

This document was drafted in the Dutch language. This English language version of the document is a translation of the original Dutch version. In the event of any discrepancies or differences in the text and/or interpretation of the English and the Dutch version, the wording of the Dutch version of the document shall always prevail.

## Annex II

### **BACKSTOP AGREEMENT WSW/MUNICIPALITY**

THE UNDERSIGNED:

1. **Stichting Waarborgfonds Sociale Woningbouw**, with its registered office in Hilversum, the Netherlands, and its principal place of business at Olympia 1G, Hilversum, listed in the Trade Register of the Chamber of Commerce under number 41180946 ("**WSW**"), duly represented in this matter by [name and position] pursuant to Article 10 of the Articles of Association;

and

2. **Municipality of [name]**, with its seat in [full address], represented in this matter by [name and position], appointed in this regard pursuant to Section 171(2) of the Municipalities Act (*Gemeentewet*) on the basis of the mandate decision dated [date] by [name of mayor], the mayor of the municipality, acting pursuant to the decision of the municipal executive dated [date] (the "**Municipality**");

**[OR:]**

**[Municipality of [name]]**, with its seat in [full address], represented in this matter on the basis of Section 171(1) of the Municipalities Act by [name of mayor], the mayor of the municipality, acting pursuant to the decision of the municipal executive dated [date] (the "**Municipality**").

BACKGROUND:

- (i) it is desirable to promote the availability of means for (re)financing for admitted institutions as defined in the Housing Act (*Woningwet*);
- (ii) WSW was incorporated and the guarantee system was set up and given form and substance for this purpose;
- (iii) in this context, WSW provides guarantees for Lenders in connection with Participants' payment obligations under Secured Loans they have raised;
- (iv) WSW is part of the layered collateral structure within the guarantee system, of which (i) the first layer is formed by WSW's Risk Capital, (ii) the second layer is formed by the conditional contributions due by Participants to WSW (the Liability) and (iii) the third layer is formed by loans conditionally granted to WSW by the State and the Municipalities;
- (v) the fulfilment of WSW's payment obligations to Lenders and the fulfilment of WSW's payment obligations to the State and Municipalities must both be sufficiently secured for the third layer of the collateral structure;

- (vi) to this end - as additional security for the performance of WSW's payment obligations to Lenders or on any other account - the Municipality will provide loans to WSW in the manner described below, with a view to preventing liquidity shortages at WSW at all times;
- (vii) the State and WSW have concluded an agreement as referred to in Article 4 of the Articles of Association, so that the amount borrowed by WSW from all Municipalities (including the Municipality) is in principle equal to the total amount borrowed by WSW from the State;
- (viii) the Municipality and WSW have entered into one or more Old Municipality Backstop Agreements;
- (ix) to improve and modernise the guarantee system, WSW and the Municipality also concluded the Municipality Backstop Agreement 2021, which introduced, among other things, a new allocation system for claims against WSW, and WSW and the State concluded the State Backstop Agreement 2021;
- (x) WSW, the State and the Municipalities have decided that it is no longer desirable to have different Backstop Agreements co-existing for Secured Loans dated before 1 August 2021 and on or after 1 August 2021 and therefore to introduce one Backstop Agreement for the State and one Backstop Agreement for each Municipality, on the understanding, however, that a different Apportionment Key will be applied for the Municipalities depending on whether the claims against WSW are under guarantees issued for Secured Loans concluded before 1 August 2021 or on or after 1 August 2021;
- (xi) for the reason mentioned above, the Municipality and WSW wish to amend all the Old Municipality Backstop Agreements and the Municipality Backstop Agreement 2021 entered into between them in the manner set out below, as a result of which the provisions of all the Old Municipality Backstop Agreements and the Municipality Backstop Agreement 2021 will be amended and will be worded in accordance with the provisions of this Agreement; all rights and obligations of the Municipality and WSW in respect of the Municipality's backstop position and loans to be provided by it to WSW will be governed entirely and exclusively by the provisions of this Agreement;
- (xii) no further distinction will be made between the rights and obligations of the Municipality and WSW in respect of loans issued by the Municipality in connection with Secured Loans dating from before and from on or after 1 August 2021, with the exception of the allocation key to be applied, as set out in Clause [5] of this Agreement;
- (xiii) the Municipality is aware that, under Article 4 of its Articles of Association, WSW may not make direct or indirect proposals for or in any other way cooperate with amending one or more provisions of a Backstop Agreement (including this Backstop Agreement), or for terminating or modifying one or more obligations arising therefrom, except in the manner specified in the relevant Backstop Agreement;
- (xiv) the Municipality and WSW have observed the amendment procedure set out in the Old Municipality Backstop Agreement and the Municipality Backstop Agreement 2021.
- (xv) the Municipality is aware that Lenders who have accepted the third-party clauses in their favour in the Agreement set out below may, both jointly and individually, independently claim performance of the obligations entered into by the Municipality to WSW and the obligations entered into by WSW to the Municipality by this Agreement.

HAVE REACHED THE FOLLOWING AGREEMENT

### **Clause 1. DEFINITIONS**

The following definitions apply in this Agreement:

- a. **Backstop Agreement:**

The agreement concluded between WSW and the State by notarial deed on 6 December 1999 (executed before P.P.J.M. van Dullemen, then civil-law notary practising in The Hague), the agreement concluded between WSW and the State by notarial deed on 30 July 2021 (executed before (a deputy for) C.A. de Zeeuw, then a civil-law notary practising in The Hague), this Agreement, the Municipal Backstop Agreement 2021, each Old Municipal Backstop Agreement and each agreement between WSW and any of the Municipalities, as possibly amended from time to time, whereby either the State or the Municipality concerned has undertaken to provide loans to WSW as additional security for the fulfilment of the payment obligations of WSW with a view to preventing liquidity shortages at WSW at all times.

b. **Municipality Backstop Agreement 2021:**

The Backstop Agreement entered into between WSW and the Municipality, the effective date of which was 1 August 2021, relating to Secured Loans entered into on or after 1 August 2021, as possibly amended from time to time.

c. **Old Municipality Backstop Agreement**

Any Backstop Agreement entered into between WSW and the Municipality before 1 August 2021 in relation to one or more Secured Loans entered into before 1 August 2021, as possibly amended from time to time, including but not limited to (i) generic Backstop Agreements between WSW and the Municipality and (ii) Backstop Agreements that form part of a multi-party document, consisting of a standard Loan Agreement, Guarantee Agreement and Backstop Agreement, to which a Borrower, a Lender, the Municipality and WSW are parties.

d. **State Backstop Agreement 2021:**

The Backstop Agreement concluded on 30 July 2021 between WSW and the State in respect of Secured Loans entered into on or after 1 August 2021, as possibly amended from time to time.

e. **Policy Rules:**

The policy rules drawn up by WSW pursuant to a legal obligation incumbent upon it, which also form part of the agreement between WSW and the Association of Netherlands Municipalities (*Vereniging van Nederlandse Gemeenten* ("VNG")) dated 29 April 2022, as possibly amended from time to time.

f. **Contribution Obligation:**

The Municipality's obligation to provide loans to WSW if there is a Deficit within the meaning of Clause [4(2)] of this Agreement.

g. **Collateral Objectives:**

WSW's collateral objectives in force at the time of raising a Secured Loan; when this Agreement comes into effect, these are set out in both (i) Annex I to the Participation Rules and (ii) Annex B to Policy Rule II.

h. **Security Payment:**

Any payment made by WSW pursuant to a claim against WSW in connection with Secured Loans pursuant to (i) guarantees issued or (ii) an indemnity undertaking or (iii) payment in any form whatsoever.

i. **SGEI Registered Property (SGEI = Services of General Economic Interest):**

Registered property qualifying as property and associated rights of the Participant linked to public housing activities that are part of services of general economic interest as referred to in the Housing Act (*Woningwet*).

j. **Participant:**

An admitted Institution as referred to in the Housing Act, registered as a Participant with WSW in accordance with the terms of the Participation Rules.

k. **Guarantee level:**

0.25% of the sum of the Residual Debt as at the thirty-first of December of the most recent calendar year, for which payment WSW acts as guarantor or has entered into an undertaking to indemnify or pay in any form whatsoever.

