

FORM OF PERFORMANCE GUARANTEE

Insert Letterhead of Issuing Entity

To: Insert name of Employer (the “**Employer**”)

Address

Attention: Not Applicable

WHEREAS

- (A) On the date day of month of year a contract (hereinafter called the “**Contract**”) was made between name of Contractor of address (hereinafter called the “**Contractor**”) of the one part and the Employer of the other part whereby the Contractor agreed to design, execute and complete insert brief description of Works (“**Works**”) for the sum of Singapore Dollars amount in words (S\$amount).
- (B) The Contractor is required under the Contract to provide the Employer with a performance guarantee issued by a bank, financial institution or insurance company as a security deposit for due and proper performance of the Works and Contractor’s obligations under the Contract.
- (C) In consideration of the Employer accepting this Guarantee in satisfaction of the Contractor’s obligation to provide a performance guarantee, we agree to provide this Guarantee for the benefit of the Employer (“**you**”) on the terms set out herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, we agree as follows:

- 1 We hereby irrevocably and unconditionally undertake, covenant and firmly bind ourselves to pay to you on demand any sum or sums which from time to time may be demanded by you, up to a maximum sum of Singapore Dollars amount in words (S\$amount) (the “**Guaranteed Sum**”) upon receiving your written demand for payment made in the manner as set out in Clause 2 herein, without you having to take any legal action, assign any reason whatsoever for such demand and without any further proof, condition or inquiry.
 - 2 Any demand by you for payment of the whole or any part of the Guaranteed Sum shall be made in writing addressed to us and sent by hand or by registered post to insert address of Issuing Entity’s notification office or at such other address as may be notified by us in writing to you, and may be made at any time on or before the expiry of ninety (90) days after the expiry of this Guarantee. Upon your demand, we shall pay the sum demanded to you within
- NUHS/ALEX-RFP-22-0016/Appendix A/Form of Performance Guarantee

seven (7) business days, notwithstanding the existence of any dispute or differences which may have arisen in relation to the Contract or in respect of any amount payable under the Contract, or any defences which the Contractor may have, or any request or instruction which may have been given to us by the Contractor not to pay the same. For the purpose of this Guarantee, "**business day**" means a day other than a Saturday, Sunday, or public holiday in Singapore.

- 3 We agree and confirm that our obligations and liabilities under this Guarantee:
 - (a) are as principal and not merely as surety, and a separate action or actions may be brought against us to enforce this Guarantee, irrespective of whether any action is brought against the Contractor or whether the Contractor or any third party is joined in any such action or actions; and
 - (b) may be enforced against us without you first being required to exhaust any remedy you may have against the Contractor or to enforce any security you may hold with respect to the Contractor's obligations and liabilities under the Contract.
- 4 We shall not inquire into the reasons, grounds or circumstances of any demand made by you, nor into the respective rights, obligations and/or liabilities between you and the Contractor under the Contract, or into the authenticity of your demand notice, or the authority of the persons signing such notice, but shall accept your demand as conclusive evidence of the claimed amount and immediately pay to you the Guaranteed Sum (or any part as stated in your demand) on your written demand made in the manner as set out in Clause 2 herein.
- 5 Our liability under this Guarantee shall not be discharged, released, affected or impaired in any way by reason of any modification, amendment or variation in or to any of the obligations, conditions or provisions of the Contract or the works under the Contract, or by reason of any arrangement made between you and the Contractor, or by reason of any breach or breaches of the Contract by you or by the Contractor, or by reason of any insolvency, winding-up or restructuring of the Contractor, whether the same is or are made or occurs with or without our knowledge or consent. We further agree that no invalidity in the Contract nor its avoidance, unenforceability, suspension or termination shall discharge, affect or impair our liability hereunder and that no waiver, compromise, indulgence or forbearance, whether as to time, payment, performance or any other matter afforded by you to the Contractor under the Contract shall discharge, affect or impair our liability hereunder.
- 6 Our liability under this Guarantee shall continue and this Guarantee shall remain in full force and effect from to insert date on which the Employer requires the Guarantee to be valid e.g.

date of commencement of the Works or date of issue of this Guarantee until to insert date falling 3 months from the expiry of the last Defects Liability Period, provided always that the expiry date of this Guarantee and our liability under this Guarantee shall be automatically extended for successive periods of three (3) months unless we give you 90 days' written notice prior to the expiry of our liability ("**Notice Period**") of our intention not to extend this Guarantee in respect of any future extension and provided further that you shall be entitled to:

- (a) upon receiving such notice of our intention either to:
 - (i) make a demand under this Guarantee in the manner as set out in Clause 2 herein; or
 - (ii) *direct us to pay such amount (not exceeding the Guaranteed Sum) as you may specify into a suspense account to be governed and disbursed by us subject to the Association of Banks in Singapore's Guidelines for operation of a Suspense Account; or
- (b) direct us (within the Notice Period) to extend the validity of this Guarantee for a further period not exceeding three (3) months (and this Guarantee shall then expire at the end of such further period).

Note: *Not applicable for insurance bond issued by insurance companies.

- 7 Payment of any sum by us hereunder shall be made without any set-off, deduction, withholding or counterclaim whatsoever. If any deduction or withholding is payable in respect of any payment under this Guarantee, we shall increase the amount payable to you so that the net amount received by you after such deduction or withholding is at least equal to the amount claimed by you.
- 8 The Employer may make more than one demand under this Guarantee so long as the demands are made pursuant to Clause 2 herein and the aggregate amount specified in all such demands does not exceed the Guaranteed Sum. Your right to make demands under this Guarantee shall be an independent right and shall be without prejudice to any other rights that you may have under the Contract or otherwise.
- 9 The Employer shall be entitled to assign the benefit of this Guarantee at any time without our consent or the Contractor's consent.
- 10 The provisions of this Guarantee shall be binding on us and our successors and shall enure to you and your permitted assigns' benefit.

- 11 This Guarantee shall be governed by and interpreted in accordance with the laws of the Republic of Singapore without regard to principles of conflicts of laws and the parties agree to submit to the exclusive jurisdiction of the courts of Singapore.
- 12 A person who is not a party to this Guarantee shall have no rights or remedies under the Contracts (Rights of Third Parties) Act 2001 to enforce any of the terms in this Guarantee.

SPECIMEN

IN WITNESS WHEREOF the day and year specified above

For and on behalf of insert name of Issuing Entity

Name:

Designation:

In the presence of:

Name:

Designation: