Standardwortlaut

**Gewährleistungsgarantie**

englisch

**URDG** 758

To:

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

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

Performance Guarantee No.

We have been informed that you, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as buyer, hereinafter called the Beneficiary, [have concluded the contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_, hereinafter called the Underlying Relationship, with][[1]](#footnote-1) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as Seller, hereinafter called the Applicant, according to which the Applicant will deliver to the Beneficiary

\_\_\_\_\_\_\_\_\_\_\_\_\_\_(goods/services as described in contract / order) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

in the total value of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

As agreed the Applicant has to provide a bank guarantee in favour of the Beneficiary, amounting to \_\_\_% of the total value, i.e. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to cover the fulfilment of the Applicant’s warranty obligations towards the Beneficiary under the Underlying Relationship.

[Against this guarantee the retention money[[2]](#footnote-2) / the last instalment of the above total value2 in the sum of \_\_\_\_\_\_\_\_\_\_\_ will be released2 /paid2.][[3]](#footnote-3)

In consideration of the aforesaid, we, COMMERZBANK Aktiengesellschaft, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as the Guarantor, hereby issue the guarantee on behalf of the Applicant towards the Beneficiary in the maximum amount of

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

(in words: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

[plus interest on the maximum amount at the rate of \_\_\_% p.a. calculated from the date of receipt of the retention money2 / the last instalment2 by us2 / our branch office\_\_\_\_\_\_\_\_\_\_2 in favour of the Applicant up to the date of refund of the retention money2 / last instalment2 under this guarantee]3

and undertake irrevocably

without consideration of any objections and defences of the Applicant or third parties and irrespective of the validity and legal effect of the Underlying Relationship and waiving any objections arising therefrom

to pay to the Beneficiary any amount claimed from us by the Beneficiary up to the maximum amount of this guarantee [plus the interest guaranteed hereunder] 2 upon receipt of the Beneficiary’s first demand in writing, hereinafter called the Demand, in which the Beneficiary indicates simultaneously that and in what respect the Applicant is in breach of its warranty obligations under the Underlying Relationship.

The Demand shall be presented to us solely in paper form.[[4]](#footnote-4)

[For reasons of identification, each Demand under this guarantee shall be transmitted to us via the bank of the Beneficiary which shall confirm that the Beneficiary’s demand for payment is signed by the Beneficiary in a legally binding manner.][[5]](#footnote-5)

[It is a condition for Demands and payment to be made under this guarantee that the retention money2 / the last instalment2 in the sum of \_\_\_\_\_\_\_\_\_\_\_\_ has been received by us2 / our \_\_\_\_\_\_\_\_\_ Branch2 in the full amount and without reserve in favour of the account no. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(insert IBAN) of the Applicant.] 3

[Upon credit of the retention money2 / the last instalment2 to an account other than the mentioned account, claims for payment under this guarantee will not be honoured.] 3

The obligation under this guarantee shall expire [as soon as the original of this guarantee has been returned to us by the Beneficiary or a third party for discharge, but it expires in any case at the latest ] [[6]](#footnote-6)on \_\_\_\_\_\_. Any Demand must have been received by us at our address in \_\_\_\_\_\_\_ on or before the expiry of this guarantee.

[This guarantee shall be transferable.] 3

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision ICC Publication No. 758.

1. If reference to an "order" instead of a "contract" is requested, replace the text between [....] as follows: “have given the order no. \_\_\_\_\_\_\_\_\_, dd. \_\_\_\_\_\_\_\_\_\_\_\_\_, hereinafter called the Underlying Relationship, to" [↑](#footnote-ref-1)
2. Delete as applicable [↑](#footnote-ref-2)
3. Paragraph optional, only if requested by the instructing party [↑](#footnote-ref-3)
4. In case the demand is also acceptable in electronic form, replace with: The Demand has to be presented to us in paper form or in electronic form by authenticated swift message to our swift address COBA\_\_\_\_ through Beneficiary’s bankers, in which case Beneficiary’s bankers must quote the contents of the Demand [and must also state that the Demand is signed by the Beneficiary in a legally binding manner]3. [↑](#footnote-ref-4)
5. Paragraph optional, and only if Demand is to be presented solely in paper form. Version for signature confirmation for Demands acceptable in electronic form see footer '4’. [↑](#footnote-ref-5)
6. […] not applicable in case of electronic transmission of the guarantee [↑](#footnote-ref-6)