- l. Secured Loan:**  
A loan granted by a Lender to a Borrower to finance Collateral Objectives in respect of which WSW has entered into a guarantee agreement or an undertaking to indemnify or pay in any form whatsoever.
- m. Lender:**  
Lender and/or its legal successor of a Secured Loan (or part of it) or the holder (or indirect holder) of a promissory note signed by a Participant, for which WSW has issued a guarantee.
- n. Borrower:**  
A Participant whose payment obligations are guaranteed by WSW.
- o. Municipality:**  
The municipality that is a party to this Agreement, where either itself or its legal predecessor(s) has/have previously entered into one or more Backstop Agreements with WSW.
- p. Municipalities:**  
All Municipalities together that - each separately - have entered into a Backstop Agreement with WSW.
- q. Refinancing:**  
The redemption of a Secured Loan on a repayment date by entering into a new Secured Loan where, on the same date, either a payment is made or an administrative settlement of the transaction takes place without any exchange of funds, where the size of the new Secured Loan is less than or equal to the Secured Loan that is redeemed. Notwithstanding the above, redemptions on linear and annuity loans may be aggregated into one new Secured Loan each calendar year.
- r. Market Value:**  
The market value of a Participant's SGEI registered property in leased condition, based on that Participant's most recently adopted annual financial statements.
- s. Ministry:**  
The Minister of the Interior and Kingdom Relations or, if the public housing portfolio is vested elsewhere, the minister responsible for the public housing portfolio.
- t. Liability:**  
The liability defined in the Participation Rules.
- u. Liability Loan:**  
A Secured Loan in connection with the availability of the committed liability as defined in Article 1 of the Participation Rules.
- v. Deficit:**  
The situation evidenced by a Forecast in which the Risk Capital is or will be below the Guarantee Level.
- w. Deficit Notice:**  
WSW's written notification to a Municipality that a Forecast shows the existence of a Deficit and containing at least the information mentioned in Clause [5(1)].
- x. Agreement:**  
This Backstop Agreement between the Municipality and WSW.
- y. Forecast:**  
The forecast of the Risk Capital for the next five calendar years, taking into account (among other things, but not exclusively) Guarantee Payments to be made and Liability to be collected in the period in question.

z. **Participation Rules:**

WSW's participation rules, as defined in Article 19 of its Articles of Association, applicable to the legal relationship between WSW and its Participants, as possibly amended from time to time.

aa. **Risk Capital:**

The sum of WSW's assets, to the extent that they consist of investments and cash and cash equivalents, less WSW's liabilities (only to the extent consisting of loan capital), determined by WSW in accordance with the system used in the most recently adopted company-only annual financial statements applicable to said assets and liabilities of WSW. Further to the foregoing, to calculate the Risk Capital,

1. the "investments" referred to above are valued at acquisition value or, if lower, at current stock market value;
2. "cash and cash equivalents" referred to above means: funds lent by WSW to a financial institution as defined in the Financial Supervision Act (*Wet op het financieel toezicht*) and supervised as such pursuant to that Act by De Nederlandsche Bank N.V. or the European Central Bank - whether payable on demand or not - with a residual maturity of up to two years;
3. the "cash and cash equivalents" mentioned above are valued at their nominal amount;
4. the "loan capital" referred to above does not include the loans granted by the State and Municipalities to WSW under Backstop Agreements;
5. the "loan capital" referred to above does not include provisions made by WSW and short-term or long-term liabilities of WSW in connection with claims against guarantees issued by WSW.

bb. **Residual Debt:**

The nominal residual amount owed on Secured Loans taken out by Participants.

cc. **State:** the State of the Netherlands.

dd. **Articles of Association:**

WSW's Articles of Association, as possibly amended from time to time.

ee. **Municipalities Total Amount:**

The total amount of loans that the Municipalities have to provide to WSW under the Backstop Agreements in the event of a Deficit.

ff. **Apportionment Key(s):**

The extent to which each Municipality will contribute in the event of a Deficit in accordance with Clause [5] of this Agreement.

gg. **VNG:**

The Association of Netherlands Municipalities (*Vereniging van Nederlandse Gemeenten*).

hh. **WSW :**

Social Housing Guarantee Fund (*Stichting Waarborgfonds Sociale Woningbouw*).

## Clause 2. APPLICABILITY OF THIS AGREEMENT

1. This Agreement applies to (i) each Secured Loan that a Participant enters into or has entered into, except as otherwise provided in this Agreement (a) from the date of signature of this Agreement and (b) entered into on or after 1 August 2021, and also to (ii) each Secured Loan that a Participant enters into before 1 August 2021. "Entering into" under (i) and (ii) above also means the assumption by a Participant of a Secured Loan of another Participant by contract assignment, splitting off, merger or in any other manner as a result of which all the rights and obligations of that other Participant thereunder are taken over by the Participant and whereby that Secured Loan continues to exist, with the proviso that for the Apportionment Key referred

to in Clause [5] of this Agreement, the original date on which the Secured Loan was concluded will always be applied. Each Secured Loan raised by a Participant is at all times subject to one or more other Backstop Agreements with Municipalities in addition to the Backstop Agreement with the State.

2. The monetary amount of the Municipality's (contingent) Contribution Obligation under Clauses [4 and 5] of this Agreement is determined annually by WSW.
3. WSW provides clarification for the Municipality by means of an annual statement on the basis of which its (conditional) Contribution Obligation under Clauses [4 and 5] of this Agreement is determined.

### **Clause 3. POSSIBILITY OF LIMITATION**

1. This Agreement, subject to the exception to it contained in this clause, does not set a limit on the total amount in Secured Loans that a Participant may raise and has raised in any calendar year.
2. Subject to the provisions of this clause, the Municipality may, for a Participant owning SGEI Registered Property in the Municipality, set a limit on the total Residual Debt of that Participant at the end of a calendar year.
3. Where a Participant operates in several Municipalities, the limit referred to in paragraph [2] of this clause will only be determined if all the Municipalities concerned decide to do so.
4. The limit referred to in paragraph [2] of this clause (i) will be equal to or greater than the Participant's Residual Debt as at the time the limit takes effect and (ii) will apply for a period not exceeding five calendar years from the time the limit takes effect.
5. If a Municipality or Municipalities determines or jointly determine a limit as referred to in paragraph [2] and paragraph [3] of this clause, respectively, they will immediately notify WSW and the Participant to which the limit applies in writing. This notification will include at least the following information:
  - a. the Participant to which the limit applies;
  - b. the period for which the limit applies;
  - c. the Participant's maximum Residual Debt at the end of each calendar year for the period for which the limit applies.
6. If a limit is set and the period for which it is set ends, then the limit expires. Any new limit should be redetermined in accordance with the provisions in this clause.

### **Clause 4. MUNICIPALITY'S OBLIGATION TO PROVIDE LOANS**

1. WSW publishes a Forecast at least once every calendar year. WSW sends the Municipality a Deficit Notice when a Forecast shows a Deficit.
2. In the event of a Deficit, the Municipality has the obligation to both WSW and Lenders by virtue of the Contribution Obligation to provide loans to WSW in the manner and up to the amounts provided for in [Clause 5] of this Agreement, regardless of the reason for such Deficit. In turn, WSW is obliged both to the Municipality and to Lenders to draw down the aforementioned Municipality loans in the manner and for the amounts provided for in [Clause 5] of this Agreement. The obligations to each of the Lenders stipulated in this paragraph are classed as third-party clauses irrevocably made by the Municipality or WSW to each of the Lenders.
3. The Contribution Obligation applies in full as soon as and for as long as a Forecast at any time shows that there is a Deficit.
4. No interest or other payment is payable by WSW on the loans provided under this Agreement.

### **Clause 5. VOLUME, APPORTIONMENT AND PAYMENT OF LOANS**

1. Each Deficit Notice will in any event contain (i) an estimate of the amount of the loans to be provided by the Municipality to WSW on a monthly basis under this Agreement, (ii) a statement of the dates on which such loans are to be provided and (iii) the bank account number into which the amounts are to be deposited. WSW then provides the Municipality with an updated estimate referred to in the previous sentence at least every quarter.
2. The Contribution Obligation applies to all Municipalities that have entered into a Backstop Agreement. The Municipalities Total Amount is equal to half the total amount of the Deficit as determined by WSW. The Municipalities Total Amount is equal to the total amount to be lent by the State to WSW under the Backstop Agreement between WSW and the State.
3. WSW will determine the manner in which the Municipalities Total Amount is apportioned among all Municipalities, always applying a Apportionment Key in accordance with paragraphs [4 to 7] of this clause.
4. The Municipalities Total Amount will be divided into two equal halves, except in case of the situations of [paragraph 7] of this clause. In all cases where the Municipalities Total Amount is divided into two equal halves, the first half of such amount will be apportioned among the Municipalities in accordance with paragraph [5] of this clause. The second half of that amount will be apportioned among the Municipalities in accordance with paragraph [6] of this clause.
5. WSW sets the amount for which a Municipality participates in the first half of the Municipalities Total Amount. The apportionment of this will depend on whether WSW made Guarantee Payments in the period of [ten] years prior to the occurrence of the Deficit and, if so, under which Secured Loan(s). The exact apportionment per Municipality is in proportion to the Guarantee Payments made during the period of [ten years] preceding the time of the Deficit. WSW sets this apportionment of the first half of the Municipalities Total Amount as follows for each Municipality:
  - a. in respect of Guarantee Payments made in connection with Secured Loans entered into on or after 1 August 2021, and which were therefore subject to the Municipality Backstop Agreement 2021 prior to the entry into force of this Agreement, a Guarantee Payment will be apportioned among all Municipalities in which the relevant Participant, for which WSW made the Guarantee Payment, held one or more SGEI Registered Properties on 31 December of the most recently ended calendar year. Apportionment among the Municipalities concerned is always in proportion to the Market Value of the SGEI Registered Properties held by the Participant in the Municipalities concerned on 31 December of the most recently ended calendar year.
  - b. In respect of Guarantee Payments made in connection with Secured Loans entered into before 1 August 2021, and which were therefore subject to the Old Backstop Agreement prior to the entry into force of this Agreement, a Guarantee Payment will be allocated in full to that Municipality which entered into a Backstop Agreement for the Secured Loan for the purpose of which WSW made the Guarantee Payment.
  - c. If the Deficit is due to Guarantee Payments made in relation to Secured Loans in the period of [ten years] prior to the time when the Deficit arises, some of which were entered into on or after 1 August 2021 as referred to in [paragraph 5(a.)] and some of which were entered into before 1 August 2021 as referred to in [paragraph 5(b.)], the first half of the Municipalities Total Amount will be apportioned among the Municipalities that involved pursuant to the provisions of [paragraph 5(a) as also in paragraph 5(b)] and in accordance with the Apportionment Keys that follow from [(a) and (b)] and always in proportion to the Guarantee Payments made because of a situation under [(a) and (b)].
6. WSW also sets the amount for which a Municipality participates in the second half of the Municipalities Total Amount. This second half of the Municipalities Total Amount is apportioned

