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Published on the website on May 2024

**Law No (9) of 2023**

**Ratifying the DIRECT FACILITY AGREEMENT for (Water Transmission Project Associated with Al Dur IWPP, Phase II Project)**

We, Hamad Bin Isa Al-Khalifa King of the Kingdom of Bahrain

Having reviewed the Constitution,

And The DIRECT FACILITY AGREEMENT for Water Transmission Project Associated with Al Dur IWPP, (Phase II of the Project) signed on 7 July 2022,

The Shura Council and the Council of Representatives have approved the following law which we have ratified and enacted.

**Article One**

The DIRECT FACILITY AGREEMENT for Water Transmission Project Associated with Al Dur IWPP, (Phase II of the Project), signed on 7 July 2022, attached to this Law, has been ratified

**Article Two**

The Prime Minister and the Ministers- each within his jurisdiction - shall implement this law, and it shall come into effect from the day following the date of its publication in the Official Gazette.

King of the Kingdom of Bahrain

Hamad Bin Isa Al Khalifa

Issued at Riffa Palace:

On: 13 Dhu al-Hijjah 1444 H

Corresponding to 6 July 2023

**ABU DHABI EXPORTS OFFICE (ADEX)**

**USD 51,000,000**

**DIRECT FACILITY AGREEMENT**

**dated 7- 7-2022**

**For**

**(Water Transmission Project Associated with Al Dur IWPP, Phase II of the Project)**

**BETWEEN**

**Electricity and Water Authority**

**as Borrower**

**Ministry of Finance & National Economy**

**as Guarantor**

**And**

**ABU DHABI EXPORTS OFFICE (ADEX) OF**

**ABU DHABI FUND FOR DEVELOPMENT,**

**as Lender**

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THIS DIRECT FACILITY AGREEMENT (this "**Agreement**") is dated 7-7.2022 and made between:

1. **ELECTRICITY AND WATER AUTHORITY**, a government owned undertaking duly organised and existing under the laws of Kingdom of Bahrain with its registered office at the Diplomatic Area, Manama, P.O. Box 2, acting through the Ministry of Finance and National Economy, as borrower (the "Borrower");
2. **MINISTRY OF FINANCE & NATIONAL ECONOMY**, which is duly organised and existing under the laws of the Kingdom of Bahrain, and whose address is P.O. Box 333, Manama, Bahrain, as guarantor (the "Guarantor"), and
3. **ABU DHABI EXPORTS OFFICE (ADEX),** the export credit office for ABU **DHABI FUND FOR DEVELOPMENT ("ADFD"),** (a public Andy corporate duly established under laws of the United Arab Emirates) established pursuant to ADFD Board Decision No. 1 of 2019, having its address at King Abdullah bin Abdulaziz Al Saud Street, P.O. Box 814, Al-Batten Area, Abu Dhabi, United Arab Emirates, as lender (the "Lender").

**WHEREAS:**

1. The Borrower has agreed to purchase, and Tecton Engineering & Construction L.L.C. (Ajman), a limited liability company duly organised and existing under the laws of Bahrain (the "Exporter 1"), has agreed to sell, upon the Terms and conditions of the contract dated 9 February 2021 (the "Export Contract 2"), certain goods and services for the Project;
2. The Borrower has agreed to purchase, and Jindal Saw Gulf L.L.C. a limited liability company duly organised and existing under the laws of UAE (the "Exporter 2"). has agreed to sell, upon the terms and conditions of the contract dated 30 June 2021 (the "Export Contract 2"), Certain goods and services for the Project;
3. The Borrower has requested the Lender to extend loans in an aggregate principal amount not exceeding USD 51.000,000 (Fifty-One Million United States Dollars) to finance the Borrower payment to the Exporters pursuant to the Export Contracts, and
4. The lender has agreed to extend to the Borrower such loans so requested by the Borrower subject to the terms of this Agreement.

NOW, THEREFORE, IT IS AGREED as follows:

Chapter 1

Interpretation

1. Definitions and Interpretation
	1. Definitions

In this Agreement

“Affiliate” means in relation to any person, a Subsidiary of that person or a Holding Company of that person or any Subsidiary on that Holding Company.

“Anti-Corruption Laws” means the Bribery Law of 2010, the United States Foreign Corrupt Practices Law of 1977, any UAE Federal and Local laws concerning anti bribery (including but not limited to Law No 3 of 1987 “the Panel Code”, Federal Legislative Decree No 20 of 2018 on anti-Money Laundering and Combating the Financing of Terrorism and Financing of Illegal Organisations, and Law no 1 of 2006 concerning the Civil Service in Emirate of Abu Dhabi as amended) and any similar laws or regulations in any jurisdiction relating to bribery, corruption or any similar practices,

“anti-Terrorism Laws” means any applicable laws of any applicable jurisdiction, including but not limited to laws issued by the United Arab Emirates, the United States of America, the European (EU) or the United Nations Security Council (UN), which relate to counter-terrorist financing.

“Authorisation” means an authorisation, consent, approval, decision, licence, exemption, filing, notarisation or registration.

“Availability Period” means the earlier of:

1. 3 (three) years from the date of singing this agreement, or
2. Upon Completion on the Project.

“Available Facility” means the Lender’s Commitment Minus:

1. The amount of outstanding Loans, and
2. In relation to any proposed Utilisation, the amount of any Loans that is due to be made on or before the proposed Utilisation Date.

“Borrower Authorised Signatory” means any person:

1. authorised to execute any document to be delivered pursuant to or in connection with this Agreement on the Borrower's behalf; and
2. in respect of whom the Lender has received evidence satisfactory to it of such authority and a specimen signature.

"Break Cost' the amount (if any) charged on prepayment in case the funding cost at date of prepayment is lower than the funding cost at date of this agreement. The formula used will be prepayment amount multiplied by remaining tenor of the loan multiplied by change in funding cost (between date of agreement and date of prepayment). Funding cost is charged at US Dollar Swap rates published on Bloomberg as on respective dates.

"Business Day" means a day (other than a Friday, Saturday or Sunday) on which banks are open for general business in the Kingdom of Bahrain in relation to any date for the payment of dollars, in New York, and Abu Dhabi, the United Arab Emirates.

"Commitment" means (the amount of USD 51,000.000 (fifty-One Million United States Dollar) (being aggregate of USD 42,500,000 for Export Contract I and USD 8,500,000 for Export Contract 2) to the extent not cancelled, reduced or transferred by the Lender under this Agreement.

"Completion" means the completion of the Project.

“Confidential Information" means all information relating to the Borrower, the Transaction Documents or the Facility of which the Lender becomes aware or which is received by the Lender in relation to the Finance Documents or the Facility from the Borrower or any of its advisers, in whatever form and includes information given Orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

information that:

1. is or becomes public information other than as a direct or indirect result of any breach by the Lender of Article 31 (Confidential Information); or
2. is identified in writing at the time of delivery as non-confidential by the Borrower or any of its advisers; or
3. is known by the Lender before the date the information is disclosed to him in accordance with this definition or is lawfully obtained by a lawful way after this date, from a source which is. as far as the Lender is aware, unconnected with the Group and which, as far as the ender is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

"Default" means an Event of Default, or any event or circumstance specified in Article 21 (Events of Default) which would (with the expiry of a grace period. the giving of notice or making of any decision under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"Disruption Event" means either or both of:

1. a material disruption to those payment or communications systems or to those financial markets which are, in each ease, required to operate in, in order for payments to be made in connection with the Facility (or otherwise in order for the transactions completed by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of any of the Parties, or
2. the occurrence of any other even which results in a disruption (or a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, of any of the following:
3. from performing its payment obligations under the Finance Documents; or
4. from communicating with other Parties in accordance with the terms of the Finance Documents.

and which (in any of those two cases) is not caused by and is beyond the control of, the Party whose operations are disrupted.

"Eligible Goods and Services" means goods and services which are supplied or rendered or to be supplied or rendered by the Exporter to the Borrower pursuant to the Export Contracts, provided the scope of Eligible Goods and Services shall be determined solely by the Lender.

"Environment" means humans, animals, plants and all Other living organisms including the ecological systems of which they form part and the following media:

1. air (including, without limitation, air within natural or man-made structures, whether above or below ground).
2. (‌ب) Water (including, but not limited to, territorial, coastal, and inland waters, whether down or underground and water in sewers and drains); and
3. land (including, without limitation, land under water).

"Environmental Law" means any applicable law or regulation which relates to;

1. the pollution or protection or the Environment;
2. the conditions of the workplace; or
3. the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other is capable of causing harm to the Environment including. without limitation, any waste.

"Event of Default" means any event or circumstance specified as such in Article 21 (Events of Default).

"Export Contracts" means together the Export Contract 1 and Export Contract 2, and the term "Export Contract" means any of them as the context may require.

"Exporters" means together the Exporter 1 and Exporter 2, and the term "Exporter" meant any of them as the Context may require.

"Exporter Authorised Signatory" means any person:

1. authorised to execute any document to be delisted pursuant to or in connection with this Agreement on an Exporter's behalf; and
2. in respect of whom the Lender has received evidence satisfactory of such authority and a specimen signature.

"Exporter Certificate" means certificate substantially in the form set out in Annex 4 (Form of Exporter Certificate).

"Facility" means facilitating the term loan provided under this Agreement in accordance with the provisions of Chapter two (The Facility).

"Finance Document" means this Agreement, any Utilisation Request and any other document designated for such by the Lender and the Borrower.

"Financial Indebtedness" means any indebtedness for or in respect of:

1. money borrowed;
2. Any amount obtained by approval under any credit facility or equivalent
3. Any amount obtained under any facility for the purchase of bonds, issuance of bonds, instruments, shares, loan shares or any similar document,
4. The value of any obligation relating to any lease or lease terminated by ownership that is treated as a balance sheet obligation,
5. receivables Sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
6. any amount obtained under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
7. Any derivative transaction entered into in respect of protection against or benefit from fluctuations in any rate or price (in calculating the value of any derivative transaction, only the value determined at market value or that actual amount due as a result of the termination or closure of such derivative transaction, if any, shall be taken into account);
8. any courter-indemnity obligation in respect of a guarantee. indemnity, bond, standby or documentary letter of credit or any other immanent issued by a bank or financial institution; and

i) the amount of and liability in respect of a guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

"First Repayment Date" means the date falling at the end of the Grace period.

"Grace Period" means the earlier of (a) a period of 6 (six) Months from the final Utilisation Date and (b) 3 (three) years and 6 (six) months (from the first Utilisation Date.

"**Group**" means the Borrower and Subsidiaries for the time being.

"Holding Company" means, in relation to a Loan, each period determined in accordance with article 9 (Interest periods) and in relation to an Unpaid Sum, each period determined in accordance with Article 8-2 (Default Interest).

"Interest Rate" means fixed interest rate at Five percent per annum (5%).

"Loan" means a loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan.

"**Material Adverse Effect**" means, in the reasonable opinion of the Lender, a material adverse effect on;

1. the ability of the Borrower or the Guarantor to perform its obligations under the Transaction Documents; or
2. the validity of enforceability of the Finance Documents or the rights or remedies of the sender under any of the Finance Documents.

"**Month**" means a Period stalling on one (1) day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

1. (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period late end, if there is one (1), or if there is not, on the immediately preceding Business Day;
2. if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last business Day in that calendar month; and
3. if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period must end.

The above rules shall only apply to the last Month of any period.

"Obligors" means together the Borrower and the Grantor, and "Obligor" means either of them.

"Original jurisdiction" means, for the borrower, the jurisdiction under whose laws the borrower was established as at the date of this Convention.

"Party" means a party to this Agreement.

"Project" means the Water Transmission Project Associated with Al Der IWPP, Phase two developed by the Borrower in the Kingdom of Bahrain for which the Exporters provide the Eligible Goods and Service, under the relevant Export Contracts.

"Relevant Jurisdiction" means, in relation to the Borrower:

1. its Original Jurisdiction; and
2. any jurisdiction where it conducts its business.

**"Repayment Date" means:**

1. the first Repayment Date.
2. and each date falling at six (6) Monthly intervals after the first Repayment Date; and
3. the Termination Date.

"Representative" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

"Sanctionable Activity" means any activity which, if involved, may result in that person being in breach, or that person being described as being in breach or violation under any penalties or sanctions.

"Sanctioned Territory" means a country, region or territory that is the subject of country-wide, region-wide or territory-wide Sanctions.

"**Sanctions**" means the economic or financial sanctions laws, regulations, trade embargoes or other restrictive measure enacted, administered, implemented and/or enforced from time to time by any of the following (and including through any relevant Sanctions Authority).

1. the United Nations;
2. the European Union;
3. the government of the United States of America;
4. the government of the United Kingdom
5. the government of United Arab Emirates; and
6. the government of the Kingdom of Bahrain.

"**Sanctions Authority**" means any agency or person which is duly appointed, empowered or authorised to enact, administer, implement, and/or enforce Sanctions including (without limitation):

1. the Department of the Treasury's Office of Foreign Assets Control of the United States of America.
2. the United States Department of State or the United States Department of Commerce;
3. Her Majesty's Treasury of the United Kingdom:
4. The Central Bank of the UAE and any other competent authority in the UAE; and
5. The Central Bank of the Kingdom of Bahrain and any other competent authority in the Kingdom of Bahrain.

"**Subsidiary**" means any person (referred to as the first person) in respect of which another person (referred to as the second person):

1. has the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
2. cast, or control the casting of, more than 50 percent of the maximum number of votes that might be cast at a general meeting of the first person;
3. appoint or remove all, or the majority, of the directors or the equivalent Officers of the first person; or
4. give directions with respect to the operating and financial policies of the first person with which the directors or other equivalent officers of the first person are obliged to comply; or
5. holds beneficially more than 50 percent. of the issued share capital of the first person (excluding any part of that issued state capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

"**Tax**" means any tax, levy, fee or deduction of a similar nature (including any fine or interest payable in respect of any default or delay in payment).

"**Termination Date**" means either of;

1. the date falling 180 Months after the first Utilisation Date;
2. means if an Export Contract is irrevocably cancelled or terminated the date on which all the outstanding loans, together with accrued interests and all other amounts under the Finance Documents are finally paid to the Lender; or
3. the date on which the Lender otherwise ceases to be a lender.

"**Transaction Documents**" means the finance Documents and the Export Contracts.

"**UAE Company**" means a company incorporated in the United Arab Emirates or a company incorporated outside the United Arab Emirates whose shareholder(s) directly or indirectly holding no less than thirty percent (30%) the total stocks or equity shares of that company is a company incorporated in the United Arab Emirates.

"**Unpaid Sum**" means any sum due but unpaid by the Borrower under the Finance Documents.

"**Utilisation**" means a utilisation of the Facility.

"**Utilisation Date**" means the date of a Utilisation, being the date on which the relevant Loan is to be made.

"**Utilisation Request**" means a notice substantially in the form set out in Annex 2 (Form of Utilisation Request).

**"VAT" means:**

1. any tax Imposed in compliance with the Federal Legislative Decree No. (8) of 2017 on Value Added Tax (and related regulations), and
2. any other value added tax, sales tax and other of similar nature imposed in any jurisdiction.

**1.2 Construction**

(a) Unless a contrary indication appears, any reference in this Agreement to:

1. Any reference to a "lender", a "borrower" or any "party" would be construed to include its successors in ownership and its authorized transferees in respect of its rights and/or obligations under the financing documents;
2. Any reference to an "agency" would be construed to include any governmental, intergovernmental or supranational agency, authority, body, central bank, commission, department, ministry, organization, legal institution or court (including any political division, national, regional or municipal government, administrative, financial, judicial, organizational or self-regulatory body or person);
3. Any reference to "agreed document" is a document or document previously agreed in writing by or on behalf of the borrower and lender or, if not agreed, as specified by the lender;
4. "assets" includes present and future properties, revenues and sights of every description;
5. a "Finance Document", a "Transaction Document" or any other agreement or instrument is a reference to that Finance Document, Transaction Document or other agreement or instrument including any modification, replacement, supplementation, extension or redrafting thereof,
6. "guarantee" means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent. to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to put charm assets of any person where, in each Case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
7. "indebtedness" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present factual, actual or contingent;
8. "person" includes any individual, firm, company, cooperation, government, state or agency of a state or any association, credit, joint venture, consortium, partnership or other entity (whether or not it has a separate legal personality);
9. "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the power of law) of any agency;
10. a provision of law is an inference to that provision as amended or re-enacted: and
11. a time of day is a reference in local time in Abu Dhabi the United Arab Emirates.

(b) The determination of the extent to which a rate is "for a period equal in length" to an Interest Period shall disregard any inconsistency arising from the last day of that Interest period being determined pursuant to the terms of this Agreement.

(c) Chapters, Articles and Annexes in this Agreement are for easy reference only.

(d) Unless otherwise indicated in this Agreement, any term used in any other financing document or in any notice delivered under or in respect of any financing document shall have the same meaning as in the financing document or notice as in this Agreement.

(e) A Default (other than an Event of Default) is "continuing" if it has not been remedied or waived and an Event or Default is "continuing if it has not been waived.

**Currency Symbols and Definitions**

"$", "USD" and "dollars" is the legal official currency of the United States of America, "Dirham" and "UAE Dirham" is the legal official currency of the United Arab Emirates.

**Independence of the Finance Documents**

The Borrower acknowledges that its obligations under the Finance Documents:

1. are independent and separate from the Export Contracts and any other document or agreement (other than any Finance Document);
2. are not Subject to, or dependent upon, the execution or performance by the Exporters or any other person of its obligations under the export Contracts or any other document, contract or arrangement related to it;
3. will not be affected or discharged by:
4. Any order affecting exporters, borrowers, any other person, export contracts or any other document, contract or arrangement relating to them
5. non-performance, breach, frustration or invalidity of, or the destruction, non-completion, non-functioning of any of the goods and services to be supplied or rendered, under, the Export Contract or any other document, contract or arrangement related to it;
6. any dispute under an Export Contract or any other document, contract or arrangement related to it. or any claim or lawsuit which the relevant Exporter or any other person may have against, or consider that it has against the Exporter or any other person under or in relation to the Export Contract or any other document, contract or arrangement related to it;
7. any administration, bankruptcy. insolvency, liquidation or similar proceedings commenced against an Exporter, the Borrower or any other party to an Export Contract, or being applicable to any transactions contemplated thereunder, or an Exports, the Borrower or any other party to an Export Contract or any transactions contemplated thereunder being insolvent; or
8. any unenforceability, illegality or invalidity of any Obligation of the Exporter, the Borrower or any other party under an Export Contract or any other document, contract or arrangement related thereto.

**Chapter 2**

**THE FACILITY**

**2. THE FACILITY**

**2.1 The Facility**

Subject to the terms of this Agreement, the Lender makes available to the Borrower a USD term loan facility in an aggregate amount equal to the Commitment.

**3. PURPOSE**

**3.1 Purpose**

The Borrower shall apply all amounts borrowed by it under the Facility towards the financing or reimbursement of amounts payable or paid to the Exponent under the Export Contracts in respect of Eligible Goods and Services.

**3.2 Monitoring**

The Lender is not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

**4. CONDITIONS Of UTILISATION**

**4.1 Initial Conditions Precedent**

The Borrower may deliver its first Utilisation Request after the Lender has received all of the documents and other evidence listed in Annex 1 (Conditions Precedent) in form and substance satisfactory to the Lender or if such document or other evidence is waived by the Lender. The Lender shall notify the Borrower promptly upon being so satisfied or if a condition is waived by the Lender

**4.2 Further Conditions Precedent**

The Lender will only be obliged to comply with Article 5.4 (Lender's Participation) if, on the date of each Utilisation Request and on the proposed Utilisation Date on such Utilisation Request:

1. no Default is continuing or would result from the proposed Loan;
2. all representations and warranties made by the Borrower under Article 17 (Representations) of this Agreement are true in all material respects;
3. all of the Transaction Documents are in full force and effect; and
4. no circumstance that may require the Lender to suspend or terminate further advances under this Agreement has occurred or would result from the proposed Loan.

**4.3 Frequency of Utilisations**

The Borrower may not deliver a Utilisation Request if it would result in more than two (2) Utilisation Requests having been delivered in any calendar month.

**Chapter 3**

**UTILISATION**

**5. UTILISATION**

**5.1 Delivery of a Utilisation Request**

The Borrower may utilise the Facility by delivery to the Lender of a duly completed Utilisation Request which attaches a duly completed Exporter Certificate signed by an Exporter Authorised Signatory not later than 5 Business Days prior to the proposed Utilisation Date.

**5.2 Completion of a Utilisation Request**

(a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless;

1. the proposed Utilisation Date is a Business Day within the Availability Period;
2. it identifies the Export Contract and the relevant Exporter for which the Loan is required;
3. the currency and amount of the Utilisation comply with Article 5-3 (Currency and Amount);
4. if the Utilisation Request is for Export Contract 1, the Loan under the Utilisation Request together with any outstanding Loans under the Export Contract 1 shall not exceed the lower of (A) USD 42,500,000 and (B) 83% of the value of the Export Contract 1;
5. if the Utilisation request is for Export Contract 2, the Loan under the Utilisation Request together with any outstanding Loans under the Export Contract 2 shall not exceed the lower of (A) USD 8,500,000 and (B) 90% of the value of the Export Contract 2;
6. the Borrower has made the payment of its amount in relation to the relevant invoice under that Utilisation Request and has provided a proof of the payment;
7. if the Loan is to be utilised for any reimbursement, the Borrower has provided a proof of payment for any reimbursement under the relevant Export Contract;
8. it attaches the applicable Exporter Certificate to the proposed Utilisation in form and substance satisfactory to the lender together with the relevant invoice; and
9. it is signed by a Borrower Authorised Signatory.

(b) The Borrower shall supply the Lender with any additional documents or other evidence reasonably requested by it in emulation with the proposed Utilisation or the Exporter Certificate relating to that proposed Utilisation.

(c) Only one (1) Loan may be requested in each Utilisation Request.

**5.3 Currency and Amount**

1. The currency specified in a Utilisation Request must be USD.
2. The amount of the proposed Loan must be less than or equal to the Available facility.

**5.4 Lender's Participation**

If the conditions set out in this Agreement have been made, the Lender shall make the Loan available by the Utilisation Date.

**5.5 Cancellation of Commitment**

The Commitment which is unutilised by the end of the Availability Period shall be immediately cancelled.

**5.6 Examination of Documents**

The Borrower and the Lender hereby unconditionally and irrevocably agree that:

1. The lender's liability is limited to examining any request for use, any source certificate or any other document received in relation to it, to ensure that this document in which it appears (or if no such document is in English only, to ensure that the English translation or English version in which it appears) is consistent with its description.
2. the Lender shall not be obliged to enquire as to, or be responsible for, the validity, truthfulness or genuineness of any Utilisation Request, any Exporter Certificate or any other document received with respect thereto, or any or the statements set out therein; and
3. the Lender shall be fully entitled to rely on the accuracy of any statements contained in any Utilisation Request, any Exporter Certificate or any other document received with respect thereto.

**5.7 Disbursement to Exporter**

Unless the Loan is to be utilised for reimbursement, the Lender shall disburse a Loan directly to the relevant Exporter against the Exporter Certificate.

**Chapter 4**

**REPAYMENT, PREPAYMENT AND CANCELLATION**

**6. REPAYMENT**

**6.1 Repayment of Loans**

1. Depending on the date of first use, the borrower repays the loans by making a payment at each payment date as shown in annex 3 (repayment schedule).
2. The Borrower shall repay the Loan in instalments on each Repayment Date, commencing with the First Repayment Date.
3. The Lender shall grant the Barrower a Grace Period.

**6.2 Reborrowing**

The Borrower may not reborrow any part of the Facility which is repaid or prepaid.

**7. PREPAYMENT AND CANCELLATION**

**7.1 Illegality**

If in any applicable Jurisdiction, it becomes unlawful for the Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain the Loan or it becomes unlawful for any Affiliate of the Lender to do so;

1. the Lender shall promptly notify the Borrower upon becoming aware of that event; and
2. upon the Lender notifying the Borrower, the Available Facility will be immediately cancelled,

The borrower must repay the loans granted to it on the last day of the interest period of each loan after the date of notification to the borrower by the borrower, or earlier, on the date specified by the lender in the notice given to the borrower (not before the last day of any valid grace period authorized by law) and the lender's obligation to the amount of loans paid is cancelled.

**7.2 Cancellation or Termination of Export Contract**

If an Export Contact is irrevocably cancelled or terminated, the Borrower shall:

1. promptly notify the Lender of the cancellation or termination of that Export Contract including the date on which such cancellation of termination occurred;
2. the Lender shall not be obliged to fund a Utilisation relating to the Export Contract; and
3. if the Lender so requires and notifies the Borrower within 15 days of the event, the Lender may cancel the Commitment and declare all outstanding Loans (relating to that Export Contract), together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Commitment will be cancelled and all outstanding amounts and loans (relating to the export contract in question) are immediately payable.

**7.3 Voluntary Prepayment of loans**

(a) The Borrower may prepay the whole or any part of any Loan if;

1. such prepayment amount is at least one (1) repayment instalment or integral multiples thereof.
2. the Borrower provides the Lender with not less than 1 month notice (or such shorter period as the lender may agree) prior notice of such prepayment; and
3. the Borrower pays on the date of prepayment a prepayment fee equal to 0.5% of the amount prepaid and flat and break cost (when applicable).

**7.4 Restrictions**

1. Any notice of cancellation or early payment received by any Party under this Article 7 will be irreversible, and unless otherwise indicated in this Agreement, the date or dates on which such cancellation or early payment will take place shall be fixed and its value.
2. Any early payment made under this Agreement shall be cumulative interest on the early payment and shall be subject to any break costs.
3. The Borrower may not reborrow any part of the Facility which is prepaid.
4. The Borrower shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitment except at the times and in the manner expressly provided for in this Agreement.
5. No amount of the Commitment cancelled under this Agreement may be subsequently reinstated.
6. If all or part of a Loan is repaid or prepaid, an amount of the Commitment (equal to the amount of the Loan which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.
7. Any prepayment under Article 7-3 shall be applied against the Loan in inverse order of maturity.

**Chapter 5**

**COSTS OF UTILISATION**

**8. INTEREST**

**8.1 Calculation of Interest**

1. The interest rate per loan for each interest period is the percentage of the fixed rate per year.
2. The Borrower shall pay accrued interest on each Loan on the last day of each Interest Period.

**8.2 Default Interest**

1. If the Borrower fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is two percent (2%) per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive interest Periods, each of a duration selected by the Lender (acting reasonably). Any interest accruing under this Article 8-2 shall be immediately payable by the Borrower on demand by the lender.
2. If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of on Interest Period relating to that Loan:
3. The first interest period of that amount in arrears shall have a period equal to the unexpired portion of that loan's current interest period, and
4. the rate of interest applying to the overdue amount during that first Interest Period shall be two percent (2%) per annum higher than the rate which would have applied if the overdue amount had not become due.
5. Default interest (if unpaid) arising on an overdue amount will be calculated based on a simple method and will at all times remain immediately due and payable.

**9. INTEREST PERIODS**

**9.1 Interest Periods**

Periods in which each loan is payable are divided into consecutive interest periods, each of which (other than the first interest period of that loan, which will begin on the date of use) commences on the last day of that previous period.

**9.2 Duration**

a) The last day of an Interest Period for a Loan shall be the earlier of:

1. the date falling 6 (six) Months after the first day of that Interest Period;
2. the last day of an Interest Period of any other Loan; and
3. the first Repayment Date falling after the first day of that Interest Period.

b) An Interest Period for a Loan shall not extend beyond the Termination Date.

**9.3 Non-Business Days**

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

**9.4 Break Costs**

1. The Borrower shall, within five (5) Business Days of demand by the Lender, pay to the Lender its Break Costs.
2. As soon as possible after the borrower's request, the lender shall provide a certificate confirming the value of its downtime costs for any interest period accumulated in these costs.

**10. FEES**

The Borrower shall pay to the Lender:

1. A commitment fee of 0.25% per annum on the unused amount of the commitment during the period of availability, which is payable for arrears on the last day of each interest period and on the last day of the period of availability;
2. a management fee equal to 0.5% of the Commitment prior to the first Utilisation Date; and
3. administrative and legal fees: an amount of USD 25.000/- to be paid prior to the signing of this Agreement.

**Chapter 6**

**ADDITIONAL PAYMENT OBLIGATIONS**

**11.1 TAX GROSS-UP AND INDEMNITIES**

**11.1 Definitions**

(a) In this Agreement:

"Tax Credit" means a credit against, relief or remission for, or repayment of any Tax.

"Tax Deduction" means a deduction or withholding for or on account of Tax front a payment under a Finance Document.

"Tax Payment" means either the increase in a payment made by the Borrower to the Lender under Article 11-2 (Tax Gross-Up) or a payment under Article 11-3 (Tax Indemnity).

(b) Unless a contrary indication appears in this Article 11 a reference to "determines" or "determined" means a determination made in the absolute discretion of the person making the determination.

**11.2 Tax Gross-Up**

(a) The Borrower shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

(b) The Borrower shall promptly upon becoming aware that he must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Lender accordingly. Similarly, the Lender shall notify the Borrower and that Borrower on becoming so aware in respect of a payment payable to the Lender.

(c) If a Tax Deduction is required by law to be made by the Borrower, the amount of the payment due from that Borrower shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

(d) If the Borrower is required to make a Tax Deduction, he shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(e) Within thirty (30) days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower shall deliver to the Lender evidence reasonably satisfactory to the Lender that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

**11.3 Tax Indemnity**

(a) If the Lender is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of it to be received or receivable) under a Finance Document, the Borrower shall (within three (3) Business Days of demand by the Lender) pay to the Lender an amount equal to the loss, liability or cost which the Lender determines will be or has been (directly or indirectly) suffered for or on account of Tax by the Lender in respect of a Finance Document.

(b) Paragraph (a) above shall not apply:

(i) with respect to any Tax assessed on the Lender; under the law of the jurisdiction in which the Lender is incorporated or, if different, the jurisdiction (or jurisdictions) in which the Lender is treated on resident for tax purposes;

(ii) if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by the Lender; or

(iii) to the extent a loss, liability or cost is compensated for by an increased payment under Article 11-2 (Tax Gross-Up).

(c) If the Lender makes or intends to make a claim under paragraph (a) above, the Lender shall promptly notify the Borrower of the event which will give, or has given, rise to the claim.

(d) The Lender shall, on receiving a payment from the Borrower under this Article 11-3, notify the Borrower.

**11.4 Tax Credit**

If the Borrower makes a Tax Payment and the Lender determines that:

(a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and

(b) the Lender has obtained and utilised that Tax Credit.

the Lender shall pay an amount to the Borrower which the Lender determines will leave it (after that payment) in the same after-Tax position as it would have been in had the lax Payment not been required to be made by that Borrower.

**11.5 Stamp Taxes**

The Borrower shall pay and, within ten (10) Business Days of demand, indemnify the Lender against any cost, loss or liability the Lender incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

**11.6 VAT**

(a) All amounts expressed to be payable under a Finance Document by the Borrower to the Lender which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply. and accordingly, if VAT is or becomes chargeable on any supply made by the Lender to the Borrower under a Finance Document and the Lender is required to account to the relevant tax authority for the VAT, the Borrower must pay to the Lender (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and the Lender must promptly provide an appropriate VAT invoice to the Borrower).

(b) Where a Finance Document requires the Borrower to reimburse or indemnify the Lender for any cost or expense, the Borrower shall reimburse or indemnify (as the case may be) the Lender for the full amount of such cost or expense including such part thereof as represents VAT, save to the extent that the Lender reasonably determines it is entitled to credit or repayment in respect of such VAX from the relevant tax authority.

(c) In relation to any supply made by the Lender to the Borrower under a Finance Document, if reasonably requested by the Lender, the Borrower must promptly provide the Lender with details of the Borrower's VAT registration and such other information as is reasonably requested in connection with the Lender's VAT reporting requirements in relation to such supply.

**12. INCREASED COSTS**

**12.1 Increased Costs**

(a) Subject to Article 12.3 (Exceptions) the Borrower shall, within ten (10) Business Days of a demand by the Lender, pay for the account of the Lender the amount of any Increased Costs incurred by the Lender or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement.

(b) In this Agreement "**Increased Costs**" means:

(i) a reduction in the rate of return from the Facility or on the Lender's (or its Affiliate's) overall capital;

(ii) an additional or increased cost; or

(iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by the Lender or any of its Affiliates to the extent that it is attributable to the Lender having entered into its Commitment or funding or performing its obligations under any Finance Document.

**12.2 Increased Cost Claims**

(a) If the Lender intends to make a claim pursuant to Article 12.1 (Increased Costs) the Lender shall notify the Borrower of the event giving rise to the claim.

(b) The Lender shall, as soon as practicable after a demand by the Borrower, provide a certificate confirming the amount of its Increased Costs.

**12.3 Exceptions**

(a) Article 12.1 (Increased Costs) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law to be made by the Borrower;

(ii) compensated for by Article 11.3 (Tax Indemnity) (or would have been compensated for under Article 11.3 (Tar Indemnity) but was not so compensated solely because any of the exclusions in paragraph (b) of Article 11.3 (Tax Indemnity) applied); or

(iii) attributable to the wilful breach by the Lender or its Affiliates of any law or regulation.

(b) In this Article 12.3, a reference to a "Tax Deduction" has the same meaning given to that term in Article 11.1 (Definitions).

**13. OTHER INDEMNITIES**

**13.1 Currency Indemnity**

(a) If any sum due from the Borrower under the Finance Documents (a "Sum"), or any order, judgment or award given or made in relation to a Sum; has to be converted from the currency (the "First Currency") in which that Sum is payable into another currency (the "Second Currency") for the purpose of;

(i) making or filing a lawsuit or proof against the Borrower; or

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Borrower shall, as an independent obligation, within ten (10) Business Days of demand, indemnify the Lender to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion, including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) The Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

**13.2 Other Indemnities**

(a) The Borrower shall, within ten (10) Business Days of demand. indemnify the Lender against any cost, loss or liability incurred by the Lender as a result of:

(i) the occurrence of any Event of Default;

(ii) a failure to pay any amount due under a Finance Document on its due date;

(iii) funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by the Lender alone); or

(iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

(b) The Borrower shall promptly indemnify the Lender, each Affiliate of the Lender, against any cost, loss or liability incurred by the Lender or its Affiliate in connection with, or arising out of, the use of the proceeds of the Facility (including in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the use of the proceeds of the Facility).

**14. MITIGATION BY TILE LENDER**

**14.1 Mitigation**

(a) The Lender shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Article 7.1 (Illegality), Article 11 (Tax Gross-Up and Indemnities) or Article 12 (Increased Costs), including but not limited to transferring its rights and obligations under the Finance Documents to another Affiliate.

(b) Paragraph (a) above does not in any way limit the obligations of the Borrower under the Finance Documents.

**14.2 Limitation of Liability**

(a) The Borrower shall promptly indemnify the Lender for all costs and expenses reasonably incurred by the Lender as a result of steps taken by it under Article 14.1 (Mitigation).

(b) The Lender is not obliged to take any steps under Article 14.1 (Mitigation) if, in the opinion of the Lender (acting reasonably), to do so might be prejudicial to it.

**15. COSTS AND EXPENSES**

**15.1 Transaction Expenses**

The Borrower shall promptly, on demand, pay the Lender the amount of all costs and expenses (including legal fees) reasonably incurred by the Lender, in connection with the negotiation, preparation, printing and execution of;

(a) this Agreement and any other documents referred to in this Agreement; and

(b) any other Finance Documents executed after the date of this Agreement.

**15.2 Amendment Costs**

If the Borrower requests an amendment, waiver or consent to a Finance Document, the Borrower shall, within ten (10) Business Days of demand, reimburse the Lender for the amount of all costs and expenses (including legal fees) reasonably incurred by the Lender in responding to, evaluating, negotiating or complying with that request or requirement.

**15.1 Enforcement Costs**

The Borrower shall, within ten (10) Business Days of demand, pay to the Lender the amount of all costs and expenses (including legal fees) incurred by the Lender in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

**Chapter 7**

**GUARANTEE**

**16. GUARANTEE AND INDEMNITY**

**16.1 Guarantee and Indemnity**

The Guarantor irrevocably and unconditionally jointly and severally:

(a) guarantees to the Lender punctual performance by the Borrower of all that Borrower's obligations under the Finance Documents;

(b) undertakes with the Lender that whenever the Borrower does not pay any amount when due under or in connection with any Finance Document, the Guarantor shall within ten (10) Business Days after written demand by the Lender pay that amount as if it was the principal obligor; and

(c) agrees with the Lender that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Lender against any cost, loss or liability it incurs as a result of the Borrower bring in default of the Borrower's obligations under any Finance Document which would, but for such unenforceability, invalidity or illegality, have been payable by it. Any amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay under this Article 16 if the amount claimed had been recoverable on the basis of a guarantee.

**16.2 Continuing Guarantee**

This guarantee is a continuing guarantee and will extend to the ultimate balance of the Borrower's obligations under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

**16.3 Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by the Lender in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Guarantor under this Article 16 shall continue or be reinstated as if the discharge, release or arrangement had not occurred.

**16.4 Waiver of Defences**

The obligations of the Guarantor under this Article 16 will not be affected by an act, omission, matter or thing which, apart for this Article 16, would reduce, release or prejudice any of its obligations under this Article 16 (without limitation and whether or not known to it or the Lender), including:

(a) any time, waiver or consent granted to, or composition with, any Obligor or other person;

(b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;

(e) any amendment, novation. Supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security, including, without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or

(g) any insolvency or similar proceedings.

**16.5 Immediate Recourse**

The Guarantor waives any right it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Article 16. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

**16.6 Appropriations**

Until all amounts which may be or become payable by any Obligor under or in connection with the Finance Documents have been irrevocably paid in full, the Lender (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other moneys. security or rights held or received by the Lender (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of the Guarantors liability under this Article 16

**16.7 Deferral of Guarantor's Rights**

Until all amounts which may be or become payable by any Obligor under or in connection with the Finance Documents have been irrevocably paid in full and unless the Lender otherwise directs, the Guarantor will not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Article 16:

(a) to be indemnified by any Obligor;

(b) to claim any contribution from any other guarantor of any Obligors obligations under the Finance Documents;

(c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Lender;

(d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which the Guarantor has given a guarantee, undertaking or indemnity under Article 16 (Guarantee and Indemnity);

(e) to exercise any right of set-off against any Obligor; and/or

(f) to claim or prove as a creditor of any Obligor in competition with the Lender.

If the Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Lender by any Obligor under or in connection with the Finance Documents to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender or as the Lender may direct for application in accordance with Article 24 (Payment Mechanics).

**16.8 Additional Security**

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by the Lender.

**Chapter 8**

**EPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT**

**17. REPRESENTATIONS**

Each Obligor makes the representations and warranties set out in this Article 17 to the Lender on the date of this Agreement.

**37.1 Binding Obligations**

The obligations expressed to be assumed by it in each Transaction Document to which it is a party are legal, valid, binding and enforceable obligations.

**17.2 Non-Conflict with Other Obligations**

The entry into and performance of, and the transactions contemplated by, the Transaction Documents do not and shall not conflict with:

(a) the constitution of the Obligor;

(b) any law or regulation applicable to it; or

(c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) tinder any such agreement or instrument.

**17.3 Power and Authority**

(a) It has the power to enter into, perform and deliver, and has taken all necessary actions to authorise its entry into, performance and delivery of the Transaction Documents to which it is a party and the transactions contemplated by those Transaction Documents.

(b) No limit on its powers shall be exceeded as a result of the borrowing contemplated by the Transaction Documents to which it is a party.

**17.4 Validity and Admissibility in Evidence**

(a) All Authorisations and any other acts, conditions or things required or desirable:

(i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and

(ii) to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdictions,

have been obtained, effected, done, fulfilled or performed and are in full force and effect.

**17.5 Governing Law and Enforcement**

(a) The choice of the law stated to be the governing law of each Transaction Document will be recognised and enforced in its Relevant Jurisdictions.

(b) Any judgment obtained in relation to a Transaction Document in the jurisdiction of the stated governing law of that Transaction Document shall be recognised and enforced in its Relevant Jurisdictions.

(c) Any arbitral award obtained in relation to a Transaction Document in the seat of that arbitral tribunal as specified in that Transaction Document shall be recognised and enforced in its Relevant Jurisdictions.

**17.6 Deduction of Tax**

It is not required to make any Tax Deduction (as defined in Article 11.1 (Definitions)) from any payment it may make under any Finance Document.

**17.7 No Filing or Stamp Taxes**

Under the laws of its Relevant Jurisdictions, it is not necessary that the Transaction Documents be filed, recorded or enrolled with any coup or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Transaction ' Documents or the transactions contemplated by the Transaction Documents

**17.8 No Default**

(a) that there is no event of default and that, at the date of this Agreement, there is no continuing failure or reasonably probable failure to result from any use, conclusion or performance of any transaction document or any transaction envisaged thereunder.

(b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or to which its assets are subject which might have a Material Adverse Effect.

**17.9 No Misleading Information**

(a) Any factual information provided by the Borrower was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.

(b) All other written information provided by the Borrower to the Lender was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.

(c) Nothing has occurred or been omitted from, and no information has been given or withheld that results in the information provided being untrue or misleading in any material respect.

**17.10 Equal classification**

Its payment obligations under funding documents are classified at least on a par with the claims of all its other unsecured or non-secured creditors, with the exception of obligations imposed compulsorily by law.

**17.11 Anti-Corruption Laws, Anti-Money Laundering Laws and Anti-Terrorism Laws**

(a) The borrower has conducted its businesses in compliance with Anti-Corruption Laws, Anti-Money Laundering Laws and Anti-Terrorism Laws, and has instituted and maintains as at the date of this Agreement policies and procedures designed to promote and achieve compliance with such laws.

**17.12 Security and Financial Indebtedness**

(a) No Security or Quasi-Security exists over all or any of the present or future assets of any a Borrower other than as permitted under the finance Documents.

(b) No Borrower has any financial indebtedness outstanding other than as permitted by this agreement.

**17.13 No Adverse Consequences**

(a) It is not necessary under the laws or its Relevant Jurisdictions:

(i) in order to enable the Lender to enforce its rights under any Finance Document; or

(ii) by reason of the execution of any Finance Document or the performance by it or its obligations under any Finance Document that the Lender should be licensed, qualified or otherwise entitled to carry on business in any of its Relevant Jurisdictions.

(b) The Lender is not or shall not be deemed to be resident, domiciled or carrying on business in its Relevant Jurisdictions by reason only of the execution, performance and/or enforcement of any Finance Document.

**17.14 Public Procurement Rules**

All public procurement rules in its jurisdiction of incorporation which are applicable to its entry into and the exercise of its rights and performance of its obligations under the Transaction Documents to which it is a party have been complied with or have been irrevocably and unconditionally waived by the relevant authorities in that jurisdiction.

**17.15 No Immunity**

In any proceedings taken in its jurisdiction of incorporation in relation to the Finance Documents to which it is a party, it will not be entitled to claim for itself or any of its assets immunity from lawsuits, execution, detainment or other legal process.

**17.16 Private and Commercial Acts**

Its execution of the Finance Documents to which it is a party constitutes, and its exercise of its rights and performance of its obligations thereunder shall constitute, private and commercial acts done and performed for private and commercial purposes.

**17.17 Sanctions**

It is not, or is controlled by, owned by, or acting on behalf of, a national of or entity subject to the Sanctions. Its activities do not constitute Sanctionable Activities or take place in any Sanctioned Territory.

**17.18 Export Contract**

(a) Export Contract in form provided: Other than as amended in accordance with Article 17-8 (Export Contract), each Export Contract is in the form delivered to the Lender prior to the date of this Agreement or, if more recently, pursuant to Article 4-1 (initial Conditions Precedent).

(b) Export Contract in effect: Each Export Contract is in full force and effect and has not been suspended, terminated, cancelled or repudiated (in each case, in whole or in part).

(c) Obligations legal, valid and binding: The obligations of the Borrower under each Export Contract are legal, valid, binding and enforceable and do not and will not conflict with any applicable law or regulation.

(d) No force majeure or early termination event: No event or circumstance has occurred that:

(i) establish or reasonably be expected to create the right to early termination or suspension of performance under or to renounce, deny or cancel a particular export contract (in each case, in whole or in part), or

(ii) constitutes a force majeure event (howsoever described) in relation to or under an Export Contract.

(e) No proceedings: No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency has or have been started or, to the best of the Borrower's knowledge and belief, threatened in relation to an Export Contract nr the transactions contemplated under the Export Contract and there are no disputes between the Borrower and the Exporter under the Export Contract.

(f) No claims or liabilities: There are no claims, liabilities or obligations inexistence between the Borrower and an Exporter or any other person (in each case under or in relation to the relevant Export Contract) that are or might reasonably be expected to be materially detrimental to the rights of the Lender tinder the Finance Documents.

**17.19 Repetition**

The representations under this Article 17 are deemed to be made by the Borrower by reference to the facts and circumstances then existing on the date of each Utilisation Request and the first day of each Interest Period.

**18. INFORMATION UNDERTAKINGS**

The undertakings in this Article 18 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents, or the Commitment is in force.

**18.1 Compliance Certificate**

(a) The Borrower shall supply to the Lender, a compliance certificate setting out (in reasonable detail) computations as to compliance with Article 19 (Financial Covenants) on annual basis, if applicable.

(b) Each compliance certificate shall be signed by the Borrower Authorised Signatory.

**18.2 Information on Anti-Corruption, Anti-Money Laundering and Anti-Terrorism**

Unless such disclosure would constitute a breach of any applicable law or regulation, the Borrower shall supply to the Lender:

(a) promptly upon becoming aware of them, the details of any actual or potential violation by, or creation of liability for, the Borrower any agent, director, employee or officer of the Borrower (or any counterparty of any such person in relation to any transaction contemplated by a Transaction Document) of or in relation to any Anti-Corruption Laws, Anti-Money Laundering Laws or Anti. Terrorism Laws, or of any investigation or proceedings relating to the same;

(b) copies of any correspondence delivered to, or received from, any regulatory authorities in relation to any matter referred to in paragraph (a) above at the same brie as they are dispatched or promptly upon receipt (as the case may be); and

(c) promptly upon request by the Lender, such further information relating to any matter referred to in paragraphs (a) and (b) above as the Lender may reasonably require.

**18.3 Information: Miscellaneous Provisions**

The Borrower shall supply to the Lender:

(a) promptly after becoming aware of them, the details of any:

(i) actual or proposed amendment to, or waiver of, any term of an Export Contract;

(ii) material breach of, or any material claim against the Borrower or the Borrower under, an Export Contract,

(iii) event or circumstance which might give rise to a right to laminate early, suspend performance under, repudiate or cancel (in each case, in whole or in pan) an Export Contract; or

(iv) event or circumstance constituting a force majeure event (howsoever described) in relation to or under an Export Contract; and

(b) promptly, such further information regarding the financial condition, business and operations of the Borrower as the Lender may reasonably request.

(c) The above referred to in (a) and (b) (above) is to be provided by the Borrower for information only and shall not, in any manner, affect the Borrower's obligations to pay the Lender in full as agreed in any of the Finance Documents.

**18.4 Notification of Default**

(a) The Borrower shall notify the Lender of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless the Borrower is aware that a notification has already been provided by another Borrower).

(b) Promptly upon a request by the Lender, the Borrower shall supply to the Lender a certificate signed by two (2) of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

**18.5 "Know Your Customer" Checks:**

If:

(a) the introduction of or any change in (or in the interpretation, administration or application of) any law, regulation or the Lender's internal regulation made after the date of this Agreement;

(b) a proposed assignment or transfer by the Lender of any of its rights and obligations under this Agreement to a party that is not the Lender prior to such assignment or transfer,

obliges the Lender (or, in the case of paragraph (b) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Obligor shall promptly upon the request of the Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Lender(for itself or, in the case of the even( described in paragraph (b) above, on behalf of any prospective new Lender) in order for the Lender or, in the case of the event described in paragraph (b) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

**19. FINANCIAL COVENANTS**

**INTENTIONALLY LEFT BLANK**

**20. GENERAL UNDERTAKINGS**

The undertakings in this Article 20 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents, or the Commitment is in force.

**20.1 Authorisations**

Each Obligor shall promptly;

(a) obtain, comply with and do all that is necessary to maintain in full force and effect;

(b) supply certified copies to the Lender of:

(i) any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

(A) enable it to perform its obligations under the Transaction Documents; and

(B) ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Transaction Document.

**20.2 Credit Rating**

The guarantor shall maintain credit rating by at least one international rating agency acceptable to the Lender (Moodys, S&P or Fitch) equal to or better than B2/B as assessed by the Lender.

**20.3 Financial indebtedness**

Each Obligor shall not incur or allow to remain outstanding any Financial Indebtedness.

**20.4 Compliance with Laws**

Each Obligor shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Transaction Documents.

**20.5 Anti-Corruption Laws, Anti-Money Laundering Laws or Anti-Terrorism Laws**

(a) No Obligor shall directly or indirectly use the proceeds of the Facility for any purpose which would breach any Anti-Corruption Laws, Anti-Money Laundering Laws or Anti-Terrorism Laws.

(b) Each Obligor shall (and the Borrower shall ensure that each other member of the Group will):

(i) conduct its businesses in compliance with applicable Anti-Corruption Laws, Anti-Money Laundering laws and Anti-Terrorism Laws;

(ii) maintain policies and procedures designed to promote and achieve compliance with such laws; and

(iii) take all reasonable and prudent steps to ensure that each of its agents, directors, employees and officers comply with such laws.

**20.6 Taxation**

(a) Each Obligor shall ensure that it will pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:

(i) such payment is being contested in good faith;

(ii) adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Lender and

(iii) such payment can be lawfully withheld.

**20.7 Equal classification**

Each debtor shall ensure that any unsecured or non-secured claims of a lender against it under the financing documents are classified at least at all times on an equal footing with the claims of all its other unsecured or non-secured creditors except those obligations imposed by law that are compulsory to apply generally to companies.

**20.8 Export Contract**

The Borrower shall not materially assign or novate any right or obligation under, nor amend, vary, supplement, supersede, wave, suspend, cancel or terminate any term of an Export Contract except with the prior consent of the Lender.

**20.9 Sanctions**

Each Obligor shall not become controlled by, owned by or acting on behalf of, a national of or entity subject to the Sanctions. Its activities shall not constitute Sanctionable Activities or take place in any Sanctioned Territory.

**20.10 Retention amount**

The Borrower shall not utilise the proceeds of the Loan to pay any final retention amount under the Export Contracts post the defect liability period and shall be made from the Borrower's own sources.

**21. EVENTS OF DEFAULT**

Each of the events or circumstances set out in this Article 21 is an Event of Default (save for Article 21-12 (Acceleration)).

**21.1 Non-Payment**

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless:

(a) its failure to pay is caused by;

(i) administrative or technical error; or

(ii) a Disruption Event; and

(b) payment is made within three (3) Business Days of its due date.

**21.2 Other Obligations**

(a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Article 21.1 (Non-Payment)).

(b) No event of default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within ten (10) business days of the earlier of (A) the Lender giving notice to the Obligor and (B) the Obligor becoming aware of the failure to comply.

**21.3 Misrepresentation**

Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of an Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

**21.4 Cross Default**

(a) Any Financial Indebtedness of an Obligor is not paid when due nor within any originally applicable grace period.

(b) Any Financial Indebtedness of an Obligor is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

(c) Any commitment for any financial indebtedness of an Obligor is cancelled or suspended by a creditor of such Obligor as a result of an event of default (however described).

(d) Any creditor of an Obligor becomes entitled to declare any Financial Indebtedness of such Obligor as payable prior to its specified maturity as a result of an event of default (however described).

(e) No Event of Default will occur under this Article 21.4 if the aggregate amount of Financial Indebtedness or commitment For Financial Indebtedness falling within paragraphs (a) to (d) above is less than USD 10,000,000 (or its equivalent in any other currency or currencies).

**21.5 Failure to Comply with Court Judgment or Arbitral Award**

(a) The debtor fails to comply with or pay any amount owed on time by any final judgement or decision of the court, arbitral tribunal or other arbitral entity, which has jurisdiction in each case.

**21.6 Unlawfulness and Invalidity**

(a) It is or becomes unlawful for an Obligor to perform any of its obligations under the Finance Documents.

(b) Any obligation or obligations of an Obligor under any Finance Documents are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lender under the Finance Documents.

(c) The complete invalidity or non-validity of any financing document (other than a lender).

**21.7 Repudiation and Rescission of Agreements**

An Obligor rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or evidences an intention to rescind or repudiate a Finance Document.

**21.8 Borrower Litigation**

Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened, or any judgment or order of a court, arbitral body or agency is made, in relation to the Transaction Documents or the transactions contemplated in the Transaction Documents or against an Obligor or its assets which have or are Reasonably likely to have a Material Adverse Effect.

**21.9 Convertibility/ Transferability**

Any foreign exchange laws is amended, enacted or introduced or is reasonably likely to be amended, enacted or introduced in the Kingdom of Bahrain or the UAE, that (in the opinion of the Lender):

(a) has or is reasonably likely to have the effect of prohibiting. or restricting or delaying in any material respect any payment that an Obligor is required to make pursuant to the terms of any of the Transaction Documents; or

(b) is materially prejudicial to the interests of the Lender under or in connection with any of the Finance Documents (or the Exporter under the Export Contracts).

**21.10 Political and Economic Risk**

A deterioration occurs in the political or economic situation generally in the country and region of an Obligor or an act of war or hostilities, invasion, armed conflict or act of foreign enemy, revolution, insurrection, insurgency or threat thereof occurs in or involving the Borrower country unless (in any such case) this does not and shall not have a Material Adverse Effect.

**21.11 Material Adverse Change**

Any event or circumstance occurs which the Lender reasonably believes has or is reasonably likely to have a Material Adverse Effect.

**21.12 Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing, the Lender may, by notice to the Borrower:

(a) suspend the Lender's obligation to make Loans available by the Utilisation Date under Article 5-4 (Lender's Participation);

(b) cancel the Commitment whereupon they shall immediately be cancelled;

(c) declare that all or pan of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or

(d) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Lender.

**Chapter 9**

**CHANGES TO PARTIES**

**22. CHANGES TO THE LENDER**

**22.1 Assignments and Transfers by the Lender**

The Lender may assign or transfer, with prior notice to the Obligors, all or any portion of a Loan and its rights and benefits under this Agreement.

**23. CHANGES TO AN OBLIGOR**

**23.1 Assignments and transfer by an Obligor**

An Obligor may not assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

**Chapter 10**

**ADMINISTRATION**

**24. PAYMENT MECHANICS**

**24.1 Distributions to the Obligors**

The Lender may (with the consent of the relevant Obligor or in accordance with Article 24 (Set-Off) apply any amount received by it for the Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due front that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

**24.2 Partial Payments**

(a) If the Lender receives a payment for application against amounts due in respect of any Finance Documents from or on behalf of an Obligor that is insufficient to discharge all the amounts then due and payable, by the Obligor under the Finance Documents, the Lender shall apply that payment towards the obligations of the Obligor under the Finance Documents in the following order:

first, in or towards payment of any fee or commission due but unpaid under this Agreement;

second, in or towards payment of any accrued default interest due but unpaid under this Agreement;

third, in or towards payment of any accrued interest (other than default interest) due but unpaid under this Agreement;

fourth, in or towards payment of any principal due but unpaid under this Agreement;

fifth, (if applicable) in or towards prepayment of any principal then outstanding in inverse order of maturity under this Agreement; and

sixth, in or towards payment of any other sum due but unpaid under the Finance Documents.

(b) The Lender may, at its sole discretion, vary the order set out in paragraphs (a)(1) to (a)(6) above.

(c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

**24.3 No Set-Off by an Obligor**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

**24.4 Business Days**

(a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement, interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

**24.5 Currency of Account**

(a) Subject to paragraph (b) below, the USA dollar is the currency of account and payment for any sum due from an Obligor under any Finance Document.

(b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

**24.6 Disruption to Payment Systems etc.**

If either the Lender determines (in its sole discretion) that a Disruption Event has occurred, or the Lender is notified by the Borrower that a Disruption Event has occurred:

(a) the Lender may, and shall if requested to do so by the Borrower consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Facility as the Lender may deem necessary in the circumstances;

(b) the Lender shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, it shall have no obligation to agree to such changes;

(c) any such changes agreed upon by the Lender and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Article 30 (Amendments and Waivers); and

(d) the Lender shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Lender) arising as a result of its taking, or failing to take, any anions pursuant to or in connection with this Article 24-6.

**25. SET-OFF**

The Lender may set-off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to the Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

**26. NOTICES**

**26.1 Communications in Writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by tax, letter, electronic mail or other electronic means (including, without limitation. by way of posting to a secure website). Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Article 26.

**26.2 Addresses**

The address. fax number and electronic mail address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is that identified with its name below, or any substitute address, fax number or electronic mail address or department or officer as the Party may notify to the other Party by not less than five (5) Business Days' notice.

**If to the Borrower:**

Electricity and Water Authority of Kingdom of Bahrain

Address: PO Box 2, Diplomatic Area, Kingdom of Bahrain

Attn: President of Electricity and Water Authority

Phone: 973-17996888 - 973-17996699

E-mail: president.offics@ewa.bh

**If to the Guarantor:**

Ministry of Finance and National Economy

Address: P.O. Box 333 Mamma - Kingdom of Bahrain

Attn: Minister Office

Phone. +973 17533324

FAX: +973 17532900

E-mail: Minister@mofne.gov.bh

**If to the Lender:**

Address: Abu Dhabi Exports Office - ADEX

for Abu Dhabi Fund for Development

Abu Dhabi Fund for Development Building

King Abdullah bin Abdulaziz Al Saud Street

P.O. Box 814

Al Batteen

Abu Dhabi,

United Arab Emirates

Attn: Mr Khalil AlMansoori, Acting Director General - ADEX

Phone: +971 2 693 9400

Fax: +971 2 667 0516

E-mail: Adex@adfd.ae

**26.3 Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) If sent by fax, upon receipt in readable form provided that the transmission confirmation is issued mechanically or electronically and kept in the sending party's file,

(ii) if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address; or

(iii) if by way of electronic mail, when confirmation of receipt is verified by return email from the receiving Party or by other written means.

(b) Any communication or document to be made or delivered to each Party will be effective only when actually received by the relevant Party in accordance with paragraph (a) above and then only if it is expressly marked for the attention of the department or officer identified with such Party's signature below (or any substitute department or officer as such Party shall specify for this purpose).

(c) Any communication or document which becomes effective, in accordance with paragraphs (a) and (b) above, after 4:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

**26.4 Notification of Address, Fax Number and Electronic Mail**

Promptly upon changing its address, fax number or electronic mail address. each Party shall notify the other Party.

**26.5 English Language**

(a) Any notice given under or in connection with any Finance Document must be in English.

(b) All other documents provided under or in connection with any Finance Document must be:

(i) in English; or

(ii) if not in English, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

**27. Accounts AND CERTIFICATES**

**27.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by the Lender are prima lock evidence of the matters to which they relate.

**27.2 Certificates and Determinations**

Any certification or determination by the Lender of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

**27.3 Day Count Convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or in any case where the practice in the relevant market differs, in accordance with that market practice.

**28. PARTIAL INVALIDITY**

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

**29. REMEDIES AND WAIVERS**

Any failure or delay on the part of the lender to exercise any right or remedy under the financing document will not be construed as a waiver of that right or remedy or as an option to support any financing document. Any option to support any financing document by the lender would not be valid unless it was written in writing. Any individual or partial exercise of any right or remedy will not preclude any other or future exercise of the same right, remedy or exercise of any other right or remedy. The rights and remedies contained in each financing document are cumulative and do not exclude any rights or remedies provided for by law.

**30. AMENDMENTS AND WAIVERS**

**30.1 Required Consents**

Any term of the Finance Documents may be amended or waived only with the mutual consent of the Parties.

**31. CONFIDENTIAL INFORMATION**

**31.1 Confidentiality**

The Lender agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Article 31-2 (Disclosure of Confidential Information), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

**31.2 Disclosure of Confidential Information**

The Lender may disclose;

(a) to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as the Lender shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

(b) to any person:

(i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents and, in such case, to any of that person's Affiliates, Representatives and professional advisers:

(ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors;

(iii) appointed by the lender or appointed by a person to whom paragraph (b) (1) or (2) above applies to receive notifications, correspondence, information or documents delivered under the financing documents on its behalf;

(iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(1) or (b)(2) above;

(v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;

(vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or either investigations, proceedings or disputes;

(vii) who is a Party; or

(viii) with the consent of the Borrower,

in each case, such Confidential Information as the Lender shall consider appropriate if:

(A) in relation to paragraphs (b)(1), (b)(2) and (b)(3) above, the person to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form as mutually agreed by the Parties except that there shall be no requirement for such confidentiality agreement if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;

(B) in relation to paragraph (b)(4) above, the person to whom the Confidential information is to be given has entered into a confidentiality agreement substantially in the form as mutually agreed by the Parties or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information; or

(C) in relation to paragraphs (b)(5) and (b)(6) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Lender, it is not practicable so to do in the circumstances.

(c) to the Exporter, such Confidential Information as the Lender shall consider appropriate if, in the case of the Exporter, it is informed in writing of its confidential nature and that sonic or all of such Confidential Information may be price sensitive information, except that there shall be no such requirement to so inform if the Exporter is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

(d) to any person appointed by the Lender or by a person to whom paragraph (b)(1) or (b)(2) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including, without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (d) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form as mutually agreed by the Parties: and

(e) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Borrowers.

**31.3 Entire Agreement on Confidential Information**

This Article 31 constitutes the entire agreement between the Parties in relation to the obligations of the Lender under the Finance Documents regarding Confidential information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

**31.4 Inside Information**

The Lender acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Lender undertakes not to use any Confidential Information for any unlawful purpose.

**31.5 Notification of Disclosure**

The Lender agrees (to the extent permitted by law and regulation) to inform the Borrower:

1. of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(5) of Article 31-2 (Disclosure of Confidential Information) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
2. upon becoming aware that Confidential Information has been disclosed in breach of this Article 31-2

**31.6 Continuing Obligations**

The obligations in this Article 31 are continuing and shall survive and remain binding on the Lender for a period of twelve (12) months from the earlier of:

(a) the date on which all amounts payable by the Borrower under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available: and

(b) the date on which the Lender otherwise ceases to be the Lender.

**32. COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

**33. GOVERNING LANGUAGE**

Although this Agreement may be translated into Arabic, the Arabic language version of this Agreement is for information purposes only. In the event of any conflict or inconsistency between the English language version and the Arabic language version of this Agreement or any dispute regarding the interpretation of any provision in the English language version or the Arabic language version of this Agreement, the English language Version of this Agreement shall prevail, and questions of interpretation shall be addressed solely by reference to the English language version.

**Chapter 11**

**GOVERNING LAW AND ENFORCEMENT**

**34. GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

**35. ENFORCEMENT**

**35.1 Arbitration**

Unless otherwise provided for in any Finance Document, any dispute arising out of or in connection with the Finance Documents (including a dispute relating to the existence, validity or termination of a Finance Document or any non-contractual obligation arising out of or in connection with a Finance Document), or the consequences of any nullity of the Finance Documents shall be referred to and finally resolved by arbitration under the LCIA Arbitration Rules , which are incorporated by reference into this Article 35-1.

**35.2 Formation of Arbitral Tribunal, headquarter and Language of Arbitration**

In relation to any such arbitration:

(a) The arbitral tribunal shall consist of three arbitrators. The claimant, irrespective of number, shall nominate jointly one arbitrator; the respondent, irrespective of number, shall nominate jointly the second arbitrator, and a third arbitrator (who shall act as presiding arbitrator) shall be nominated by the arbitrators nominated by or on behalf of the claimant and respondent or, in the absence of agreement on the third arbitrator within thirty (30) days of the date of nomination of the later of the two party-nominated arbitrators to be nominated, by the LCIA Court (as defined in the LCIA Arbitration Rules).

(b) The headquarter of arbitration shall be London.

(c) The language of the arbitration shall be English.

**36. Waiver of Immunity**

(a) The Borrower waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction, including immunity in respect of:

(i) the giving of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues: and

(ii) the issue of any process against its assets or revenues for the enforcement of a judgment or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues.

[*Signature Page Follows.*]

**IN WITNESS WHEREOF**, the Parties hereto have executed this Direct Facility Agreement as of the date first written above.

**BORROWER:**

**ELECTRICITY AND WATER AUTHORITY**

By: ……………………………………………………….

Name: H.E. Yasser bin Ibrahim Humaidan

Title: Minister of Electricity and Water Affairs

**THE GUARANTOR**

**MINISTRY OF FINANCE & NATIONAL ECONOMY**

By: ……………………………………………………….

Name: H.E. Salman Bin Khalifa Al Khalifa

Title: Minister of Finance and National Economy

**LENDER**

**ABU DHABI EXPORT OFFICE OF ABU DHABI FUND FOR DEVELOPMENT**

By: ……………………………………………………….

Name: H.E. Mohamed Saif Alsuwaidi

Title: Director General - Abu Dhabi Fund for

Development and Chairman of Export

Executive Committee for ADEX

**Annex 1**

**CONDITIONS PRECEDENT**

**1. The Obligors As a condition precedent to the effectiveness to this Loan Agreement, the following evidence shall be furnished to the Lender:-**

(a) certified copies of relevant parliamentary and/or cabinet approvals (where applicable) in relation to the entry by each Obligor into the Finance Documents;

(b) specimen signatures of authorised signatories for the Obligor in respect of the Facility;

(c) certificate from each Obligor confirming that utilisation in full of the Facility would not breach any restriction or limit, (including any borrowing limit approved by the Council of Representatives for the relevant year),

(d) receipt of executed copies of the Agreement and all other Finance Documents in respect of the Facility;

(e) annual budget or other supplementary approvals of the Borrower, as may be applicable, for the relevant year as submitted to Parliament of the Kingdom of Bahrain;

(f) A certificate of an authorised signatory of each Obligor certifying that each copy document relating to it specified in this Annex 1 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

(g) The Borrower shall provide the Lender after the signature of this Agreement before 120 days or such other date as shall be agreed upon by both parties a legal opinion from the competent authorities in the Kingdom of Bahrain, including & confirms that this Facility Agreement:

1. has been duly authorized, executed, delivered and ratified by all necessary constitutional, legislative and governmental actions pursuant to the constitution and all laws and regulations of each obligor;
2. does not require any further authorization, consent, license, exemption or waiver; and
3. does not violate any provision of the constitution, any law, rule or decision.

