



Sultanate of Oman

The Omani Authority for Partnership for Development

Corporate Guarantee

[INSERT NAME OF PARENT OR OTHER GROUP
GUARANTOR OF CONTRACTOR]

as Guarantor

[INSERT NAME OF CONTRACTOR]

as Contractor

and

THE OMANI AUTHORITY FOR PARTNERSHIP FOR
DEVELOPMENT

as Authority

relating to

the guarantee of the Contractor's payment obligations
under the Partnership for Development Agreement dated
[*insert date*] as amended and supplemented by the
Supplemental Agreement dated [*insert date*]

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SAMPLE

Corporate Guarantee

[NAME OF company] corporate guarantee no. _____

THIS Deed is dated and made

BETWEEN:

- (1) **[INSERT NAME OF PARENT OR OTHER GROUP GUARANTOR OF CONTRACTOR]**, (hereinafter, the "Guarantor"), a company incorporated under the laws of [*insert relevant jurisdiction*] and having its registered office at [*insert registered address*];
- (2) **[INSERT NAME OF CONTRACTOR]**, (hereinafter, the "Contractor"), a company incorporated under the laws of [*insert relevant jurisdiction*] and having its registered office at [*insert registered address*]; and
- (3) **THE OMANI AUTHORITY FOR PARTNERSHIP FOR DEVELOPMENT** (hereinafter "the Authority"), of PO Box 550, Muscat, Postal Code 100, Sultanate of Oman

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BACKGROUND:

- (A) The Authority and the Contractor have entered into a PFD Agreement relating to Partnership for Development [*insert date*] which has been amended and supplemented by a Supplemental Agreement between the Authority and the Contractor dated [*insert date*] (together, the “PFD Agreements”).
- (B) The Guarantor has agreed to enter into this Guarantee in favour of the Authority to [satisfy any and all claims, losses, damages and other liabilities in respect of any failure to perform the obligations accepted by the Contractor under the PFD Agreements] up to a maximum cumulative amount of [Amount equal to ten (10) percent of the PFD Obligations amount].

NOW THIS DEED WITNESSETH as follows:

1. Definitions and Construction

1.1 In this Guarantee:

“Guarantee” means the guarantee given by the Guarantor to the Authority pursuant to this Deed.

“PFD Agreements” has the meaning ascribed to it in recital (A).

1.2 A reference to any party includes its successors and permitted assigns.

1.3 References to clause(s) are to clauses of and to this Deed.

1.4 The headings are inserted for convenience only and shall not affect the construction of this Deed.

2. Guarantee and Indemnity

2.1 In consideration of the Authority entering into the PFD Agreements with the Contractor, (as the Contractor hereby acknowledges), the Guarantor hereby unconditionally and irrevocably guarantees to the Authority up to a maximum cumulative amount of [Amount equal to ten (10) percent of the PFD Obligations amount] for:

(A) the due and punctual performance and observance by the Contractor of all acts, covenants and obligations to be performed or observed by the Contractor under or pursuant to the PFD Agreements to the extent specified therein; and

(B) the due and punctual payment by the Contractor of all sums payable under or pursuant to the PFD Agreements (including without limitation any liquidated damages) to the Authority as and when the same fall due (with the intention that any amount not recoverable for any reason from the Guarantor under this Deed on the basis of a guarantee shall nevertheless be recoverable on the basis of an indemnity).

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- 2.2 The Guarantor hereby undertakes to keep the Authority fully and effectually indemnified against all losses, damages, costs, claims and expenses whatsoever arising out of or in connection with any failure on the part of the Contractor to perform or observe all or any of the acts, covenants and obligations as aforesaid or to effect due and punctual payment of any sum as aforesaid. Notwithstanding anything else in this Guarantee to the contrary, this Guarantee shall not be construed to surpass upon the Guarantor any obligation greater than those imposed on the Contractor under the PFD Agreements and the Guarantor shall not be liable for any sums to the Authority to the extent already paid under a PFD Agreement.
- 2.3 The amount payable under this guarantee shall be reduced as PFD Credits are awarded to the Contractor. Reductions shall be calculated at 10 percent (10%) of the value of the Deemed Credits as identified in the Schedule of Achievement of PFD Credit, similar in form to Attachment A to this Guarantee.
- 2.4 The guarantee and indemnity contained in this Deed shall be a continuing guarantee and indemnity and shall remain in full force and effect for so long as the PFD Agreements shall remain in force and until all the Contractor's obligations under or pursuant to the PFD Agreements shall have been duly performed.
- 2.5 The Guarantor warrants that it is a company duly incorporated under the laws of [insert details] and has all power and authority to enter into and perform the obligations contained in this Deed to be performed by it and that this Deed constitutes a legal, valid and binding obligation of the Guarantor.
- 2.6 The Contractor undertakes to the Authority, without limitation of any other rights and remedies of the Authority against the Contractor, to perform and discharge the obligations on its part set out in the PFD Agreements.

