

**DRAFT OF COMPILATION OF SOVEREIGN GUARANTEE (for public operators)**

THIS GUARANTEE is dated [●] and made

**BETWEEN:**

- (1) [●] acting by and through its **MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT** (the “**Guarantor**”);
- (2) [●] as ECA facilities arranger (the “**Arranger**”);
- (3) [●] as CTA facilities agent and trustee for itself and the Finance Parties under the Facility Agreement as defined below (in this capacity, the “**Facility Agent**”); and
- (4) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 (*The Original Lenders*) as original lenders (the “**Original Lenders**”).

**BACKGROUND:**

- (A) This Guarantee relates to obligations relating to or in connection with the loan facilities to be made available to the Borrower on the terms of a Facility Agreement (as defined below) under which the provision of this Guarantee and of each of the documents and other evidence listed in Schedule 2 (*Conditions Precedent*) is a condition precedent to delivery of the first Utilisation Request in respect of a Loan.
- (B) The Ministry of Finance and Economic Development of [●] has been empowered and authorised to execute and deliver in the name and on behalf of the government of [●] this Guarantee in connection with the Finance Documents.
- (C) The Guarantor has confirmed that the giving of this Guarantee by the Guarantor is in accordance with applicable laws of [●], and that the Minister of Finance and Economic Development has been empowered and authorised to execute and deliver this Guarantee in the name and on behalf of the [●].

**IT IS AGREED** as follows:

**1. INTERPRETATION**

**1.1. Definitions**

In this Guarantee:

“**Borrower**” means [●], a company incorporated under the laws of the [●] whose registered address is [●].

“**Confirmation Letter**” means the certificate of the Minister of Finance and Economic Development accepted by the Facility Agent in satisfaction of paragraph 2 of Schedule 2 (*Conditions Precedent*).

“**External Indebtedness**” means any indebtedness of [●] which is payable (or may be paid) in a currency other than the lawful currency for the time being of [●] or which is payable to any person

domiciled, resident or having its head office or principal place of business outside [●].

“**Facility Agreement**” means the common terms agreement dated on or about the date hereof between, among others, the Borrower, the Arranger, the Original Lenders and the Facility Agent (in each case as defined therein) as amended, novated, supplemented, extended or restated from time to time.

“**Guarantor’s Authorised Signatory**” means:

- (a) the Minister of Finance and Economic Development of [●]; or
- (b) any public officer to whom the Minister of Finance and Economic Development of [●] has legally delegated his authority in exercise of his powers with respect to the Finance Documents under a statutory instrument, government notice published in the official gazette, power of attorney or any other instrument that constitutes a proper form of delegation, and in each case, in respect of whom the Facility Agent has received a certificate signed by another Guarantor’s Authorised Signatory setting out the name and specimen signature of such person and confirming such person’s authority to act.

“**Guarantor Event of Default**” means any event or circumstance specified as such in Clause 7 (*Guarantor Events of Default*).

“**Loan Exposure Transaction**” means:

- (a) a transaction or arrangement that provides or permits the Guarantor or any of its Affiliates or agencies to directly or indirectly influence, in part or in whole, any determination made, waiver granted or exercise of rights by a Lender in respect of any Loan made or to be made under any Facility; or
- (b) which would allow any such person to invest in, or take any exposure to either any Loan made or to be made under any Facility, or any transaction or arrangement that makes payment by reference to amounts payable or received under any such Loan or the performance of the Guarantor or the Borrower under a Finance Document.

“**Party**” means a party to this Guarantee.

“**Relevant Indebtedness**” means:

- (a) any External Indebtedness; and
- (b) any indebtedness which is raised in [●] and which (i) is denominated or payable in the Domestic Currency; (ii) is in the form of, or represented by, bonds, notes or other securities; and (iii) is, or may be, quoted, listed or ordinarily purchased and sold on any stock exchange, automated trading system or over-the-counter or other securities market, and in each case, includes any Guarantee of any Relevant Indebtedness of any other person.

“**Relevant Indebtedness Letter**” means the letter entitled “Relevant Indebtedness Letter” and delivered by the Guarantor and accepted by the Facility Agent prior to the initial Utilisation Date in satisfaction of paragraph 3 of Schedule 2 (*Conditions Precedent*).

“**Repeating Representations**” means, for the purposes of this Guarantee, each of the representations set out in Clause 5.1 (*Status*) to (and including) Clause 5.6 (*Governing law and enforcement*), sub-clause 5.10.4 of Clause 5.10 (*No misleading information*), Clause 5.11 (*Pari passu ranking*), Clause 5.12 (*No proceedings pending or threatened*) to (and including) Clause 5.18 (*Private and commercial acts*) (other than sub-clause 5.13.2 of Clause 5.13 (*Compliance with Laws*)), Clause 5.20 (*Ownership of the Borrower*) to (and including) Clause 5.25 (*Annual budget statements*) and sub-clause 5.27.2 of Clause 5.27 (*IMF and World Bank*).

## 1.2. **Terms defined in other Finance Documents**

1.2.1 Unless defined in this Guarantee or the context otherwise requires, a term defined in the Facility Agreement or in any other Finance Document has the same meaning in this Guarantee or any notice given under or in connection with this Guarantee.

1.2.2 The Guarantor confirms that it has been provided with an executed copy of the Facility Agreement and each Fee Letter prior to the execution of this Guarantee and acknowledges their terms.

## 1.3. **Construction and Currency Symbols and definitions**

1.3.1 Clause [●] (*Construction*) and clause [●] (*Currency Symbols and Definitions*) of the Facility Agreement will apply as if incorporated in this Guarantee or in any notice given under or in connection with this Guarantee, as if all references in those clauses to the Facility Agreement were a reference to this Guarantee or such notice.

1.3.2 A Guarantor Event of Default is “continuing” if it has not been waived.

## 1.4. **Third Party Rights**

1.4.1 Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or enjoy the benefit of any term of this Guarantee.

1.4.2 Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Guarantee at any time.

## 2. **GUARANTEE**

### 2.1 **Guarantee**

The Guarantor irrevocably and unconditionally:

#### 2.1.1

(a) guarantees to each Finance Party punctual performance by the Borrower of all of its obligations under the Finance Documents (whether upon scheduled or rescheduled payment dates, at stated maturity, by acceleration or otherwise); and

- (b) undertakes as an independent and primary obligation to each Finance Party that whenever the Borrower does not pay any amount expressed to be due and payable by it under the Finance Documents the Guarantor shall pay an amount equal to such expressed amount, in each case on the date specified as the due date for performance and/or payment in a demand for payment by the Facility Agent (or in respect of sums owing to itself, the Arranger) substantially in the form of the Schedule 3 (*Form of Demand for Payment*) of this Guarantee (a “**Demand for Payment**”); and
- 2.1.2 as an independent and primary obligation, indemnifies each Finance Party against any cost, loss or liability suffered by any of them if any obligation expressed to be guaranteed by the Guarantor is or becomes unenforceable, invalid, void or illegal, or is so alleged by any person, such payment to be made by the Guarantor on the date specified as the due date for payment in a Demand for Payment, the amount payable by it under this indemnity will not exceed the amount it would have had to pay under this Clause 2 if the amount claimed had been recoverable on the basis of a guarantee, **provided that** the Guarantor’s maximum aggregate liability under this Guarantee for principal shall not exceed USD [●].

## 2.2 Notice of non-payment and due date for payment

- 2.2.1 If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other amount payable by the Borrower to a Finance Party under the Facility Agreement it shall use reasonable efforts to promptly notify the Guarantor on such non-payment.
- 2.2.2 Unless a Guarantor Event of Default is continuing (in which case this sub-clause 2.2.2 shall not apply), the Facility Agent may only deliver a Demand for Payment to the Guarantor if such Demand for Payment specifies a due date for payment which is at least:
  - (a) 10 days after the date on which the Demand for Payment is delivered; and
  - (b) if the claim under this Guarantee arises as a result of the Event of Default set out in clause [●] (*Non-payment*) of the Facility Agreement, 20 days after the occurrence of that Event of Default.

## 2.3 Continuing guarantee

This Guarantee is a continuing guarantee and will extend to the ultimate balance of all sums payable by the Borrower under the Finance Documents regardless of any intermediate payment or discharge in whole or in part under the Finance Documents.

## 2.4 Reinstatement

- 2.4.1 Where any discharge in respect of the obligations of the Borrower or any security for those obligations is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is, in any such case, avoided or must be restored on insolvency, liquidation or similar laws of general application affecting the Borrower or its assets, the liability of the Guarantor under this Guarantee shall continue as if the discharge or arrangement had not occurred.
- 2.4.2 Each Finance Party may concede or compromise any claim that any payment, security or other

disposition is liable to avoidance or restoration without affecting the Guarantor's obligations hereunder.

## **2.5 Waiver of defences**

The obligations of the Guarantor under this Guarantee will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Guarantee or prejudice or diminish those obligations in whole or in part, including, without limitation (whether or not known to it or any Finance Party):

- 2.5.1 any time or waiver granted to, or composition with, the Borrower or any other person;
- 2.5.2 the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor of the Borrower or any other person;
- 2.5.3 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 the Borrower or any 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;
- 2.5.4 any incapacity or lack of powers, authority or legal personality of or dissolution or change in the members or status (including any re-organisation, merger, transfer or change in ownership) of the Borrower or any other person;
- 2.5.5 any variation or amendment (however fundamental and whether or not more onerous), novation or replacement of a Finance Document or any other document or security so that references to the Finance Documents in this Guarantee shall include each variation, amendment, novation or replacement;
- 2.5.6 any unenforceability, illegality or invalidity of any obligation of any person under the Finance Documents or any other document or security, to the intent that the Guarantor's obligations under this Guarantee shall remain in full force and its guarantee be construed accordingly, as if there were no unenforceability, illegality or invalidity;
- 2.5.7 any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of the Borrower under the Finance Documents resulting from any insolvency, liquidation or dissolution proceedings or from any law, regulation or order so that each such obligation shall for the purposes of the Guarantor's obligations under this Guarantee be construed as if there were no such circumstance; or
- 2.5.8 any insolvency or similar proceedings with respect to the Borrower.

## **2.6 Immediate recourse**

The Guarantor waives any right it may have of first requiring any Finance Party (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 Guarantee. The waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

## **2.7 Appropriations**

Until all amounts which may be or become payable by the Borrower under the Finance Documents have been irrevocably paid in full each Finance Party (or any trustee or agent on its behalf) may:

2.7.1 refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (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

2.7.2 hold in a suspense account any moneys received from the Guarantor or on account of the Guarantor's liability under this Guarantee, without liability to pay interest on those moneys.

## **2.8 Non-competition**

Until all amounts under or in connection with each Loan which may be or become payable by the Borrower under the Finance Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, the Guarantor shall not exercise any rights which it has by virtue of any payment or performance by it under this Guarantee or by reason of any amount being payable, or liability arising under this Guarantee:

2.8.1 to be indemnified by the Borrower;

2.8.2 to be subrogated to or otherwise take the benefit of any rights, security or moneys held, received or receivable by any Finance Party (or any trustee or agent on its behalf) or be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Guarantor's liability under this Guarantee;

2.8.3 to claim, rank, prove or vote as a creditor of the Borrower or its estate in competition with any Finance Party (or any trustee or agent on its behalf);

2.8.4 to bring legal or other proceeding for an order requiring the Borrower to make any payment or perform any obligation, in respect of which the Guarantor has given a guarantee, undertaking or indemnity under this Guarantee;

2.8.5 to receive, claim or have the benefit of any payment, distribution or security from or on account of the Borrower, or exercise any right of set-off as against the Borrower.

The Guarantor shall hold in trust for (or otherwise for and on behalf of) and forthwith pay or transfer to the Facility Agent for the Finance Parties any payment or distribution or benefit of security received by it contrary to this Clause 2.8.

## **2.9 Additional security**

This Guarantee is in addition to and is not in any way to be prejudiced by any other security now or subsequently held by any Finance Party.

## 2.10 ECA subrogation

The Guarantor acknowledges that upon payment by an ECA of amounts due and payable by the Borrower under the Facility Agreement or the Guarantor under this Guarantee, in accordance with the provisions of the relevant ECA Guarantee, the relevant ECA shall (where applicable) have the right to be subrogated to the rights of the Lenders against the Borrower or the Guarantor (as the case may be) in accordance with the relevant ECA Documents.

## 2.11 Effect of Transfer Certificate or Assignment Agreement

For the avoidance of doubt, the entry into of a Transfer Certificate or Assignment Agreement shall not impose additional obligations under this Guarantee on the Guarantor in favour of a New Lender, by reason of such transfer or assignment, than the obligations owed by the Guarantor to the Existing Lender from whom such transfer or assignment is taken.

## 2.12 Guarantor's prior written consent

The Guarantor acknowledges and agrees that, pursuant to the Confirmation Letter, the Guarantor has given its prior written consent to:

2.12.1 each assignment of the rights of an Existing Lender to a New Lender; and

2.12.2 each transfer of the rights and obligations of an Existing Lender to a New Lender, made in accordance with clause [●] (*Changes to the Lenders*) of the Facility Agreement, other than paragraph [●] of clause [●] (*Conditions of assignment or transfer*) of the Facility Agreement.

## 3. PAYMENTS AND INTEREST

### 3.1 Incorporation of terms of Facility Agreement

The provisions of clause [●] (*Finance Parties' rights and obligations*), clause [●] (*Deduction from amounts payable by the Facility Agent*), clause [●] (*Currency indemnity*), clause [●] (*Sharing among the Finance Parties*) and clause [●] (*Payment mechanics*) of the Facility Agreement shall be incorporated into this Guarantee as if set out in full in this Guarantee and as if all references in such clauses to:

3.1.1 "this Agreement", "the Finance Documents", "a Finance Document" or "any Finance Document" were references to this Guarantee; and

3.1.2 "it", "the Borrower", "an Obligor", "that Obligor" or "the relevant Obligor" were references to the Guarantor.

### 3.2 Default interest

If a Finance Party makes a demand under this Guarantee, the Guarantor shall pay interest on each sum demanded (before and after any judgment and to the extent, interest at the default rate is not otherwise being paid on such sum(s)) from the date of demand until the date of payment calculated on a daily basis at the rate determined in accordance with the provisions of clause [●] (*Default interest*) of the Facility Agreement.

### 3.3 No Set Off

All payments to be made by the Guarantor under this Guarantee shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

## 4. TAXES

### 4.1 Definitions

4.1.1 In this Guarantee a “**Tax Deduction**” means a deduction or withholding for or on account of Tax from a payment under a Finance Document.

4.1.2 Unless a contrary indication appears, in this Clause 4 a reference to “**determines**” or “**determined**” means a determination made in the absolute discretion of the person making the determination.

### 4.2 Tax gross-up

4.2.1 The Guarantor shall make all payments to be made by it under this Guarantee without any Tax Deduction, unless a Tax Deduction is required by law.

4.2.2 The Guarantor shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Finance Party shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Finance Party. If the Facility Agent receives such notification from a Finance Party it shall notify the Guarantor.

4.2.3 If a Tax Deduction is required by law to be made by the Guarantor, the amount of the payment due from the Guarantor 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.

4.2.4 If the Guarantor is required to make a Tax Deduction, the Guarantor 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.

4.2.5 Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Guarantor shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

## 5. REPRESENTATIONS AND WARRANTIES

The Guarantor makes the representations and warranties set out in this Clause 5 to each Finance Party on the date of this Guarantee and acknowledges that each of the Finance Parties have entered into the Facility Agreement and this Guarantee in reliance on these representations and warranties.

### 5.1 Status

5.1.1 It has the power and the authority to own its assets and to conduct the business and operations which it conducts and/or proposes to conduct.

5.1.2 It is not a FATCA FFI or a US Tax Obligor.

## **5.2 Binding obligations**

The obligations expressed to be assumed by it in each Finance Document are its legal, valid and binding obligations, enforceable against it in accordance with the terms hereof.

## **5.3 Non-conflict with other obligations**

The execution of the Finance Documents and the exercise of the rights and performance of the obligations of the Obligor under those Finance Documents do not and will not:

5.3.1 breach any restriction on the guaranteeing or similar powers of the Guarantor or any agreed limit on either concessional or non-concessional borrowing pursuant to an agreement or arrangement between [●] and either the International Bank for Reconstruction and Development or The International Development Association; or

5.3.2 conflict with:

- (a) the constitution of [●], any agreement or other instrument entered into by or between [●] and any international organisation or entity or any other agreement, mortgage, bond or other instrument or treaty to which the Guarantor or any of the Guarantor's agencies is a party or which is binding upon the Guarantor or any of the Guarantor's agencies or any of the Guarantor's or any of the Guarantor's agencies' assets;
- (b) any of its agencies' constitutional documents; or
- (c) any applicable law or regulation,

including upon utilisation of any Facility from time to time.

## **5.4 Power and authority**

It has the power to enter into the Finance Documents to which it is a party and to exercise its rights and perform its obligations under those Finance Documents and all action required to authorise the execution of those Finance Documents and the performance of its obligations under those Finance Documents has been duly taken.

## **5.5 Validity and admissibility in evidence**

All Authorisations required:

5.5.1 to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;

5.5.2 to receive and effect payments of dollars pursuant to the Finance Documents; and

5.5.3 to make the Finance Documents to which it is a party admissible in evidence in [●],  
have been obtained or effected and are in full force and effect.

## **5.6 Governing law and enforcement**

In any proceedings taken in [●]:

5.6.1 the choice of the law stated to be the governing law of any Finance Document to which it is a party;  
and

5.6.2 any judgment or any arbitration award obtained in the relevant jurisdiction or in the seat of that  
arbitral tribunal in relation to a Finance Document to which it is a party,  
will be recognised and enforced.

## **5.7 Deduction of Tax**

It is not required by law to make any deduction for or on account of Tax from any payment it may make  
under any Finance Document.

## **5.8 No filing or stamp taxes**

Under the laws of [●] it is not necessary that the Finance Documents be filed, recorded or enrolled with  
any court or other authority in that jurisdiction or that (other than a flat fee of birr 5.00 chargeable if the  
Facility Agreement is registered with authorities in [●]) any stamp, registration or similar tax be paid on or  
in relation to the Finance Documents or the transactions contemplated by the Finance Documents.

## **5.9 No default**

5.9.1 No Default is continuing or might reasonably be expected to result from the making of a Utilisation  
under any Facility or the entry into, the performance of any obligation under, or any transaction  
contemplated by, any Finance Document to which it is a party.

5.9.2 No event or circumstance has occurred or is outstanding which constitutes a breach or default by the  
Guarantor or any of the Guarantor's agencies under, or entitles another party to call for termination  
of, any agreement or instrument which is binding on the Guarantor or any of the Guarantor's  
agencies or to which the Guarantor's or any of the Guarantor's agencies' assets are subject other  
than as could not reasonably be expected to have a material adverse effect on the Guarantor's  
ability to perform its obligations under the Finance Documents to which it is a party.

5.9.3 None of the Guarantor or any of the Guarantor's agencies is, or with the giving of notice or lapse of  
time or making of any determination (or any combination of the foregoing) will be, in violation of  
or in default under any constitutional or treaty provision, governmental policy, convention, statute,  
law, regulation, decree, court order or similar authority binding upon the Guarantor or any of the  
Guarantor's agencies other than as could not reasonably be expected to have a material adverse  
effect on the Guarantor's ability to perform its obligations under the Finance Documents to which it  
is a party.

