

## [MODEL] LETTER FOR PRE-FINANCING FIRST DEMAND GUARANTEE<sup>1</sup>

Financial institution/Bank (Letterhead)  
[Place/Date]

European Union  
Represented by the European Commission  
Directorate-General for Education and Culture  
[Direction]  
[Unit] [Office]  
B – 1049 Belgium

**Reference: Contract N° and exact title: [...]**

### ARTICLE 1 – DECLARATION ON GUARANTEE, AMOUNT AND PURPOSE

We, the undersigned [name and address of the financial institution or bank] (hereinafter referred to as "the Guarantor") hereby confirm that we give the European Union, represented by the European Commission (hereinafter referred to as "the Commission"), an unconditional, irrevocable and independent first-demand guarantee consisting in the undertaking to pay to the Commission a sum equivalent to the amount of:

EUR [in figures: ...] (in words: ... EUR)

upon single demand, for guarantee of the pre-financing(s) stipulated in the contract ([N°/exact title], hereinafter referred to as the "contract") concluded between the Commission and [name and address], (hereinafter referred to as "the Contractor").

### ARTICLE 2 – EXECUTION OF GUARANTEE

If the Commission gives notice that the Contractor has for any reason failed to reimburse pre-financings paid by the Commission, we, acting by order and for account of the Contractor, shall undertake to immediately pay up to the above amount, in EUR, without exception or objection, into a bank account designated by the Commission, on receipt of the first written request from the Commission sent by registered letter or by courier with acknowledgement of receipt. We shall inform the Commission in writing as soon as the payment has been made.

### ARTICLE 3 – OBLIGATIONS OF THE GUARANTOR

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<sup>1</sup> The footnotes are internal instructions for the authorising officers only and must be deleted before the guarantee is signed. [Plain text]: items to be filled in. [*Text in italics*]: these items are optional and may be deleted depending on the context of the guarantee.

1. We waive the right to require exhaustion of remedies against the Contractor, any right to withhold performance, any right of retention, any right of avoidance, any right to offset, and the right to assert any other claims which the Contractor may have against the Commission under the contract or in connection with it or on any other grounds.
2. Our obligations under this guarantee shall not be affected by any arrangements or agreements made by the Commission with the Contractor which may concern his obligations under the contract.
3. We shall undertake to immediately inform the Commission in writing, by registered letter or by courier with acknowledgement of receipt, in the event of a change of our legal status, ownership or address.

#### **ARTICLE 4 – DATE OF ENTRY INTO FORCE**

This guarantee shall come into force upon its signature. If, on the date of its signature, the pre-financing has not been paid to the Contractor, this guarantee shall enter into force on the date on which the Contractor receives the pre-financing.

#### **ARTICLE 5 – END DATE AND CONDITIONS OF RELEASE**

1. We may be released from this guarantee only with the Commission's written consent and do not have the right of deposit without its consent.
2. This guarantee shall expire on return of this original document by the Commission to our offices by registered letter or by courier with acknowledgement of receipt.
3. This must occur at the latest one month after the payment of the balance under the contract has been made or three months after the issuance of the recovery order.
4. After expiry, this guarantee shall become automatically null and void and no claim relating thereto shall be receivable for any reason whatsoever.

#### **ARTICLE 6 – APPLICABLE LAW AND COMPETENT JURISDICTION<sup>2</sup>**

1. This guarantee shall be governed by and construed in accordance with the law applicable to the contract.
2. The courts having jurisdiction for matters relating to the contract shall have sole jurisdiction in respect of matters relating to this guarantee.

#### **ARTICLE 7 - ASSIGNMENT**

The rights arising from this guarantee may not be assigned without our written consent.

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<sup>2</sup> It is recommended to keep this Article as it is. However, in case of problems with the Guarantor this Article can be replaced as follows: Any dispute concerning this guarantee shall be governed by and construed in accordance with the Law [of the country of establishment of the [Contractor][Guarantor]] and fall within the sole competence of the [corresponding national] Courts.

Done at [insert place], on [insert date]

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[Signature/

Function at the Financial Institution/Bank]

[\_\_\_\_\_]

[Signature/

Function at the Financial Institution/Bank]