**2. Transaction Documents**

(a) This Agreement as duly executed by all relevant Parties.

(b) A certified copy of the Export Contracts (whether executed or to be executed),

**3. Legal Opinion**

(a) A legal opinion of the legal advisers to the Lender (as acceptable to the Lender) in the Kingdom of Bahrain substantially in the form and substance acceptable to the Lender.

(b) A legal opinion of Eversheds Sutherland International LLP, the English law legal advisers to the Lender, substantially in the form distributed to the Lender prior to signing this Agreement.

**4. Other Documents and Evidence**

(a) A progress report and progress certificate, in a form and substance acceptable to the Lender, in respect of the Export Contract.

(b) Evidence that the fees, costs and expenses then due from the Borrower pursuant to Article 10 (Fees) and Article 15 (Costs and Expenses) have been paid or will be paid by the first Utilisation Date.

(c) A copy of any other Authorisation or other document, opinion or assurance which the Lender considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Transaction Document or for the validity and enforceability of any Transaction Document.

**Annex 2**

**FORM OF UTILISATION REQUEST**

**UTILISATION REQUEST**

 Dated: [ ]

From: Electricity and Water Authority (the "Borrower")

To: Abu Dhabi Export Office - ADEX (the "Lender")

Dear Sirs,

1. We, the Borrower, refer to that certain Direct Facility Agreement dated [ ] (as amended, restated or otherwise modified, the "Agreement"), by and among the Borrower, the Guarantor and the Lender. Terms defined in the Agreement have the same meanings in this Utilisation Request unless given a different meaning in this Utilisation Request.

2. We hereby provide this Utilisation Request. We wish to borrow a Loan (this "Loan") on the following terms for such purposes:

Proposed Utilisation Date: [ ]

Amount: [specify applicable currency and amount]

Export Contract [Export Contract I/ Export Contract 2)

Exporter [Exporter I / Exporter 2]

3. We certify that the information specified in the Exporter Certificate attached hereto as Exhibit is true and accurate and has not been amended or superseded as of the date of this Utilisation Request.

4. This Loan is to be made for the purposes of [financing/reimbursing) amounts [to be paid/paid) under the above identified Export Contract in relation to Eligible Goods and Services as per the attached invoices.

5. The proceeds of this Loan shall be paid directly to the relevant Exporter as per the details mentioned in the Exporter Certificate and as set out below:

Beneficiary Name

Beneficiary address

Beneficiary Bank Name

Beneficiary Bank address

Beneficiary Bank account

Beneficiary Bank IBAN

Beneficiary Bank Swift code

Correspondence bank Name

Correspondence Bank account

Correspondence bank Swift code

Correspondence bank address

6. We confirm that each condition specified in Article 4-2 (Further Conditions Precedent) of the Agreement is and shall remain satisfied as of the date of this Utilisation Request and the proposed Utilisation Date.

7. This Utilisation Request is irrevocable.

Yours faithfully,

----------------------------------------------------------

Borrower Authorised Signatory for and on behalf of the Borrower.

[***name of Borrower***]

**- Attachments -**

EXPORTER CERTIFICATE

[See attached)

**INVOICES**

[See attached]

|  |
| --- |
| **Annex 3****REPAYMENT SCHEDULE** |
|

|  |  |
| --- | --- |
| 7-Jan-23 | Interest  |
| 7-Jul-23 | Interest  |
| 7-Jan-24 | Interest  |
| 7-Jul-24 | Interest  |
| 7-Jan-25 | Interest  |
| 7-Jul-25 | Interest  |
| 7-Jan-26 | Principal (USD 2,125,000) + Interest |
| 7-Jul-26 | Principal (USD 2,125,000) + Interest  |
| 7-Jan-27 | Principal (USD 2,125,000) + Interest  |
| 7-Jul-27 | Principal (USD 2,125,000) + Interest  |
| 7-Jan-28 | Principal (USD 2,125,000) + Interest  |
| 7-Jul-28 | Principal (USD 2,125,000) + Interest  |
| 7-Jan-29 | Principal (USD 2,125,000) + Interest  |
| 7-Jul-29 | Principal (USD 2,125,000) + Interest  |
| 7-Jan-30 | Principal (USD 2,125,000) + Interest  |
| 7-Jul-30 | Principal (USD 2,125,000) + Interest  |
| 7-Jan-31 | Principal (USD 2,125,000) + Interest  |
| 7-Jul-31 | Principal (USD 2,125,000) + Interest  |
| 7-Jan-32 | Principal (USD 2,125,000) + Interest  |
| 7-Jul-32 | Principal (USD 2,125,000) + Interest  |
| 7-Jan-33 | Principal (USD 2,125,000) + Interest  |
| 7-Jul-33 | Principal (USD 2,125,000) + Interest  |
| 7-Jan-34 | Principal (USD 2,125,000) + Interest  |
| 7-Jul-34 | Principal (USD 2,125,000) + Interest  |
| 7-Jan-35 | Principal (USD 2,125,000) + Interest  |
| 7-Jul-35 | Principal (USD 2,125,000) + Interest  |
| 7-Jan-36 | Principal (USD 2,125,000) + Interest  |
| 7-Jul-36 | Principal (USD 2,125,000) + Interest  |
| 7-Jan-37 | Principal (USD 2,125,000) + Interest  |
| 7-Jul-37 | Principal (USD 2,125,000) + Interest  |

 |
| The above schedule is tentative and will be subject to change accordingly to date of signing of the Agreement, drawdown and completion of the Project. A revised schedule shall be provided upon full Utilization.  |
| The assumed signing date for the purpose of this schedule is 07th July 2022. |

|  |
| --- |
| **Annex 4****FORM OF EXPORTER CERTIFICATE** |
| **EXPORTER CERTIFICATE** |
| Dated: [ ] |
| From: [Exporter] (the "Exporter")To: Abu Dhabi Export Office –ADEX (the "Lender")Copy to: Electricity and WaterAuthority (the "Borrower") |
| **Dear Sirs,** |
| 1. We, the Exporter, refer to that certain Direct Facility Agreement dated [ ] (as amended, restated or otherwise modified, the "Agreement"), by and among the Borrower, and the Lender. Terms defined in the Agreement shall have the same meaning in this Exporter Certificate unless given a different meaning in this Exporter Certificate.
 |
| 1. We issue this Exporter Certificate in respect of the Borrower's Utilisation Request with the proposed Utilisation Date of [ ] which amount shall be paid directly to Exporter to its bank account being [insert hank account].
 |
| 1. We confirm that the commercial invoice(s) attached to the Utilisation Request [was/were] issued by us in respect of the following goods and services:
 |
|

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Description** | **Amount ([currency])** | **Date of Delivery** |
| Eligible Goods and Services | [*insert*] | [*insert*] | [*insert*] |
| Total |  | [insert] (the "Utilisation Amount") |  |

 |
| 1. We attach (insert reference to any other documents or evidence required from the Exporter in the Context of the financing].
 |
| 1. We confirm that:
 |
| 1. the Utilisation Amount does not include any sums which have been the subject of any other Exporter Certificate;
 |
| 1. the relevant Export Contract is in full force and effect;
 |
| 1. no litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency has or have been started or threatened in relation to the Export Contract or the transactions contemplated under the Export Contract;
 |
| 1. each of the parties to the Export Contract have performed their respective obligations in full;
 |
| 1. all relevant Authorisations necessary for the export and import of the goods and services described above have been obtained and are in full force and effect; and
 |
| 1. we have received payment from the Borrower for Eligible Goods and Services provided under the Export Contract which amount to in aggregate at least [ten percent (10%)] of the export contract value of the Export Contract.
 |
| 1. [This Exporter Certificate, and any non-contractual obligations arising out of or in connection with it, is governed by English law.]
 |
| Yours faithfully, |
| -----------------------------------------------------Exporter Authorised Signatory for and on behalf of the Exporter.[***name of Exporter***] |

|  |
| --- |
| **Annex 5****FORM OF COMPLIANCE CERTIFICATE** |
| **COMPLIANCE CERTIFICATE** |
|  Dated: [ ] |
| To: Abu Dhabi Export Office –  ADEX (the "Lender") |
| From: Electricity and Water  Authority (the "Borrower") |
| **Dear Sirs,** |
| 1. We refer to that certain Direct Facility Agreement dated [ ] (as amended, restated or otherwise modified, the "Agreement"), by and among the Borrower [the Guarantor] and the Lender. Terms defined in the Agreement have the same meanings in this Compliance Certificate unless given a different meaning in this Compliance Certificate. |
| 2. This is a Compliance Certificate |
| A. We confirm that: [Insert details of covenants to be certified] |
| B. We confirm that no Default is continuing. |
| Yours faithfully, |
| ---------------------------------------------------------Name:  |
| Title: Authorised Signatoryfor and on behalf of the Borrower**Electricity and Water Authority** |