## 5.10 No misleading information

- 5.10.1 Any factual information provided by the Guarantor for the purposes of the Information Memorandum 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.
- 5.10.2 The financial projections contained in the Information Memorandum have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- 5.10.3 Nothing has occurred or been omitted from the Information Memorandum and no information has been given or withheld that results in the information contained in the Information Memorandum being untrue or misleading in any material respect.
- 5.10.4 All written information (other than the Information Memorandum) supplied by the Guarantor in connection with the Transaction Documents is true, complete and accurate in all material respects as at the date it was given and is not misleading in any respect.

## 5.11 Pari passu ranking

Its payment obligations under the Finance Documents rank at least *pari passu* in right of payment with the claims of all its other unsecured and unsubordinated creditors.

## 5.12 No proceedings pending or threatened

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency is or are current, pending or, to its knowledge, threatened which, if adversely determined, could threaten the execution and delivery of any Finance Document or the Guarantor's compliance with its obligations thereunder or which could have a Material Adverse Effect.

## 5.13 Compliance with Laws

- 5.13.1 The Guarantor is conducting its activities in compliance with all laws and regulations and all directives of any agency having the force of law applicable or relevant to it, except when the failure to be in compliance with such laws would not have a Material Adverse Effect.
- 5.13.2 No public procurement laws or regulations are applicable to the Guarantor's entry into and the exercise of its rights and performance of its obligations under the Finance Documents to which it is a party.

## 5.14 Corrupt Act

- 5.14.1 None of the Guarantor or any of its Affiliates or agencies has committed any Corrupt Act nor directed any person to commit any Corrupt Act on its behalf in relation to or in connection with the Project or any Finance Document.
- 5.14.2 None of the Guarantor or any of its Affiliates or agencies is currently subject, nor has been subject at any time in the past five years, to any judicial or administrative proceeding in

connection with any such Corrupt Act.

5.14.3 None of the Guarantor or any of its Affiliates or agencies is listed by any international financial institution (including, without limitation, the World Bank and the European Bank for Reconstruction and Development) as an entity excluded from the financings granted by any such institution and it has not otherwise been subject to any sanction from any such institution.

#### **5.15 Illicit Origin**

5.15.1 To the best of its knowledge and belief after all due and careful inquiry, no investment in any member of the Group and no payment made by any member of the Group in respect of this financing have been funded out of funds from an Illicit Origin, and none of the sources of funds to be used by any company within the Group in connection with any Finance Document or the Project are from an Illicit Origin.

5.15.2 None of the Loans are used to finance equipment or sectors under embargo decisions of the United Nations, the World Bank, the European Union or [●].

#### **5.16 No money-laundering**

The Guarantor, in its home country and abroad, has the means and the internal procedures in place to detect and to intercept money-laundering channels or chains involving the proceeds of terrorist activities, drug-trafficking, organised crime or others.

#### **5.17 No Immunity**

In any proceedings taken in [●] in relation to the Finance Documents, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process. The provisions of this paragraph shall not apply to (i) property, including any bank account, used by a diplomatic or consular mission of the Guarantor or its special missions or delegations to international organisations, (ii) property of a military character and under the control of a military authority or defence agency of the Guarantor or (iii) property located in [●] and dedicated to a public or governmental use by the Guarantor (as distinct from property which is for the time being in use or intended for use for commercial purposes within the meaning of the State Immunity Act 1978).

#### **5.18 Private and commercial acts**

Its execution of the Finance Documents constitutes, and its exercise of its rights and performance of its obligations under this Guarantee will constitute, private and commercial acts done and performed for private and commercial purposes.

#### **5.19 Security**

No Security exists over all or any of the present or future assets of the Guarantor other than any Security permitted under Clause 6.7 (*Negative Pledge*) and its exercise of its rights and performance of its obligations under the Finance Documents will not result in the existence of nor oblige the Guarantor to create any Security over all or any of its present or future assets.

## 5.20 Ownership of the Borrower

The Ministry of Finance and Economic Development is the ultimate owner of 100 per cent of the ownership interests in the Borrower.

## 5.21 Debt Relief

No indebtedness of any Obligor under any Finance Document constitutes, or will constitute, “qualifying debt” within the meaning of the Debt Relief (Developing Countries) Act 2010.

## 5.22 Powers of [●]

The [●] as the central bank and monetary authority of [●] and is empowered to own, deal in and authorise the transfer abroad of foreign exchange independently and under its own responsibility and is the beneficial owner of the foreign exchange reserves of [●].

## 5.23 Currency Control

At all times on and from the registration of the Facility Agreement as contemplated in the letter of authority from the Exchange Controller of [●] referred to in paragraph 6 of Schedule 2 (*Conditions Precedent*), there is no law, decree or other regulation in [●] that does or might reasonably be expected to prevent, delay or otherwise prejudice:

5.23.1 the ability of the Guarantor to exchange or convert Domestic Currency into dollars;

5.23.2 the transfer by or on behalf of the Guarantor of dollars to the Finance Parties in satisfaction of its obligations under any of the Finance Documents (or any judgment in relation thereto); or

5.23.3 the ability of the Guarantor to freely pay dollars abroad (including, without limitation, free of any reserve requirement or exchange control).

## 5.24 Interest

[●] does not apply to the Finance Documents or any payments to be made thereunder.

## 5.25 Annual budget statements

To the extent required by law, provision has been made or will be made for all amounts due and payable, or that will fall due and payable to the Finance Parties under this Guarantee during the next fiscal year, in the current annual budget statements of the [●] and those annual budget statements do not place any restriction upon the ability of the Guarantor to meet its obligations thereunder.

## 5.26 Procurement rules

The Borrower is not partly or wholly financed out of the annual budget of the [●] and the [●] does not apply to the Borrower.

## 5.27 IMF and World Bank

5.27.1 The Guarantor is a member in good standing of the IMF and the World Bank.

5.27.2 The Guarantor has not agreed with the IMF any restriction on the borrowing, guaranteeing or similar powers of the Borrower or the Guarantor or any limit on either concessional or non-concessional borrowing by the Borrower or the Guarantor.

## 5.28 Repetition of representations

The Repeating Representations are deemed to be made by the Guarantor (by reference to the facts and circumstances then existing) on the date of each Utilisation Request and (other than in respect of the representation set out in sub-clause 5.27.2 of Clause 5.27 (*IMF and World Bank*)) the first day of each Interest Period.

## 6. UNDERTAKINGS

The undertakings in this Clause 6 remain in force from the date of this Guarantee for so long as any amount is or may be outstanding under the Finance Documents or hereunder or any Commitment is in force.

### 6.1 Annual budget statement

6.1.1 The Guarantor shall, as soon as it becomes available, but in any event within 120 days of the end of each fiscal year, publish on an internationally available website (and notify the Facility Agent of such publication) a copy of the annual budget statement of the federal government of [●] prepared for the next fiscal year, together with implementation reports for such fiscal year.