among all Municipalities that have entered into a Backstop Agreement in proportion to the Residual Debt of all Secured Loans as at 31 December of the most recently ended calendar year. WSW sets the Residual Debt for each Secured Loan for each Municipality as follows:

- a. in respect of Secured Loans entered into on or after 1 August 2021, and which were therefore governed by the Municipality Backstop Agreement 2021 prior to the entry into force of this Agreement, the Residual Debt of a Secured Loan by a Participant to a Municipality will be allocated in proportion to the Market Value of the SGEI Registered Properties held by that Participant in that Municipality as at 31 December of the immediately preceding calendar year;
- b. in respect of Secured Loans entered into before 1 August 2021, and which were therefore subject to the Old Municipal Backstop Agreement prior to the entry into force of this Agreement, the Residual Debt of a Secured Loan will be allocated in full to the Municipality that entered into an Old Municipal Backstop Agreement for that Secured Loan.

7. If either

- (i) the Deficit is due solely to a cause other than Guarantee Payments by WSW under [paragraph 5] and there has also been no Guarantee Payment as referred to in [5(a) and/or (b)] in the period of [ten] years preceding the Deficit, or
- (ii) the Deficit is due to Guarantee Payments under a Secured Loan referred to in paragraph [5(a.)] of this clause but the Participant concerned no longer owns SGEI Registered Property on the date of that Guarantee Payment, as determined by WSW,

then no apportionment may be made on the basis of [paragraph 5] of this clause and [paragraph 6] will apply *mutatis mutandis* to the apportionment of the entire Municipalities Total Amount among the Municipalities. In that case, the Municipalities Total Amount will be apportioned among all Municipalities that have entered into a Backstop Agreement for one or more Secured Loans.

8. The Contribution Obligation will be met by the Municipality by paying WSW all amounts owed by that Municipality no later than on the dates stated by WSW in the Notice of Deficit to the Municipality, on the understanding that the first date on which the Municipality is required to lend money to WSW as a result of a first Deficit will be no later than the fifteenth day of the second calendar month after the month in which the Risk Capital first falls below the Guarantee Level. The Municipality's obligation to provide additional loans is fulfilled by the Municipality no later than the 15th day of each subsequent calendar month, all in accordance with WSW's instructions.
9. WSW will make every effort to do everything necessary to collect the amounts due from the State and/or from the other Municipalities under the Backstop Agreements.
10. If and to the extent that there is a Deficit in the Guarantee Level due to non-payment or incomplete or late payment of loans to be provided by the State and/or by other Municipalities to WSW, or if the forecast Deficit is increased as a result of which the Municipality's estimated Contribution Obligation may not be adequate, WSW will be entitled to adjust the estimate referred to in [paragraph 1 of this clause]. In that case, the Municipality is obliged to provide (additional) loans to WSW in the extent and on the dates indicated in that updated estimate, as communicated by WSW to the Municipality . If and when WSW subsequently receives any loans from those parties who previously failed to pay or made incomplete or late payments to WSW, any excess that the Municipality has provided to WSW in the form of loans over and above the amount that the Municipality would otherwise have contributed in the event that those other parties had fulfilled their payment obligations in full and on time will be repaid in accordance with Clause [9(4)] of this Agreement. WSW has the right to deduct those amounts received proportionally based on the State's contribution on the one hand and that of the joint



Municipalities on the other hand from future loans that the Municipality may still have to provide to WSW.