3. Demand under the Guarantee

The obligations of the Guarantor under or pursuant to this Deed shall not be discharged except by performance or the procurement of performance by the Contractor or the Guarantor. Such obligations shall not be subject to any prior notice to, or demand upon, the Contractor with regard to any default on the part of the Contractor.

4. Default by the Contractor

If there occurs in respect of the Contractor an event of default (howsoever described) of the relevant provisions of the PFD Agreements or an event of insolvency, or where the principal obligations under the PFD Agreements are voidable, this Deed shall take effect as if the Guarantor was ab initio the principal obligor and not merely a surety.

5. Payments under the Guarantee

- 5.1 Each payment to be made to the Authority by the Contractor under this Guarantee shall be made in the appropriate currency in accordance with the terms of the PFD Agreements, in such manner as the Authority may from time to time direct and

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accompanied by a copy of a written notice from the Authority to Contractor, dated at least thirty (30) days prior to the Authority's demand under this Guarantee, notifying Contractor of its failure to fulfil the terms of the PFD Agreement.

- 5.2 All such payments shall be calculated without reference to any set-off or counterclaim and shall be made in full and free and clear of, and without any deduction for or on account of, any set-off or counterclaim.
- 5.3 If any payment received by the Authority pursuant to the provisions of this Deed or the PFD Agreements shall be avoided under any laws relating to insolvency, such payment shall not be considered as having discharged or diminished the liability of the Contractor or the Guarantor hereunder; and the liability of the Contractor and the Guarantor hereunder shall continue to apply as if such payment had at all times remained owing by the Contractor and the Guarantor, and the Contractor and the Guarantor shall indemnify the Authority in respect thereof.
- 5.4 If the Guarantor defaults in the payment when due of any sum payable by it under this Guarantee, its liability shall be increased to include interest on such sum from the due date until the date of actual payment (both before and after judgment) at that annual rate which is 2 percentage points above the average base rate of National Bank of Oman, Oman Arab Bank and Oman International Bank from time to time in effect during such period. All such interest shall be calculated on the basis of the actual number of days elapsed, over a 365-day year and compounded monthly.

6. Waiver and Variation

The rights and obligations of the Guarantor under or pursuant to this Deed shall not be prejudiced or affected by any extension of time, indulgence, forbearance or concession given to the Contractor, or any assertion of or failure to assert any right or remedy against the Contractor, or by any modification or variation of the provisions of the PFD Agreements, or by the administration, receivership, insolvency, liquidation, dissolution, reconstruction, amalgamation or incapacity of the Contractor, or by the Authority holding or taking any other or further guarantees or securities or by the invalidity of any such guarantees or securities or by the Authority varying, releasing, exchanging, enforcing or omitting or neglecting to enforce any such guarantees or securities, or by any other thing which might otherwise wholly or partially discharge the Guarantor from its obligations under this Deed.

7. Partial Invalidity

If any court of competent jurisdiction holds any provision of this Deed invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Deed had been executed with the invalid, illegal or unenforceable provision eliminated.

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8. Assignment

Neither the Guarantor nor the Contractor may assign this Deed or any of the liabilities, benefits or interests arising hereunder in any manner whatsoever either in whole or in part.

9. Counterparts

This Guarantee may be executed in counterparts, in which case this Guarantee will be as effective as if all signatures on the counterparts were in a single copy of this Guarantee.

10. Law and Jurisdiction

10.1 This Deed shall be governed by and construed in all respects in accordance with the laws of [as in the PFD Agreement].

10.2 The manner of settling, and jurisdiction over, any dispute arising under this Corporate Guarantee shall be as provided in the PFD Agreement to which the matter pertains.

10.3 To the extent that the Guarantor or the Contractor may in any jurisdiction claim for itself or its assets immunity from suit, execution, attachment (whether in aid of execution or before judgment or otherwise) or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity (whether or not claimed) each of the Guarantor and the Contractor hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction.

IN WITNESS whereof these presents are executed as follows:

Signed by Director and
[Director/Company Secretary]
and thereby executed
by [**the Guarantor**] as its Deed

Signed by Director and
[Director/Company Secretary]
and thereby executed
by [**the Contractor**] as its Deed

Signed by [Authorised Person]
and thereby executed
by the Omani Authority for Partnership for Development
as its Deed