6.1.2 The Guarantor shall ensure that the annual budget statements of the [●] will not place any restriction upon the ability of any Obligor to meet its obligations under the Finance Documents.

6.1.3 The Guarantor shall not, and shall procure that the Borrower shall not, justify any failure to pay an amount when due under the Finance Documents by virtue of the corresponding allocation not having been included in the annual budget statements of the federal government of [●].

### 6.2 Authorisations

The Guarantor shall promptly:

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

6.2.2 supply certified copies to the Facility Agent of, any Authorisation required under any law or regulation of [●] to enable it to perform its obligations under the Finance Documents to which it is a party (including for the purchase and remittance abroad of foreign currencies) and to ensure the legality, validity, enforceability or admissibility in evidence in [●] of any Finance Document to which it is a party.

### 6.3 Compliance with laws and international agreements

The Guarantor shall comply in all respects:

6.3.1 with all obligations of the Guarantor or any of its Affiliates or agencies under any treaty, agreement or other arrangement or instrument with the World Bank or any other similar international organisation, including any borrowing limits and requirements agreed between the Guarantor and the World Bank from time to time provided that non-compliance with any such obligation shall not be a breach of this sub-clause 6.3.1 unless such breach might reasonably be expected to, directly or indirectly:

- (a) adversely affect the rights or remedies of any Finance Party under any of the Finance Documents; and/or
- (b) materially impair its ability to perform its obligations under the Finance Documents to which it is a party; and/or
- (c) give rise to a consequence that might have adversely affected any Lender's decision to enter into the Facility Agreement (assuming such consequence had existed at the relevant time);

6.3.2 with all Anti-Corruption Laws and will not engage in any other conduct that would constitute a Corrupt Act (including but not limited to making or accepting, or directing any other person to make or accept, any offer, payment, promise to pay, or authorising the payment or acceptance of any money or any gift or anything of value, directly or indirectly, to or for the use or benefit of any official or employee of any government or any political party or candidate for political office if any part of such conduct would violate or create liability for it or any person under any applicable law relating to bribery, kickbacks or similar corrupt practices); and

6.3.3 with all other laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents to which it is a party.

#### **6.4 Sanctions**

6.4.1 The Guarantor shall not, and shall ensure that none of its Affiliates shall, directly or indirectly, lend, contribute or otherwise make available funds which are or have been made available under any Facility or otherwise to any Affiliate or other person or fund or facilitate any activities or business of, with or related to any such Affiliate or other person if such loan, contribution, funding or facilitation:

- (a) is made at the time when such Affiliate or other person is the subject of, or is owned or controlled by any person who is the subject of, Sanctions (including any person in a country or territory that is subject to country-wide or territory-wide Sanctions); or
- (b) would result in a violation of Sanctions by any person (including any person participating in any Facility, whether as a Lender, advisor, investor or otherwise).

6.4.2 The Guarantor shall not, and shall ensure that none of its Affiliates shall, engage in any business with any person that is located, organised, resident in or trading from a country or territory that is the subject of Sanctions.

#### **6.5 Public procurement**

If, at any time after the date of this Guarantee, any public procurement rules in [●] are applicable to the Guarantor's entry into and the exercise of its rights and performance of its obligations under the Finance Documents to which it is a party, the Borrower's entry into and the exercise of its rights and performance of its obligations under the Finance Documents to which it is a party and/or the Project, the Guarantor shall ensure that all such public procurement rules are complied with at all times or irrevocably and unconditionally waived by the relevant authorities in [●].

## 6.6 **Pari passu ranking**

The Guarantor shall ensure that its payment obligations under the Finance Documents rank at least *pari passu* in right of payment with the claims of all its other unsecured and unsubordinated creditors.

## 6.7 **Negative pledge**

6.7.1 The Guarantor shall not create or permit to subsist any Security or Quasi-Security over all or any of its present or future revenues or assets other than in its ordinary course of its activities.

6.7.2 This Clause does not apply to any Security securing or providing for the payment of External Indebtedness incurred by the Guarantor in connection with any Project Financing provided that such Security only applies to:

- (a) properties which are the subject of such Project Financing; or
- (b) revenues or claims which arise from the operation, failure to meet specifications, exploitation, sale or loss of, or failure to complete, or damage to, such properties, where "**Project Financing**" means any arrangement for the provision of funds which are to be used principally to finance a project for the acquisition, construction, development or exploitation of any property pursuant to which the persons providing such funds agree that the principal source of repayment of such funds will be the project and the revenues (including insurance proceeds) generated by such project.

6.7.3 Nothing in this Clause 6.7 affects in any way the rights of entities other than the Guarantor (including entities in which the Guarantor holds any interest) to create or permit to subsist any Security or Quasi-Security.

## 6.8 **Prohibition on Loan Exposure Transactions**

The Guarantor shall not, and shall procure that each of its Affiliates and agencies shall not, enter into any Loan Exposure Transaction.

## 6.9 **Information: miscellaneous**

The Guarantor shall supply to the Facility Agent (in sufficient copies for all the Lenders, if the Facility Agent so requests):

6.9.1 as soon as they become available, but in any event no later than the date on which it takes effect, a copy of any law, decree or regulation the imposition of which will or may adversely affect the ability of the Guarantor to perform its payment obligations under the Finance Documents to which

it is a party;

- 6.9.2 promptly and in any event no later than ten Business Days following the occurrence thereof, details of any event which would prevent the performance by the Guarantor of its payment obligations in accordance with the Finance Documents to which it is a party;
- 6.9.3 promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against it or any of its agencies and which, if adversely determined, would have or could reasonably be expected to have a Material Adverse Effect;
- 6.9.4 promptly upon becoming aware of it, any information confirming or reasonably suggesting that any Corrupt Act or any other breach of Clause 6.3 (*Compliance with laws and international agreements*) has occurred in connection with the Project and/or in connection with the disbursement of the proceeds of a Loan;
- 6.9.5 promptly, such further information relating to it as any Finance Party (through the Facility Agent) may reasonably require in order to monitor compliance by it with the terms of the Finance Documents; and
- 6.9.6 promptly, such further information regarding the financial condition and operations of the Guarantor or any of its agencies as the Facility Agent may reasonably request.

