APPENDIX 12

MODEL PARENT COMPANY 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.*

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

**Model parent company 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”)

This on demand Parent Company Guarantee (the “Guarantee”) is made on [date] by [name of the ultimate parent company], registration number [registration number], [address], [postal code, city and country] (the “Ultimate Parent Company”).

The Beneficiary has entered into a contract dated [date] with [name of the Operator], registration number [registration number], [address], [postal code, city and country] (the “Operator”), being owned by the Ultimate Parent Company, in relation to carbon capture, transport and storage (the “Contract”).

Capitalised terms used in this Appendix shall have the meaning ascribed to them in Appendix 2, Definitions, of the Contract.

# Guarantee

At the request of, and at the expense of the Operator, we, the Ultimate Parent Company, hereby irrevocably and unconditionally guarantee to the Beneficiary as primary obligor (in Danish: *“anfordringsgaranti”*) and not merely as surety (in Danish: “*selvskyldnerkautionist*”):

1. the due and punctual performance by the Operator under the Contract; and
2. the due and punctual payment by the Operator under the Contract.

For the avoidance of doubt, the liability of the Ultimate Parent Company shall not exceed the Operator’s liability as stipulated in the Contract.

# Effectiveness and release

This Guarantee shall be effective as of the date hereof.

This Guarantee shall be effective and valid until the Beneficiary confirms in writing that that the Guarantee is fully discharged.

The Guarantee will be returned to the Ultimate Parent Company with an endorsement of release as soon as the Guarantee has been released in full.

# Payment under the guarantee

The Ultimate Parent Company shall upon the Beneficiary’s first written demand for payment to the Ultimate Parent Company indicating that the Beneficiary has not performed its obligation(s), pay to the Beneficiary an amount equal to the obligation(s) which the Operator has not paid.

Demands under this Guarantee may be made by the Beneficiary from time to time and there shall be no limitation in the number of demands which can be made hereunder.

# Representations and warranties

We, the Ultimate Parent Company, hereby represent and warrant to the Beneficiary on the date on this Guarantee:

1. that the Ultimate Parent Company is the Ultimate Parent Company of the Operator;
2. that the Ultimate Parent Company has in its possession copies of the Contract and its Appendices and are fully aware of, and acknowledges, the terms and conditions thereof;
3. this Guarantee has been (i) duly approved by the Ultimate Parent Company, (ii) signed with full binding effect on the Ultimate Parent Company, and (iii) all necessary action by or on behalf of the Ultimate Parent Company for the execution and performance of this Guarantee has been duly taken;
4. the obligations under this Guarantee will rank at least *pari passu* with all its other present and future unsecured and unsubordinated indebtedness, except for obligations mandatory preferred by law; and
5. this Guarantee constitutes the Ultimate Parent Company’s legal, valid and binding obligations enforceable against the Ultimate Parent Company in accordance with its respective terms.

# Obligations of the Ultimate Parent Company

The Ultimate Parent Company must immediately notify the Beneficiary in writing in the event of changes in the legal status, ownership structure or address of the Ultimate Parent Company.

# Assignment and transfers

The Ultimate Parent Company may not assign or transfer any of our rights or obligations under this Guarantee.

The Ultimate Parent Company accepts the right of the Beneficiary pursuant to the Contract, clause 13.2.1, to transfer its rights and obligations under the Contract to another public authority or any institution or private entity ultimately controlled (controlled in this provision is defined in accordance with the International Accounting Standard (IAS 27) of the International Accounting Standards Board (IASB)) by the Danish state or another Danish public authority or mainly financed by public funds, if the public tasks hitherto performed by the DEA, or if the public tasks related to the Contract, are transferred, in whole or in part, to any of the mentioned parties (change of remit).

# Notice

Any notice or demand to be given or made under this Guarantee shall be in writing and shall be deemed sufficiently served if delivered in person, by registered mail or by e-mail:

* 1. To the Beneficiary, at the following address or e-mail:

Energistyrelsen (The Danish Energy Agency)
Carsten Niebuhrs Gade 43
DK-1577 Copenhagen V
[e-mail – provided by the DEA]

* 1. To the Ultimate Parent Company, at the following address or e-mail:

[insert name]
[insert address]
[insert address]
[insert e-mail]

or to such other address or e-mail address as a party to this Guarantee has notified to the other party in accordance with this Article 8.

# Miscellaneous

Neither this Guarantee nor any provision hereof may be waived, amended or modified except pursuant to a written agreement entered into between the Ultimate Parent Company and the Beneficiary.

The provisions of this Guarantee are separable and if any provision of this Guarantee is or becomes illegal, invalid or unenforceable in any respect in any jurisdiction, this shall not affect the legality, validity or enforceability of the remaining provisions of this Guarantee in that or any other jurisdiction.

The Ultimate Parent Company agrees to execute further documents and provide materials and information as may be reasonably requested by the Beneficiary to enable it to enforce its rights under this Guarantee.

# Governing law and jurisdiction

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 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.

# Enforceability

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 [Ultimate Parent Company]

as Ultimate Parent Company:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title: