|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| The Deed is made on |  | | | | |
| **between** | | | | | |
| Company name |  | | | | |
| of | | | | | |
| Address |  | | | | |
|  | ‘the Guarantor’ | | | | |
| **and** | | | | | |
| Company name |  | |  | **ACN** |  |
| of | | | | | |
| Address |  | | | | |
|  | ‘the Contractor’ | | | | |
| **and** | | | | | |
| **Name** |  | |  | **ACN** |  |
| of | | | | | |
| **Address** |  | | | | |
|  | | ‘the Principal’ | | | |

**Recitals**

1. The Principal and the Contractor have entered into a Contract described as follows —

|  |  |  |  |
| --- | --- | --- | --- |
| Contract number |  | Date of Contract |  |
| ‘the Contract’ | |  |  |
|  | |  |  |
| to carry out the following work — | | | |
|  | | | |
| ‘the Works’ | | | |

1. The Contract, in Clause 5.11 of the *General Conditions of Contract*, provides that where the Contractor is a corporation related to, or a subsidiary of another corporation and a form of Deed of Guarantee, Undertaking and Substitution has been included in the Tender Documents then, where requested by the Principal in writing the Contractor shall, within 10 business days after the date of such request, arrange for the execution of a Deed of Guarantee, Undertaking and Substitution by the Contractor and the related corporation or corporation to which the Contractor is a subsidiary, in respect of its obligations and liabilities of the Contractor under the Contract.
2. The Principal has, within the nominated time limits, requested the Contractor in writing, to lodge a completed Deed of Guarantee, Undertaking and Substitution (executed by the Contractor and the Guarantor) in the form of this deed (as set out in the Tender Documents).
3. The Guarantor has fully informed itself of the obligations and liabilities of the Contractor under the Contract, and, at the Contractor’s request is prepared to sign this deed.

**Now this Deed witnesses** that the Guarantor, in consideration of the premises and with the concurrence of the Contractor as testified by its execution of the Deed, GUARANTEES to the Principal the due and proper performance and observance by the Contractor of the obligations of the Contractor under the Contract and the discharge of the liabilities of the Contractor under the Contract AND in pursuance of this guarantee UNDERTAKES AND AGREES with the Principal as follows —

1. In the event of any breach by the Contractor of the provisions of the Contract the Guarantor will —
   1. pay to the Principal on demand any and all sums of money then due under the Contract or being or representing compensation arising from or caused by or connected with the breach and
   2. if and to the extent requested by the Principal, undertake, carry out and complete the obligations of the Contractor under the Contract, including and without limiting the effect of this Clause 1 (b), and carry out and complete the execution of the Works in so far as the Contractor has failed to do so under the Contract and the Works remain to be completed.
2. For the purposes of paragraph (b) of Clause 1 above, the Guarantor shall be substituted for the Contractor as the party to the Contract to the intent that the Guarantor shall be subject to the obligations and liabilities and entitled to the rights of the Contractor as that party (including liability in respect of any breach of the provisions of the Contract whether occurring before or after the substitution) in all respects as if the Guarantor had been named as the party to the Contract instead of the Contractor and that compliance and observance by the Principal with the provisions of the Contract with respect to the Guarantor shall in all relevant respects constitute due performance of the Contract on its part.
3. This Guarantee shall be a continuing guarantee to the Principal until the obligations and liabilities of the Contractor under the Contract shall in all respects have been performed, observed and discharged.
4. The liability of the Guarantor under this Deed shall not in any way be discharged, affected or impaired for any reason including variation of any of the provisions of the Contract, the granting of time or indulgence to the Contractor or the waiving by or on behalf of the Principal of any breach, failure or default whatsoever on the part of the Contractor.
5. Any demand or request to be made on the Guarantor under this Deed shall be deemed to have been duly made if it is in writing, signed by or on behalf of the Principal, delivered by hand or sent by prepaid post addressed to the Guarantor at its address as set out in this Deed, and a demand sent by post shall be deemed to have been made when in due course of post it would have been delivered at that address.

|  |  |  |
| --- | --- | --- |
| Authorisation | | |
| Executed as a Deed on the date first appearing above. | | |
| For the Principal | | |
| Signed, sealed and delivered for and on behalf of the State of Queensland acting through the Department of Transport and Main Roads by | | |
| Name/Position | Signature | Date |
|  |  |  |
| as delegate of the Director-General of the Department of Transport and Main Roads | | |
| **in the presence of** | | |
| Name of witness | Signature of witness | Date witnessed |
|  |  |  |

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| --- | --- | --- | --- |
| For the Contractor | | | |
| Signed, sealed and delivered for and on behalf of | | | |
| Company name | | ACN | The company seal (where applicable) |
|  | |  |  |
| by its duly authorised attorney | | |
| Attorney’s name | | Date executed |
|  | |  |
| Attorney’s position | Attorney’s signature | |
|  |  | |
| pursuant to a power of attorney dated | Date of power of attorney | | and the attorney hereby declares that he/she has not received notice of revocation of the power of attorney |
|  | |
| in the presence of | | | |
| Name of witness | Signature of witness | | Date witnessed |
|  |  | |  |

|  |  |  |  |
| --- | --- | --- | --- |
| For the Guarantor | | | |
| Signed, sealed and delivered for and on behalf of | | | |
| Company name | | ACN | The company seal (where applicable) |
|  | |  |  |
| by its duly authorised attorney | | |
| Attorney’s name | | Date executed |
|  | |  |
| Attorney’s position | Attorney’s signature | |
|  |  | |
| pursuant to a power of attorney dated | Date of power of attorney | | and the attorney hereby declares that he/she has not received notice of revocation of the power of attorney |
|  | |
| in the presence of | | | |
| Name of witness | Signature of witness | | Date witnessed |
|  |  | |  |
| The Department of Transport and Main Roads collects personal information on this form so that you may execute the deed. The information on this form is accessible by authorised departmental officers and external personnel who are engaged to administer the Contract who will not disclose your personal details to a third party without your consent unless required to do so by law. | | | |