

Reliance Guarantee¹

(Required of an entity on which the Contractor has relied with regard to criteria relating to economic or financial standing)

THIS GUARANTEE is made on BETWEEN the Guarantor and the Employer with respect to a Contract between the Contractor and the Employer (the Contract) particulars of which are as follows:

1.	<i>The Contractor</i>	
	<i>Registered office of the Contractor</i>	
2.	<i>The Guarantor</i>	
	<i>Registered office of the Guarantor</i>	
3.	<i>The Employer</i>	DUBLIN City Council
	<i>Whose principal office is at</i>	Civic Offices, Wood Quay, Dublin 8, D08 RF3F
4.	<i>Description of the Contract</i>	Dodder Greenway - Milltown Road-Dodder Walk to Dundrum Road Active Travel Scheme

BACKGROUND

- A. In connection with its tender for the Contract, the Contractor relied on the economic or financial standing of the Guarantor.
- B. The Guarantor has agreed to guarantee the Contractor's performance of the Contract.
- C. Terms defined in the Contract have the same meaning in this Guarantee.

THE GUARANTOR AGREES WITH THE EMPLOYER AS FOLLOWS:

1. Guarantee

The Guarantor irrevocably and unconditionally:

- 1.1 guarantees to the Employer that the Contractor will punctually perform all its obligations under the Contract and
- 1.2 undertakes to the Employer to fully perform the Contractor's obligations under the Contract if the Contractor fails to perform them.

¹ If the Contractor and/or the Guarantor(s) is/are not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

2. Indemnity

If the Contractor's obligations under the Contract or the Guarantor's obligations under clause 1 above are or become void or unenforceable then, as between the Guarantor and the Employer (but without affecting the Contractor's obligations), the Guarantor will, as principal obligor, indemnify the Employer against any resulting loss and be liable to the Employer for the same amount as the Guarantor would have been liable for if the obligations had not been void or unenforceable.

3. Contractor's failure to perform

- 3.1 If the Contractor goes into liquidation, administration, examinership or receivership or becomes subject to any other form of insolvency proceedings, any such event will be conclusive evidence, for the purposes of this Guarantee, that the Contractor has failed to perform the Contract.
- 3.2 The decision of a court or arbitrator or an agreement between the Contractor and the Employer will be binding on the Guarantor in relation to any failure by the Contractor to perform the Contract.

4. Guarantee is in addition to other security

The Guarantor's obligations are in addition to and independent of any other security the Employer may at any time hold for the Contractor's obligations under the Contract.

5. Continuing guarantee

The Guarantor's liability will continue until the Contractor has performed all its obligations in full, and will not be satisfied or diminished by any payment or recovery of an amount due from the Contractor to the Employer.

6. Guarantor's liability not impaired

The Guarantor's liability under this Guarantee is as principal obligor and not merely as surety. Neither the Guarantor's liability under this Guarantee nor the Employer's rights under it will be affected by any of the following, whether or not known to any of the parties:

- 6.1 the Contractor's obligations under the Contract being or becoming illegal, invalid or unenforceable, if it would not be illegal for the Guarantor to fulfil the obligation
- 6.2 bankruptcy, insolvency, liquidation, examinership, dissolution, amalgamation, winding up, reorganisation or any similar proceeding concerning the Contractor
- 6.3 change in the status, function, control or ownership of the Contractor
- 6.4 death or incapacity of the Contractor
- 6.5 amendment to the Contract or change to the works to be done under it (whether or not the amendment or change increases the Guarantor's liability)
- 6.6 time being given to the Contractor
- 6.7 a concession, arrangement, waiver or other indulgence being granted or made or agreed to be granted or made by the Employer
- 6.8 anything that the Employer or the Contractor do or fail to do, including without limitation:
 - (1) asserting or pursuing (or failing or delaying to assert, perfect or enforce) rights or remedies or
 - (2) giving security or releasing, modifying, or exchanging security or
 - (3) having or incurring any liability
- 6.9 assignment of the benefit of the Contract

- 6.10 whole or partial discharge (whether of the Contractor's obligations or security for them or otherwise) or arrangement made on the faith of payment, security or other disposition that is avoided or must be repaid on bankruptcy, liquidation or otherwise
- 6.11 rights against third parties that the Employer may have relating to performance of the Contractor's obligations
- 6.12 a reduction in, or other arrangement relating to, the Contractor's liability to the Employer as a result of an arrangement or composition under the Companies (Amendment) Act, 1990 or any similar provision.
- 6.13 any other act, event, fact, circumstance, rule of law, or omission.

7. Guarantor not to claim against or in competition with the Employer

For as long as the Contractor has actual or contingent obligations or liability under the Contract, the Guarantor shall not:

- 7.1 be entitled to share in the Employer's rights under the Contract or any other rights or security of the Employer or
- 7.2 in competition with the Employer, seek to enforce any rights concerning the Guarantor performing or having obligations under this Guarantee

and if the Guarantor receives money from the Contractor in relation to a payment of the Guarantor under this Guarantee, the Guarantor will hold the money in trust for the Employer as long as the Guarantor has any liability (contingent or otherwise) under this Guarantee.

8. No preconditions upon Employer

The Employer may enforce this Guarantee without exercising rights against the Contractor or anyone else.

9. Assignment

The Employer may assign the benefit of this Guarantee without the Guarantor's consent. The Employer shall give notice to the Guarantor within 28 days after any assignment.

10. Partial invalidity

If at any time any part of this Guarantee is or becomes illegal, invalid or unenforceable, the rest of this Guarantee will remain legal, valid and enforceable.

11. Law and Jurisdiction

This Guarantee is governed by and construed according to Irish law and the Guarantor submits to the jurisdiction of the Irish courts to determine all matters concerning it.

12. Notices

Any communication given in connection with this Guarantee must be in writing and delivered to, or sent by pre-paid registered post to the relevant party's address at the top of this Guarantee, or the Guarantor's agent's address in clause 13 below, or another address notified in writing by the relevant party. Pre-paid registered post is taken to have been received 2 days after it was sent.

13. Agent for Service²

The Guarantor appoints

² An address in Ireland is required when the Guarantor does not have a registered office in Ireland.

Name of Agent

Address of Agent

as its agent for service of legal proceedings. The Guarantor confirms that the named agent has been irrevocably appointed and the failure of the agent to notify the Guarantor of receipt of a document will not invalidate any proceedings or the service of the document.

14. Representations and Warranties

The Guarantor represents and warrants to the Employer that:

14.1 the execution, delivery and performance of this Guarantee by the Guarantor has been duly and validly authorised by all requisite corporate action by the Guarantor and

14.2 this Guarantee is the Guarantor's legal, valid and binding obligation in accordance with its terms and

14.3 no approval or consent from any governmental entity or any other person or entity is required in connection with the execution, delivery or performance of this Guarantee by the Guarantor.

Given³ under the Guarantor's common seal

Affix Guarantor's common seal

*Signatures of persons authorised
to authenticate the seal*

OR

Signed and delivered as a Deed by

Name of attorney

Signature of attorney

As lawful attorney of the Guarantor under a power of attorney dated

In the presence of

Name of witness

Signature of witness

Witness's occupation

Witness's address

³ If the Contractor and/or Guarantor is/are not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland.