#### **Clause 6. LIABILITY COLLECTION AND OFFSET**

1. In order to avoid a Deficit as a result of which Municipalities must provide loans to WSW, WSW will make every effort to do whatever is necessary to collect the Liability from Participants.
2. If and as far as there is a Deficit in the Guarantee Level due to non-payment or incomplete or late payment of the Liability by Participants or the projected Deficit is increased as a result of which the Municipality's estimated Contribution Obligation may not be adequate, WSW is entitled to adjust the estimate referred to in [Clause 5(1)], in which case the Municipality is obliged to provide loans to WSW in the amount and on the dates indicated in that adjusted estimate, as communicated by WSW to the Municipality. In the situation referred to in the previous sentence, WSW will require from the State on the one hand and the joint Municipalities on the other hand equal amounts of loans to cover the total amount of the Deficit in the Guarantee Level as a result of those non-payments or incomplete or late payments or the amount by which the projected Deficit is increased. If and as soon as WSW subsequently receives Liability from those Participants who previously did not perform their payment obligations to WSW, or did so completely or late, WSW is entitled to deduct those amounts received proportionally from future loans that the Municipality may still have to provide to WSW in accordance with the estimates prepared by WSW. If and as far as WSW determines, on the basis of the prepared Forecasts, that the Municipality is not expected to provide further loans to WSW, any excess that the Municipality has provided to WSW in the form of loans over and above the amount that the Municipality would otherwise have contributed in the event that those other parties had fulfilled their payment obligations in full and on time, will be repaid in accordance with Clause [9(4)] of this Agreement.

#### **Clause 7. NO BACKSTOP POSITION FOR NEW SECURED LOANS AND EXCEPTION FOR REFINANCING**

1. If the Municipality notifies WSW and the Participants active in the Municipality by registered letter that the Municipality no longer wishes to take up a backstop position for new Secured Loans from a date to be determined by the Municipality, WSW will no longer enter into any new guarantee obligations under Secured Loans in that Municipality from that date onwards, subject to obligations for the purpose of Refinancing if and to the extent that they comply with the provisions of this clause. As a result of the aforementioned notification by the Municipality, where there is a Deficit, WSW will not oblige the Municipality to provide loans to WSW in accordance with Clause [5(5)(a)] of this Agreement if the Deficit is the result of a Guarantee Payment pursuant to a guarantee obligation entered into by WSW in connection with a Secured Loan and that Secured Loan was entered into after the effective date referred to in the preceding sentence. The foregoing is without prejudice to the Municipality's obligation to provide loans to WSW in accordance with Clauses [5(5)(b). and (c) and Clause 6] of this Agreement, as well as in accordance with Clause [5(5)(a)] in respect of Secured Loans entered into before the effective date referred to in the first sentence of this paragraph.
2. The date referred to in [paragraph 1] of this clause will not be earlier than six months after the date on which the Municipality notified WSW and the Participants active in the Municipality by means of the registered letter referred to in [paragraph 1] of this clause.
3. If the situation referred to in [paragraph 1] of this clause arises, WSW may also enter into guarantee obligations in connection with Refinancing after the date referred to in paragraph 1 of this clause, on the understanding that:

- a. this is permitted only for Secured Loans with a maturity date no later than twenty-five calendar years after the date referred to in paragraph 1 of this clause ; and
  - b. this is permitted only once for each Secured Loan with the exception of linear and annuity loans, where this is permitted once per redemption payment; and
  - c. this is not allowed for the purpose of new construction (following demolition of registered properties).
4. If the situation referred to in [paragraph 1] of this clause arises, WSW may, notwithstanding [paragraph 3] of this clause, also enter into guarantee obligations for the purpose of Refinancing or recalibrating the Liability Loan after the date referred to in [paragraph 1] of this clause.
5. If the situation referred to in [paragraph 1] of this clause arises, Refinancing is nevertheless permitted, notwithstanding [paragraph 3(c)] of this clause, if it is demonstrably impossible for the Participant to meet pre-existing obligations regarding new construction (following demolition of registered property) from financing not guaranteed by WSW, provided that the provisions of [paragraph 3(a) and (b)] of this clause are observed. Refinancing, as referred to in the previous sentence, is only permitted up to the amount for which WSW could be called upon under a guarantee obligation entered into by WSW in connection with a Secured Loan without the said WSW Refinancing.

#### **Clause 8. INSUFFICIENT RISK CAPITAL AND REFINANCING**

1. If there is insufficient risk capital and WSW has been notified of this, all as defined and provided for in Policy Rule I, until such time as the risk capital is again sufficient WSW will no longer enter into any new guarantee obligations in connection with loans to be raised by Participants, other than guarantee obligations in the context of Refinancing, subject to the requirements for this as set out in this clause.
2. If the situation referred to in [paragraph 1] of this clause arises, the following applies to Refinancing:
  - a. this is not allowed for new construction (followed by demolition of registered properties); and
  - b. this is only permitted if it is demonstrably impossible for the Participant to meet pre-existing obligations in relation to financing not secured by WSW; and
  - c. only up to the amount for which WSW could be held liable under a guarantee obligation entered into by WSW in connection with a Secured Loan without the said Refinancing.
3. If the situation referred to in paragraph 1 of this clause arises, WSW may, notwithstanding [paragraph 2] of this clause, enter into guarantee obligations for the purpose of Refinancing or recalibrating the Liability Loan.

