

## APPENDIX 11

# MODEL PERFORMANCE AND WARRANTY GUARANTEE

Contract on subsidy for carbon capture, transport, and storage

**Instructions for tenderers**

*This Appendix constitutes General Requirements in its entirety, cf. Tender specifications, paragraph 6.3.*

~~*The Tenderer is requested to indicate the name, business registration number, address, postal code and city and country of the Guarantor for the Performance and Warranty Guarantee below and to enclose this Appendix together with the Offer.*~~

*This guidance text will be deleted by the DEA in connection with conclusion of the Contract.*

## Model performance and warranty guarantee for Contract on subsidy for carbon capture, transport and storage

To: Energistyrelsen (The Danish Energy Agency)  
CVR-nr. 59778714  
Carsten Niebuhrs Gade 43  
DK-1577 Copenhagen V  
Denmark  
(the “Beneficiary”)

Performance and Warranty Guarantee (the “Guarantee”)  
No.: [XXXX]

In the event of:

[Name of the Operator]  
[Business registration number]  
[Address]  
[Postal code and city]  
[Country]  
(the “Operator”)

failing to fulfill its obligations of the Contract on subsidy for carbon capture, transport and storage, dated [date], between the Operator and the Beneficiary (the “Contract”), we,

[Name of the bank / the insurance company]  
[Business registration number]  
[Address]  
[Postal code and city]  
[Country]  
(the “Guarantor”)

hereby irrevocably and unconditional guarantee, as primary obligor and not merely as a surety, to pay on behalf of the Operator without cavil or argument to the Beneficiary – upon receipt of the Beneficiary’s first

written demand – any amount, for which the Beneficiary state that the Operator has become liable, up to the maximum of:

[\[The Guarantee shall stipulate one of the following options, see clause 8.2.4 and 8.2.5 of the Contract:\]](#)

[\[DKK six hundred and fifty million \(600,000,000\), however subject to adjustment for inflation, see clause 8.2.6 of the Contract.\]](#)[or](#)

[\[DKK six hundred and fifty million \(600,000,000.\)\]](#)

~~[\[This may be replaced with a fixed amount in accordance with clause 8.2.5 of the Contract\]](#)~~

This Guarantee covers all claims under the Contract, including - but not limited to - all damages, penalties and repayment of subsidies paid under the Contract with interest in accordance with the Danish Interest Act (in Danish: “renteloven”).

Any such amount will be payable to the Beneficiary without any right of objection on our part and notwithstanding any objections from the Operator. Payment must be made by us on the Beneficiary’s first written demand without examination or other documentation of the legitimacy of the Beneficiary’s demand.

We further acknowledge and agree to changes of the Contract and its Appendices which may be made under the Contract and the Beneficiary’s rights to assignment and transfer under clause 132.2 of the Contract. [This Guarantee may not be assigned or transferred to a person or entity listed in any sanction list issued by any US, UK, GB or EU authorities. The Beneficiary will notify the Guarantor of any assignment or transfer of the Contract whereby another person or entity becomes the Beneficiary.](#)

This Guarantee shall be valid and enforceable as of the date hereof until the Beneficiary confirms in writing that the Guarantee is fully discharged. ~~[\[This may be replaced with a fixed expiry in accordance with clause 8.2.11 of the Contract\]](#)~~

The amount of the Guarantee will be reduced automatically by any amount we may have to pay under the Guarantee.

We are not entitled to transfer, assign or otherwise dispose any of our rights and obligations arising out of this Guarantee without the Beneficiary’s prior written approval.

The Guarantee and any dispute arising out of or in connection with it shall be subject to Danish law, substantive as well as procedural, however excluding its choice-of-law rules.

Any dispute arising out of or in connection with this Guarantee, including any disputes about the existence, validity or termination ~~of this~~ thereof, or the legal relationship established by this Guarantee, shall be settled by the ordinary courts of law under the jurisdiction of the City Court of Copenhagen.

This Guarantee is enforceable pursuant to section 478, subparagraph 1, no. 5, and subparagraph 4 of the Danish Administration of Justice Act (*in Danish: retsplejelovens § 478, stk. 1, nr. 5, og stk. 4*).

Signature(s)

Place:

Date:

On behalf of the Guarantor

[name of the bank / the insurance company]

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Name:

Title: