

ANNEX VI

[MODEL] LETTER FOR PERFORMANCE GUARANTEE*

Bank (Letterhead)*
[Place/Date]

European Maritime Safety Agency
represented by *[Authorising Officer]*¹,
Praça Europa 4
1249-206 Lisbon
Portugal

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

Article 1 – Declaration on guarantee, amount and purpose

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

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

upon simple demand, for the good performance of the contract concluded between European Maritime Safety Agency and [name and address], (hereinafter referred to as "the Contractor"), as given in the contract (No/exact title) hereinafter referred to as "the contract".

Article 2 – Execution of Guarantee

If European Maritime Safety Agency gives notice that the Contractor has for any reason failed to fulfil his obligations under the contract by the due date, 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 European Maritime Safety Agency on receipt of the first written request from European Maritime Safety Agency sent by registered letter or by courier with acknowledgement of receipt. We shall inform European Maritime Safety Agency in writing as soon as the payment has been made.

Article 3 – Obligations of the Guarantor

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 European Maritime Safety Agency 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 European Maritime Safety Agency with the Contractor which may concern his obligations under the contract.
3. We shall undertake to immediately inform European Maritime Safety Agency 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.

* **The footnotes/options are internal instructions for authorising officers only and must be deleted before guarantee is signed.**

* **Options *[in italics]* to be deleted depending on the context of the guarantee. Options *[in roman]* to be completed.**

¹ Head of Unit (≤ 60 000 €) Head of Department (≤ 200 000 €) Executive Director (> 200 000€).

Article 4 – Date of Entry into force

This guarantee shall come into force upon its signature.

Article 5 – End Date and Conditions of Release

1. We may be released from this guarantee only with European Maritime Safety Agency’s written consent.
2. This guarantee shall expire on return of this original document by European Maritime Safety Agency 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 corresponding recovery order.²*
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

Option 1

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.*

Option 2

Any dispute concerning this guarantee shall be governed by and construed in accordance with the Law [of the country of establishment of the [Contractor][Bank]] and fall within the sole competence of the [corresponding national] Courts.

Article 7 - Assignment

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

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

Signature/Function at the Bank]

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

Signature/Function at the Bank]

² In any case, this period should never be reduced.