#### **6.10 Notification of Corrupt Acts**

If the Guarantor makes a notification to the Facility Agent under Clause 6.9.4 above, or the Facility Agent notifies the Guarantor of information that it considers reasonably suggests that a Corrupt Act or any other breach of Clause 6.3 (*Compliance with laws and international agreements*) may have occurred, then the Guarantor shall, if requested, cooperate reasonably and in good faith with the Facility Agent:

- 6.10.1 to determine whether any Corrupt Act and/or other breach of Clause 6.3 (*Compliance with laws and international agreements*) has occurred, including responding promptly and in reasonable detail to any request from the Facility Agent for further information; and
- 6.10.2 to take any reasonably requested steps in response to such occurrence and/or to mitigate the risk of any further such occurrence, including in relation to the continued engagement or involvement in connection with the Project of any individual or entity found to have been involved in a Corrupt Act and/or other breach of Clause 6.3 (*Compliance with laws and international agreements*).

#### **6.11 Notification of Guarantor Event of Default**

- 6.11.1 The Guarantor shall notify the Facility Agent of any Guarantor Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- 6.11.2 Promptly upon a request by the Facility Agent, the Guarantor shall supply to the Facility Agent a certificate signed by a Guarantor's Authorised Signatory on its behalf certifying that no Guarantor

Event of Default is continuing (or if a Guarantor Event of Default is continuing, specifying the Guarantor Event of Default and the steps, if any, being taken to remedy it).

## 6.12 “Know your customer” checks

If:

6.12.1 the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Guarantee;

6.12.2 any change in the status of the Guarantor after the date of this Guarantee; or

6.12.3 a proposed assignment or transfer by a Lender of any of its rights and obligations under the Facility Agreement to a party that is not a Lender prior to such assignment or transfer, obliges the Facility Agent or any Lender (or, in the case of paragraph 6.12.3 above, any prospective new Lender) to comply with “know your customer”, anti-money laundering or similar identification procedures in circumstances where the necessary information is not already available to it, the Guarantor shall within ten Business Days upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph 6.12.3 above, on behalf of any prospective new Lender) in order for the Facility Agent, such Lender or, in the case of the event described in paragraph 6.12.3 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.

## 7. GUARANTOR EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 7 is a Guarantor Event of Default.

### 7.1 Non-payment

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

7.1.1 its failure to pay is caused by:

(a) administrative or technical error; or

(b) a Disruption Event; and

7.1.2 payment is made within 5 Business Days of its due date.

### 7.2 Other covenants

The Guarantor fails duly to perform or comply with any of the obligations expressed to be assumed by it in Clause 6.2 (*Authorisations*) to 6.7 (*Negative Pledge*).

### **7.3 Other obligations**

7.3.1 The Guarantor does not comply with any provision of the Finance Documents (other than those referred to in Clause 7.1 (*Non-payment*) and Clause 7.2 (*Other covenants*)).

7.3.2 No Guarantor Event of Default under Clause 7.3.1 above will occur if the failure to comply is capable of remedy and is remedied within 15 days of the earlier of (i) the Facility Agent giving notice to the Guarantor and (ii) the Guarantor becoming aware of the failure to comply.

### **7.4 Misrepresentation**

Any representation or statement made or deemed to be made by the Guarantor in the Finance Documents or any other document delivered by or on behalf of the Guarantor 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.

### **7.5 Cross default**

7.5.1 Any Relevant Indebtedness of the Guarantor is not paid when due nor within any originally applicable grace period.

7.5.2 Any Relevant Indebtedness of the Guarantor is declared to be or otherwise becomes due and payable prior on or to its specified maturity as a result of an event of default (however described).

7.5.3 Any commitment for any Relevant Indebtedness of the Guarantor is cancelled or suspended by a creditor of the Guarantor as a result of an event of default (however described) (excluding any cancellation or suspension of Relevant Indebtedness which could not have been utilised by the Guarantor even if the relevant event of default (however described) had not occurred).

7.5.4 Any creditor of the Guarantor becomes entitled to declare any Relevant Indebtedness of the Guarantor due and payable prior to its specified maturity as a result of an event of default (however described).

No Guarantor Event of Default will occur under this Clause 7.5:

- (a) for any indebtedness specified in the Relevant Indebtedness Letter; or
- (b) if the aggregate amount of Relevant Indebtedness or commitment for Relevant Indebtedness falling within sub-clauses 7.5.1 to 7.5.4 above is less than US\$50,000,000 (or its equivalent in any other currency or currencies).

### **7.6 Guarantor moratorium**

7.6.1 The Guarantor is unable or admits an inability to pay its External Indebtedness as it falls due or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to a rescheduling of any of its Relevant Indebtedness or suspends making payments on any of its Relevant Indebtedness (other than as set out in the Relevant Indebtedness Letter).

7.6.2 A moratorium is declared or comes into *de facto* effect in respect of any Relevant Indebtedness of the Guarantor or it declares a general moratorium on the payment of principal of, or interest on, its External Indebtedness.

## **7.7 Creditors' process**

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of the Guarantor having an aggregate value of US\$40,000,000 (or its equivalent in any other currency or currencies) and is not discharged within 20 Business Days.

## **7.8 Exchange or currency controls**

Any law, decree or other regulation is announced or comes into effect or the Guarantor or any of its Affiliates or agencies takes any action that might reasonably be expected to prevent or otherwise prejudice:

7.8.1 the ability of the Guarantor to exchange or convert Domestic Currency into dollars;

7.8.2 the transfer by or on behalf of the Guarantor of dollars to the Finance Parties in satisfaction of its obligations under any of the Finance Documents (or any judgment in relation thereto) on each due date; or

7.8.3 the ability of the Guarantor to freely pay dollars abroad (including, without limitation, free of any reserve requirement or exchange control).

## **7.9 Unlawfulness / Unenforceability**

7.9.1 It is or becomes unlawful for the Guarantor to perform any of its payment obligations under the Finance Documents.

7.9.2 The obligations of the Guarantor under the Finance Documents are not or cease to be legal, valid, binding and enforceable.

7.9.3 Any Finance Document ceases to be in full force and effect or is alleged by the Guarantor to be ineffective.

## **7.10 Validity and Admissibility**

At any time any act, condition or thing required to be done, fulfilled or performed in order:

7.10.1 to enable the Guarantor lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in the Finance Documents;

7.10.2 to ensure that the obligations expressed to be assumed by the Guarantor in the Finance Documents are legal, valid, binding and enforceable; or

7.10.3 to make the Finance Documents admissible in evidence in [●],

is not done, fulfilled or performed.

## 7.11 Repudiation

The Guarantor repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

## 8. PARTIES

### 8.1 Guarantor

The Guarantor may not assign, transfer, novate or dispose of any of, or any interest in, its rights and/or obligations under this Guarantee.

### 8.2 Finance Parties

8.2.1 Failure of a Finance Party to carry out its obligations under the Finance Documents does not relieve the Guarantor of its obligations under this Guarantee.

