall have the fullest scope permitted by the State Immunity Act 1978 and that this waiver is intended to be irrevocable for the purposes of the State Immunity Act 1978.

THIS AGREEMENT has been executed on the date specified above.

EXECUTION PAGE

Executed by
UK Infrastructure Bank Limited
acting by:

.....
Name: _____
Title: _____

.....
Name: _____
Title: _____

Executed by
*****Name of Company*****
acting by:

.....
Name: _____
Title: _____

[.....
Name: _____
Title: _____]

SCHEDULE

Agreed form UKIB Guarantee

[To be inserted overleaf]