#### **Clause 9. REPAYMENT OF LOANS**

1. Repayment by WSW to the Municipality of funds lent under this Agreement will be made at the time when the Risk Capital exceeds 0.65% of the sum of the Residual Debt as at 31 December of the most recently ended calendar year. If and for as long as there is no excess referred to in the previous sentence, WSW will not be obliged to repay any loans provided by the Municipality to WSW under this Agreement.
2. The extent of WSW's aforementioned repayment obligation to all Municipalities is set by WSW at half the amount by which the Risk Capital exceeds 0.65% of the sum of the Residual Debt as at 31 December of the most recently ended calendar year.

3. WSW's repayment obligation to the Municipality, referred to in [paragraph 1] of this clause, will be in proportion to the Municipality's share of the total amount of loans granted to WSW by all Municipalities under the Backstop Agreements.
4. If and to the extent that the State or one or more Municipalities has/have contributed more in loans to WSW than previously estimated by WSW because of non-payments, incomplete payments or late payments by one or more Participants, the State and/or by one or more Municipalities, WSW will firstly repay those amounts that the State and/or those Municipalities have contributed in excess of what they would otherwise have contributed if those other parties had fulfilled their payment obligations in full and on time, doing so only as soon as and only to the extent that WSW then receives those amounts referred to above from those other parties, or, if those amounts have not been received by WSW but the situation referred to in the first sentence of paragraph 1 of this clause arises, before WSW proceeds to fulfil its regular repayment obligations to the State and the Municipalities in accordance with paragraph 2 of this clause and the Backstop Agreement with the State.

#### **Clause 10. PERFORMANCE OF THIS AGREEMENT**

1. The Municipality undertakes to the Lenders to perform the obligations it has entered into vis-à-vis WSW in this Backstop Agreement correctly, completely and promptly. This obligation and the obligations stipulated in paragraphs 2 and 3 of this clause are classed as third-party clauses made irrevocably by the Municipality or WSW respectively, as evidenced by the relevant provisions, in favour of each Lender.
2. WSW undertakes to Lenders never to waive any right that it may exercise against the Municipality under this Agreement.
3. The Municipality and WSW undertake, both jointly and individually, to each Lender never to make direct or indirect proposals for or in any other way cooperate with amending one or more provisions of this Agreement or for terminating or modifying any one or more obligations arising from this Agreement, except in the manner specified in Clause [12] of this Agreement.
4. Any non-performance or any incorrect, late or incomplete performance by WSW of the obligations that WSW has entered into with respect to the Municipality in this Agreement may not lead to any non-performance or any incorrect, late or incomplete performance by the Municipality of the obligations that the Municipality has entered into with respect to WSW in this Agreement. Any recourse to suspension or offset by the Municipality for the performance of its obligations is expressly excluded.
5. In the event of any discrepancy between the provisions of the Policy Rules and the provisions of this Agreement, the provisions of this Agreement will prevail.

#### **Clause 11. PROVISION OF INFORMATION**

WSW will provide the Municipality with all such information as the Municipality reasonably considers necessary for safeguarding its financial interests regarding the its backstop position and any changes to it.

#### **Clause 12. AMENDMENT OF THIS AGREEMENT**

1. This Agreement will be deemed to have been amended if and as soon as an amendment proposal sent by WSW to the Municipality has been accepted by the Municipality, all subject to the conditions set out for amendment(s) in this clause.
2. This Agreement may only be amended after the Ministry and VNG approve WSW's amendment proposal, as follows:

- a. WSW will, within two weeks after written approval by the Ministry and VNG, notify the Municipality in writing of the proposed amendment including the date when the proposed amendment is to enter into force;
  - b. the amendment will not take effect until six months after the date when the amendment is approved by the Ministry and VNG.
3. If the Municipality does not agree to the amendment, the Municipality must notify WSW, by registered letter, no later than three months before the effective date. If the Municipality does not notify WSW in good time, in accordance with the preceding sentence, that it does not accept WSW's amendment proposal, the amendment proposal will be deemed to have been irrevocably and unconditionally accepted by the Municipality.
4. In the situation referred to in [paragraph 2] of this clause, where the Municipality does not agree to the proposed amendment, WSW undertakes, subject to the provisions of Clause [7] of this Agreement, not to enter into any new guarantee obligations under Secured Loans in respect of the Municipality with effect from the original date of intended entry into force of the amendment referred to in paragraph [1] of this clause. As a result of the aforementioned notification by the Municipality, where there is a Deficit, WSW will not oblige the Municipality to provide loans to WSW in accordance with Clause [5(5)(a)] of this Agreement if the Deficit is the result of a Guarantee Payment pursuant to a guarantee obligation entered into by WSW in connection with a Secured Loan and if that Secured Loan was entered into after the original date of intended entry into force of the amendment referred to in paragraph 1 of this clause. The foregoing is without prejudice to the Municipality's obligation to provide loans to WSW in accordance with Clauses [5(5)(b) and (c)] and Clause [6] of this Agreement, as well as in accordance with Clause [5(5)(a)] in respect of Secured Loans entered into before the original date of intended entry into force of the amendment referred to in paragraph [1] of this clause.
5. This Agreement may furthermore only be amended if, and not before, the Lenders have been notified in writing of the intended amendment and one or more of the Lenders has/have failed to state and demonstrate, within three months of such notification, that its/their interests would be the intended amendment being put into effect or that there is a reasonable expectation that its/their interests may thus be harmed.  
The interests of Lenders will be deemed to have been harmed, in any case, where:
  - a. the proposed amendment will or may result in the Municipality's obligation to provide loans, as provided in this Agreement, lapsing or being reduced before the obligations arising for WSW from the guarantee agreements entered into by WSW have been extinguished in full up to the time the amendment enters into force;
  - b. the purpose or, as the case may be, the effect of the proposed amendment is retrospectively to revise the existing legal relationship between the Municipality and WSW.

### **Clause 13. SPECIAL CIRCUMSTANCES**

1. If one or more of the facts and/or circumstances set out below under a. to d. arises, this will not affect the Municipality's obligations to WSW and the Municipality will, for the purposes of this Agreement, behave towards WSW and Lenders as if such facts and/or circumstances had not occurred.
  - a. grant of (provisional or final) suspension of payments to WSW;
  - b. preparing and offering an arrangement as referred to in Section 370(1) of the Bankruptcy Act (*Faillissementswet*), and appointing a restructuring expert as referred to in Section 371 of the Bankruptcy Act;
  - c. WSW being declared bankrupt;

- d. WSW being dissolved or losing its legal personality.
2. The obligations that the Municipality has entered into with respect to WSW in this Agreement are also deemed to have been entered into with respect to WSW's legal successor(s) by universal title.

#### **Clause 14. END OF THIS AGREEMENT**

1. This Agreement will end by operation of law when WSW performs all its obligations under it as well as under any guarantees entered into by WSW in respect of the Secured Loans to which this Agreement applies.
2. The Municipality and WSW reciprocally waive the right to terminate this Agreement on any grounds whatsoever, as well as to set it aside and/or to demand any amendment of it on any grounds whatsoever.

#### **Clause 15. CHOICE OF LAW AND FORUM**

1. This Agreement and any disputes arising from or related to it are governed solely by the law of the Netherlands.
2. any and all disputes arising from or related to this Agreement will be submitted to the competent judge of the District Court for Central Netherlands (*rechtbank Midden-Nederland*).

#### **Clause 16. ENTRY INTO FORCE**

1. This Agreement enters into force on [date].
2. This Agreement pertains to all existing and future Secured Loans.
3. WSW and the Municipality have already entered into one or more Old Municipality Backstop Agreements and/or a Municipality Backstop Agreement 2021. All of the aforementioned Backstop Agreements, regardless of the exact date on which they were concluded, their content and the version used (a generic Old Municipality Backstop Agreement or a generic Old Municipality Backstop Agreement as part of a multiparty document or otherwise), will be deemed to have been amended with effect from the date when this Agreement comes into force and will from that date be worded in accordance with the text of this Agreement, so that all rights and obligations of the Municipality and WSW in respect of the Municipality's backstop position and loans already made and to be made by the Municipality to WSW will be governed entirely and exclusively by this Agreement.
4. References in standard loan documentation of WSW to the Municipality Backstop Agreement 2021, a generic Old Municipality Backstop Agreement between the Municipality and WSW and/or references to an Old Municipality Backstop Agreement that forms part of a multiparty document, consisting of a standard loan agreement, guarantee agreement and backstop agreement, to which a Borrower, a Lender, the Municipality and WSW are parties, will therefore - after this Agreement comes into force - become references to this Agreement.
5. This Agreement will apply in addition to the Backstop Agreement between WSW and the State and the Backstop Agreements entered into by the other Municipalities with WSW, which after amendment have become substantively identical to this Agreement.

**SIGNATURES PAGE**

Drawn up and signed in duplicate by each party named below in acceptance of this Agreement.

Municipality:

Name: .....

Position: .....

Town/City: .....

Date: .....

Social Housing Guarantee Fund (*Stichting Waarborgfonds Sociale Woningbouw*):

Name: .....

Position: .....

Town/City: Hilversum, the Netherlands

Date: .....