8.2.2 This Guarantee shall ensure to the benefit of the Finance Parties and their respective successors, assigns, transferees and substitutes under Transfer Certificates or otherwise to the intent that each person for the time being party to the Facility Agreement in the capacity of a Finance Party or a Finance Party which is a party to any other Finance Document shall have the full benefit of this Guarantee as if it were an original signatory to the Facility Agreement or that Finance Document as the case may be with a Commitment and/or a participation in any Facility and with such rights and obligations as it acquires and/or assumes pursuant to the Transfer Certificate(s), Assignment Agreement(s), assignment(s), transfer(s) or succession to title by which it becomes such a party to the Facility Agreement or any other Finance Document as the case may be or alters its Commitments and/or participation.

8.2.3 The Guarantor hereby irrevocably and unconditionally consents in advance to any assignment, transfer, substitution, novation, succession to title or change in lending office made by a Finance Party under and in accordance with the Facility Agreement and to any assignment, transfer, substitution, novation, succession to title of a Finance Party which is a party to any other Finance Document, including, in particular, each assignment of rights and each transfer of rights and obligations to an Eligible Participant in accordance with clause [●] (*Changes to the Lenders*) of the Facility Agreement.

8.2.4 The Guarantor acknowledges and agrees to be bound by the terms of clause [●] (*Changes to the Lenders*) of the Facility Agreement.

## 9. SET-OFF

### 9.1 Right of Set-Off

Subject to Clause 9.2, a Finance Party may set off any matured obligation owed by the Guarantor under this Guarantee (to the extent beneficially owned by that Finance Party) against any obligation (whether or

not matured) owed by that Finance Party to the Guarantor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Finance Party may set off in an amount estimated by it in good faith to be the amount of that obligation.

## 9.2 Exception

Nothing in Clause 9.1 shall give any Finance Party the right to set off any obligation owed by the Guarantor under this Guarantee against any obligation owed by that Finance Party to the Guarantor in its capacity as banker to the IMF, the World Bank or any similar international organisation where such organisation has instructed such Finance Party in writing to make a payment to the Guarantor on behalf of such international organisation and the terms of that payment instruction specify to the satisfaction of the relevant Finance Party that the payment must be made free from set off by that Finance Party.

## 10. NOTICES

### 10.1 Giving of notices

All notices or other communications under or in connection with this Guarantee shall be given in writing and, unless otherwise stated, may be made by fax or letter.

### 10.2 Addresses for notices

10.2.1 The address and facsimile number (and the department or officer, if any, for whose attention the communication is to be made) of the Guarantor is:

Address: [●]

Facsimile: [●]

Attention: [●]

or such other details as the Guarantor may notify to the Facility Agent by not less than ten Business Days' notice.

10.2.2 The address and facsimile number (and the department or officer, if any, for whose attention the communication is to be made) of the Facility Agent is:

Address: [●]

Attention: [●]

Fax Number: [●]

or such other details as the Facility Agent may notify to the Guarantor by not less than ten Business Days' notice.

### 10.3 Delivery

10.3.1 Any communication or document made or delivered by one Party to another under or in connection with this Guarantee will only be effective:

- (a) if by way of fax, when received in legible form; or
- (b) if by way of letter, when it has been delivered to the relevant address or (where delivery is effected by DHL, FedEx or any other internationally recognised courier) five Business Days after being despatched by paid courier delivery in an envelope addressed to it at that address, and, if a particular department or officer is specified as part of its address details provided under Clause 10.2 (*Addresses for notices*), if addressed to that department or officer.

10.3.2 Any communication or document to be made or delivered to the Guarantor will be effective only if it is expressly marked for the attention of the department or officer set out in sub-clause 10.2.1 above (or any substitute department or officer as the Guarantor shall specify for this purpose).

10.3.3 Any communication or document to be made or delivered to the Facility Agent will be effective only if it is expressly marked for the attention of the department or officer set out in sub-clause 10.2.2 above (or any substitute department or officer as the Facility Agent shall specify for this purpose).

10.3.4 All notices from or to the Guarantor shall be sent through the Facility Agent.

#### **10.4 Notification of address and fax number**

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 10.2 (*Addresses for notices*) or changing its own address or fax number, the Facility Agent shall notify the other Parties.

#### **10.5 Communication when Facility Agent is Impaired Agent**

If the Facility Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Facility Agent, communicate with each other directly and (while the Facility Agent is an Impaired Agent) all the provisions of this Guarantee which require communications to be made or notices to be given to or by the Facility Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Facility Agent has been appointed.

### **11. MISCELLANEOUS**

#### **11.1 Incorporation of terms of Facility Agreement**

The provisions of clause [●] (*Conduct of business by the Finance Parties*), clause [●] (*Partial invalidity*), clause [●] (*Remedies and waivers*), clause [●] (*Amendments and waivers*) and clause [●] (*Confidentiality*) of the Facility Agreement shall be incorporated into this Guarantee as if set out in full in this Guarantee and as if all references in such clauses to:

11.1.1 “this Agreement”, “the Finance Documents”, “a Finance Document”, “any Finance Document” or “any of the Finance Documents” were references to this Guarantee; and

11.1.2 “it”, “the Borrower” (except where such term appears in clause [●] of the Facility Agreement), “each Obligor” or “either Obligor” were references to the Guarantor.

## 11.2 Certificates

Any certification or determination by the Facility Agent of a rate or amount under this Guarantee or of an amount due or payable from the Guarantor under this Guarantee or the Borrower under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## 11.3 Entire Agreement

11.3.1 This Guarantee constitutes the entire agreement and understanding of the parties hereto in relation to the present and future claims of the Finance Parties against the Guarantor in relation to the performance by the Borrower of its obligations under the Finance Documents and supersedes any previous agreement between the parties hereto relating to the subject matter of this Guarantee

11.3.2 The Guarantor acknowledges and agrees that in entering into this Guarantee, it has not, and does not, rely on and shall have no remedy in respect of, any statement, representation, warranty or understanding or in relation to any omission or non-disclosure (in each case whether negligently or innocently made or omitted) of or by any person (whether party to this Guarantee or not). Nothing in this clause shall, however, operate to limit or exclude any liability for the Facility Agent's fraud.

## 12. GOVERNING LANGUAGE

This Guarantee shall be executed in the English language and may, for information purposes, be translated into any other language. In the event of any conflict or inconsistency between the English language version and a version in any other language, or any dispute regarding the interpretation of any provision in the English language version or such other language version of this Guarantee, the English language version of this Guarantee shall prevail and questions of interpretation shall be addressed solely by reference to the English language version.

## 13. COUNTERPARTS

This Guarantee 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 this Guarantee.

## 14. GOVERNING LAW

This Guarantee is governed by English law.

## 15. ENFORCEMENT

### 15.1 Jurisdiction

Subject to Clause 16 (Arbitration):

15.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Guarantee (including a dispute relating to the existence, validity or termination of this Guarantee or the consequences of its nullity or any non-contractual obligations arising out of or in connection with this Guarantee) (a "**Dispute**").

15.1.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

15.1.3 This Clause 15.1 (*Jurisdiction*) is for the benefit of the Finance Parties only. As a result, and notwithstanding paragraph (a) above, any Finance Party may take proceedings relating to the enforcement of a judgement, arbitral award or other order (whether for final or interim relief) in any other courts with jurisdiction. To the extent allowed by law, and for the purpose of the enforcement of such a judgement, award or other order, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

## 15.2 Service of process

The Guarantor agrees that the documents which start any proceedings before the courts of England in relation to any Finance Document, and any other documents required to be served in connection with those proceedings, may be served on it by being delivered to the address from time to time in London of [•]. The Guarantor irrevocably agrees that if its agreement to such service of process being made on it at such address is not, or ceases to be, effective or if any process served, or attempted to be served at such address (or on any person or premises at that address) is prevented or hindered by reason of diplomatic or other immunity, then the process by which any suit, action or proceeding is begun in England may be served on the Guarantor by being delivered to any address specified by the Facility Agent for this purpose by notice in writing to the Guarantor. Nothing in this paragraph shall affect the right of any Finance Party to serve process in any other manner permitted by law. This Clause 15 applies to proceedings in England and proceedings elsewhere.

## 16. ARBITRATION

### 16.1 Arbitration

16.1.1 Subject to Clause 16.4 (*Finance Parties' option*) any Dispute arising out of or in connection with this Guarantee (including a dispute regarding the existence, validity or termination of this Guarantee or the consequences of its nullity) shall be referred to and finally resolved by arbitration under the Arbitration Rules (the “**Rules**”) of the LCIA (London Court of International Arbitration). Any provisions of the Rules relating to the nationality of an arbitrator shall, to that extent, not apply.

16.1.2 Any arbitral award obtained from the relevant arbitral tribunal to which any dispute in relation to a Finance Document is to be referred for resolution in accordance with that Finance Document to which it is a party will be recognised and enforced in each Relevant Jurisdiction applicable to it.

### 16.2 Procedure for arbitration

16.2.1 The arbitral tribunal shall consist of three arbitrators. The claimant(s) irrespective of number, shall nominate jointly one arbitrator; the respondent(s), irrespective of number, shall nominate jointly the second arbitrator; and a third arbitrator, who shall be a Queen’s Counsel of at least five years’ standing and who shall serve as Chairman, shall be appointed by the LCIA Court (as defined in the Rules) within 15 days of the appointment of the second arbitrator.

16.2.2 In the event that the claimant(s) or the respondent(s) shall fail to nominate an arbitrator within the

time limits specified in the Rules, such arbitrator shall be appointed by the LCIA Court within 15 days of such failure. In the event that both the claimant(s) and the respondent(s) fail to nominate an arbitrator within the time limits specified in the Rules, all three arbitrators shall be appointed by the LCIA Court within 15 days of such failure who shall designate one of them as chairman.

16.2.3 If all the parties to an arbitration so agree, there shall be a sole arbitrator appointed by the LCIA Court within 15 days of such agreement.

16.2.4 The seat of arbitration shall be London, England and the language of the arbitration shall be English.

### 16.3 Recourse to courts

Save as provided in Clause 16.4 (*Finance Parties' option*), the parties exclude the jurisdiction of the courts under Sections 45 and 69 of the Arbitration Act 1996.

### 16.4 Finance Parties' option

Before an arbitrator has been appointed to determine a Dispute, any Finance Party may by notice in writing to all other Parties require that all Disputes or a specific Dispute be heard by a court of law. If a Finance Party gives such notice, the Dispute to which that notice refers shall be determined in accordance with Clause 15.1 (*Jurisdiction*).

### 16.5 Waiver of immunity

The Guarantor waives generally in relation to the transactions contemplated under this Guarantee all immunity it or its assets or revenues may otherwise have in any jurisdiction, including immunity in respect of:

16.5.1 the giving of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues; and

16.5.2 the issue of any process against its assets or revenues for the enforcement of a judgment or award or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues. The Guarantor does not hereby waive such immunity from execution or attachment in respect of (i) property, including any bank account, used by a diplomatic or consular mission of the Guarantor or its special missions or delegations to international organisations, (ii) property of a military character and under the control of a military authority or defence agency of the Guarantor or (iii) property located in [●] and dedicated to a public or governmental use by the Guarantor (as distinct from property which is for the time being in use or intended for use for commercial purposes within the meaning of the State Immunity Act 1978).

The Guarantor agrees that in any proceedings in England this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 and that this waiver is intended to be irrevocable for the purposes of such Act.

**THIS GUARANTEE** has been signed on behalf of each Party other than the Guarantor and has been executed as a deed by the Guarantor and is intended to be and is hereby delivered by it as a deed on the date specified above.

**SCHEDULE 1**  
**ORIGINAL LENDERS**  
[•]

**SCHEDULE 2**  
**CONDITIONS PRECEDENT**  
[•]

**SCHEDULE 3  
FORM OF DEMAND FOR PAYMENT**

From: [*Facility Agent/Arranger*]

To: [Ministry of Finance and Economic Development of the Federal Democratic Republic of [●]]

Dated: [●]

Dear Sirs

**Government Guarantee in connection with the ECA Backed Common Terms Agreement for [●] dated [●] (the “Guarantee”)**

1. We refer to the Guarantee. This is a Demand for Payment under Clause 2.1 (*Guarantee*) of the Guarantee. Terms defined in the Guarantee have the same meaning in this Demand for Payment unless given a different meaning herein.
2. In accordance with Clause 2.1 (*Guarantee*) of the Guarantee, we hereby give you notice that the sum of [●] is due and payable on [*insert date*] in accordance with the provisions of the Guarantee.
3. This Demand for Payment is without prejudice to any other rights which we may have under the Finance Documents or as a matter of general law.

Yours faithfully

.....

Authorised signatory for [*Facility Agent/Arranger*]

## SIGNATURES

### **Guarantor**

**Executed as a deed by**

**THE FEDERAL DEMOCRATIC REPUBLIC OF [●]**

**acting by and through its MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT**

By:

Name:

Title: Minister of Finance and Economic Development

### **Facility Agent**

[●]

By:

Name:

Title:

### **Arranger**

[●]

By:

Name:

Title: