

**Dated**

**APRIL 13, 2024**

**The Government of Barbados, acting through the  
Ministry of Finance, Economic Affairs and Investment**

**as Guarantor**

**and**

**African Export-Import Bank**

**as Lender**

**DEED OF GUARANTEE**

**relating to obligations under a USD 25,000,000 term loan facility agreement between Kensington  
Oval Management Inc and the African Export-Import Bank**

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THIS DEED OF GUARANTEE is made on APRIL 13, 2024.

## **PARTIES**

- (1) **THE GOVERNMENT OF BARBADOS, ACTING THROUGH THE MINISTRY OF FINANCE, ECONOMIC AFFAIRS AND INVESTMENT** as guarantor (the "**Guarantor**"); and
- (2) **AFRICAN EXPORT-IMPORT BANK**, a multilateral financial institution created pursuant to the Agreement for the Establishment of the African Export-Import Bank, whose headquarters is at 72 (B) El-Maahad El-Eshteraky Street, Heliopolis, Cairo 11341, Egypt, as the lender under the Facility Agreement (as defined below) (the "**Lender**").

## **BACKGROUND**

- (A) By the Facility Agreement (as defined below), the Lender has agreed to make available to the Borrower (as defined below) a loan of up to USD 25,000,000.
- (B) The execution and delivery to the Lender of this Guarantee is one of the conditions subsequent to the Facility Agreement.
- (C) It is intended by the Parties that this document will take effect as a deed despite the fact that a Party may only execute this document under hand.

## **OPERATIVE PROVISIONS**

### **1 DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

In this Guarantee:

**"Annual Budget"** means the annual budget of Barbados which is approved by the Parliament of Barbados each year.

**"Authorisation"** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

**"Borrower"** means Kensington Oval Management Inc., a company registered and incorporated under the Companies Act, Cap. 308 of the Laws of Barbados as company number 25359, having its registered office at Barbados Tourism Investment Inc., Old Town Hall Building, Cheapside, Bridgetown, Barbados.

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for general business in:

- (a) London, Cairo and Bridgetown (Barbados); and
- (b) in relation to any date for the payment or purchase of Dollars, New York.

**"Facility Agreement"** means the USD 25,000,000 term loan facility agreement dated on or around the date of this Guarantee and entered into between the Borrower and the Lender.

**"Finance Documents"** has the meaning given to that term in the Facility Agreement.

**"Foreign Currency"** means any currency other than the lawful currency of Barbados.

**"IMF"** means the International Monetary Fund.

**"Partnership Agreement"** means the Agreement for the Establishment of a Partnership between Member States of the Caribbean Community and the African Export-Import Bank signed in Bridgetown, Barbados, on the 1 September 2022.

**"Party"** means a party to this Guarantee.

**"Restricted Party"** means a person that is:

- (a) listed on, or owned or controlled by a person listed on, or acting on behalf of a person listed on, any Sanctions List;
- (b) located in, incorporated under the laws of, or owned or (directly or indirectly) controlled by, or acting on behalf of, a person located in or organised under the laws of a country or territory that is the target of country-wide or territory-wide Sanctions; or
- (c) otherwise a target of Sanctions ("target of Sanctions" signifying a person with whom a US person or other national of a Sanctions Authority would be prohibited or restricted by law from engaging in trade, business or other activities).

**"Sanctions"** means any economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by:

- (a) the United States government;
- (b) the United Nations;
- (c) the United Kingdom; or
- (d) the respective governmental institutions and agencies of any of the foregoing, including without limitation, the Office of Foreign Assets Control of the US Department of Treasury ("OFAC"), the United States Department of State and His Majesty's Treasury, (together, the "**Sanctions Authorities**").

**"Sanctions List"** means the "Specially Designated Nationals and Blocked Persons" list issued by OFAC, the "Consolidated List of Financial Sanctions Targets" and the "Investment Ban List" maintained by His Majesty's Treasury, or any similar list maintained by, or public announcement of Sanctions designation made by, any of the Sanctions Authorities.

**"Security"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

**"Treaty Obligations"** mean any obligation of the Guarantor under the articles of Agreement with the IMF and/ or the World Bank.

## 1.2 Construction

- (a) Unless a contrary indication appears any reference in this Guarantee to:
- (i) the "**Lender**", the "**Guarantor**", any "**Party**", or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
  - (ii) an "**agency**" (or "**agencies**") of a state shall be construed as a reference to any ministry, department, agency or authority of central or local government (whether autonomous or not);
  - (iii) "**assets**" includes present and future properties, revenues and rights of every description;
  - (iv) "**this Guarantee**" or any "**Finance Document**" is a reference to this Guarantee or other "**Finance Document**" as it may have been amended, supplemented, replaced or novated from time to time and includes a reference to any document which amends, supplements, replaces, novates or is entered into, made or given pursuant to or in accordance with any terms of this Guarantee or, as the case may be, the relevant deed, agreement or instrument;
  - (v) "**include**" or "**including**" are to be construed without limitation;
  - (vi) "**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 purchase 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;
  - (vii) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (viii) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
  - (ix) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
  - (x) a provision of law is a reference to that provision as amended or re-enacted from time to time;
  - (xi) references to any Clause or Schedule shall be to a Clause or Schedule contained in this Guarantee; and
  - (xii) a time of day is a reference to London time.
- (b) Clause and Schedule headings are for ease of reference only.

- (c) Words importing the singular shall include the plural and vice versa.

### **1.3 Relationship with the Facility Agreement**

The Guarantor acknowledges the terms of the Facility Agreement.

### **1.4 Third party rights**

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the United Kingdom Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Guarantee.
- (b) 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 and indemnity**

The Guarantor irrevocably and unconditionally:

- (a) guarantees to the Lender punctual performance by the Borrower of all the Borrower's payment obligations to the Lender under or in connection with the Finance Documents;
- (b) undertakes with the Lender that whenever the Borrower does not pay any amount to the Lender when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it were the principal obligor and such payment obligation shall become a sovereign debt; 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 immediately on demand against any cost, loss or liability it incurs as a result of the Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay under this Guarantee if the amount claimed had been recoverable on the basis of a guarantee.

### **2.2 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.

## **3 PROTECTIONS FOR THE LENDER**

### **3.1 Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of the Borrower 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 Guarantee will continue or be reinstated as if the discharge, release or arrangement had not occurred.

### **3.2 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 Clause 3.2 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Guarantee (without limitation) including:

- (a) any time, waiver or consent granted to, or composition with, the Borrower, the Guarantor or any other person;
- (b) the release of the Borrower, the Guarantor or any other person under the terms of any composition or arrangement with any creditor of any person;
- (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, the Borrower, the Guarantor 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;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower, the Guarantor 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.

### **3.3 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 it under this Guarantee. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

### **3.4 Appropriations**

Until all amounts which may be or become payable by the Borrower 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 Guarantor's liability under this Guarantee.

### **3.5 Deferral of rights**

- (a) Until all amounts which may be or become payable by the Borrower 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 this Guarantee or by reason of any amount being payable, or liability arising, under this Guarantee:
  - (i) to be indemnified or reimbursed by the Borrower;
  - (ii) to claim any contribution from any other guarantor of the Borrower's or the Guarantor's obligations under the Finance Documents;
  - (iii) 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;
  - (iv) to bring legal or other proceedings for an order requiring the Borrower to make any payment, or perform any obligation, in respect of which that Guarantor has given a guarantee, undertaking or indemnity under this Guarantee;
  - (v) to exercise any right of set-off against the Borrower; and/or
  - (vi) to claim or prove as a creditor of the Borrower in competition with the Lender.
- (b) 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 the Borrower or the Guarantor 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 the terms of the Facility Agreement.

### **3.6 Additional security**

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

## **4 ENFORCEMENT AND PRESERVATION COSTS**

The Guarantor shall, on demand, pay to the Lender the amount of all reasonable costs and expenses (including reasonable legal fees) incurred by the Lender in connection with the enforcement of, or the preservation of any rights under, this Guarantee and with any proceedings instituted by or against the Lender as a result of enforcing those rights.



## **5 PAYMENTS**

### **5.1 Payments free of deduction**

All payments to be made to the Lender under this Guarantee shall be made free and clear of and without deduction for or on account of Tax unless the Guarantor is required to make such payment subject to the deduction or withholding of Tax, in which case the sum payable by the relevant Guarantor shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the person on account of whose liability to Tax such deduction or withholding has been made, receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

### **5.2 No set-off by Guarantor**

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

### **5.3 Business Days**

Any payment under this Guarantee 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).

### **5.4 Currency of payments**

- (a) Subject to paragraphs (b) and (c) below, any amount payable under this Guarantee is payable in United States Dollars.
- (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.
- (c) Any amount expressed to be payable in a currency other than United States Dollars shall be paid in that other currency.
- (d) If, on conversion into that currency, the amount of the payment falls short of the amount of the obligation concerned, the Lender will have a separate cause of action against the Guarantor for the shortfall.

## **6 INTEREST**

If the Guarantor fails to pay any sum payable by it pursuant to this Guarantee on its due date, interest shall accrue on the overdue amount from the due date until the date of actual payment (both before and after judgment) calculated on a daily basis at the rate determined in accordance with clause 9.3 (*Default interest*) of the Facility Agreement; provided that under no circumstances will the Guarantor be liable to pay interest under both this Clause 6 and clause 9.3 (*Default interest*) of the Facility Agreement in respect of the same amount.

## **7 REPRESENTATIONS**

### **7.1 General**

- (a) The Guarantor makes the representations and warranties set out in this Clause 7 (*Representations*) to the Lender on the date of this Guarantee.
- (b) Each of the representations and warranties set out in this Clause 7 will be correct and complied with in all respects at all times while any obligations remain outstanding under this Guarantee as if repeated then by reference to the then existing circumstances.

### **7.2 Status**

- (a) It is a sovereign entity validly existing under the laws of Barbados and is not subject to any insolvency procedure. The Ministry of Finance, Economic Affairs and Investment is legally competent to enter into this Guarantee on behalf of the Government of Barbados.
- (b) It has the power to sue and be sued in its own name, including before any court and/or arbitration tribunal which may be competent pursuant to the Finance Documents.
- (c) It has the power to own its own assets and to enter into and to perform its obligations under the Finance Documents in its own name and on behalf of the Borrower.

### **7.3 Binding obligations**

- (a) The obligations expressed to be assumed by it under this Guarantee are, subject to any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered in relation to this Guarantee, legal, valid, binding and enforceable obligations.
- (b) Each Finance Document is, in proper legal form under the laws of Barbados.

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

The entry into and performance by it of, and the transactions contemplated by, this Guarantee do not and will not conflict with:

- (a) any limit or restriction applicable to it (whether contained in the constitution of Barbados or the relevant Annual Budget or otherwise);
- (b) any law or regulation applicable to it; or
- (c) agreement, mortgage, bond, judgment, arbitral award or other instrument, international agreement or treaty obligation, including with the IMF or the World Bank, binding upon it or any agency of it or constitute a default or termination event (however described) under any such agreement, mortgage, bond, judgment, arbitral award or other instrument, international agreement or treaty obligation.

### **7.5 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Guarantee and the obligations and liabilities created under this Guarantee.

## **7.6 Validity and admissibility in evidence**

- (a) All Authorisations required or desirable:
  - (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Guarantee;
  - (ii) to ensure that the obligations expressed to be assumed by the Guarantor under this Guarantee are legal valid, binding and enforceable; and
  - (iii) to make this Guarantee admissible in evidence in Barbados, have been obtained or effected and are in full force and effect.
- (b) All Authorisations which are required or which are otherwise necessary for the conduct of its business, trade and ordinary activities have been obtained or effected and are in full force and effect and are not likely to be revoked or materially adversely amended and no notice of an intention to terminate any such Authorisation has been received by it.

## **7.7 Governing law and enforcement**

- (a) The choice of English law to govern this Guarantee will be recognised and enforced in Barbados.
- (b) Any judgment obtained in relation to this Guarantee in England and Wales will be recognised and enforced in Barbados.

## **7.8 No filing or stamp taxes**

Under the law of Barbados, it is not necessary that this Guarantee be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to this Guarantee or the transactions contemplated by this Guarantee.

## **7.9 Deduction of Tax**

It is not required to make any deduction for or on account of Tax from any payment it may make under this Guarantee.

## **7.10 Foreign currency**

- (a) It is legally and beneficially entitled to all Foreign Currency owed to or held by it.
- (b) It is legally entitled to make payments in Foreign Currency under the terms of this Guarantee.

## **7.11 Commercial acts**

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

#### **7.12 Membership of organisations**

It is a member and eligible to use the resources of the IMF and the World Bank and is able to draw or make use of funds available to it under any IMF funding program and no such program has been cancelled or suspended.

#### **7.13 Public Procurement**

No public procurement rules in Barbados apply to its entry into and performance by it of its obligations under the Finance Documents or otherwise in relation to the Facility.

#### **7.14 Treaty Obligations**

- (a) The Treaty Obligations of the Guarantor do not contain any provisions which, expressly or implicitly, limit the ability of the Guarantor to enter into, deliver or perform any of its obligations under this Guarantee.
- (b) No negative sanctions are or could be made against the Guarantor under the Treaty Obligations as a result of the Guarantor entering into, delivering or performing any of its obligations under this Guarantee.

#### **7.15 Sanctions**

Neither the Guarantor nor any of its agencies, nor any of their respective directors, officers or employees nor, to the knowledge of the Guarantor, any persons acting on any of their behalf:

- (i) is a Restricted Party; or
- (ii) has received notice of, or is aware of, any claim, action, suit, proceeding or investigation against it with respect to Sanctions by any Sanctions Authority.

#### **7.16 Anti-corruption law**

The Guarantor has: (i) conducted its operations in compliance with applicable anti-bribery, anti-corruption and anti-money laundering laws, regulations and rules in all applicable jurisdictions; and (ii) maintained policies and procedures designed to promote and achieve compliance with such laws.

#### **7.17 No adverse consequences**

- (a) It is not necessary under the laws of Barbados:
  - (i) in order to enable the Lender to enforce its rights under this Guarantee; or
  - (ii) by reason of the execution of this Guarantee or the performance by it of its obligations under this Guarantee, that the Lender should be licensed, qualified or otherwise entitled to carry on business in Barbados or that it should appoint an agent, representative or attorney in Barbados for any purpose whatsoever.
- (b) The Lender is not nor will be deemed to be resident, domiciled or carrying on business in Barbados by reason only of the execution, performance and/or enforcement of this Guarantee.

- (c) It is not necessary for the Lender to obtain the consent or approval of any authority or agency in Barbados in order to enter into or effect the transactions contemplated by this Guarantee.
- (d) It is not necessary for the Lender to establish a place of business or be licensed, qualified or otherwise entitled to carry on business in Barbados or to meet any other criteria applicable under the laws of Barbados to enter into or effect the transactions contemplated by this Guarantee.

#### **7.18 CBB Payment Instruction**

- (a) The CBB Payment Instruction and each Promissory Note is in full force and effect and has not been rescinded, rejected, cancelled or terminated.
- (b) The Guarantor is not aware (having made due and careful enquiry) of any circumstances which are likely to lead to the CBB Payment Instruction or any Promissory Note not remaining in full force and effect.

#### **7.19 Repetition**

Each of the representations set out in this clause 7 are deemed to be made by the Guarantor by reference to the facts and circumstances then existing on each day on which the representations set out in clause 17.23 (*Repetition*) of the Facility Agreement are deemed to be made.

### **8 GENERAL UNDERTAKINGS**

The undertakings in this Clause 8 shall remain in force from the date of this Guarantee for so long as any amount is outstanding under the Finance Documents.

#### **8.1 Authorisations**

The Guarantor shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) if requested to do so, supply certified copies to the Lender of,
  - any Authorisation required under any law or regulation of Barbados to:
    - (i) enable it to perform its obligations under this Guarantee; and
    - (ii) ensure the legality, validity, enforceability or admissibility in evidence in Barbados of this Guarantee.

#### **8.2 Compliance with laws**

The Guarantor shall comply in all respects with all laws to which it may be subject.

#### **8.3 Anti-corruption law**

The Borrower shall:

- (i) conduct its operations in compliance with applicable anti-corruption laws; and

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

#### **8.4 Pari passu ranking**

The Guarantor shall ensure that at all times any unsecured and unsubordinated claims of the Lender against it under this Guarantee rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by law applying to public bodies in Barbados.

#### **8.5 CBB Payment Instruction and Promissory Notes**

- (a) The Guarantor shall deliver to the Lender Promissory Notes at the times, in the amounts in otherwise in the manner set out in clause 4 (*Promissory Notes*) of the Facility Agreement.
- (b) The Guarantor shall promptly do all that is necessary to maintain in full force and effect the CBB Payment Instruction and each Promissory Note.
- (c) The Guarantor shall not, without the prior written consent of the Lender:
  - (i) agree to or acquiesce in any assignment, variation, amendment of the CBB Payment Instruction or any Promissory Note; nor
  - (ii) terminate, repudiate, cancel or rescind the whole or any part of the CBB Payment Instruction or any Promissory Note.

#### **8.6 Partnership Agreement**

The Guarantor recognises the Facility as a multilateral development bank facility, which shall not be subject to any moratorium, controls or other restrictions in line with the Partnership Agreement. The Guarantor shall, at all times, comply with the provisions of the Partnership Agreement.

#### **9 NOT USED**

#### **10 SET OFF**

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

#### **11 NO LENDER LIABILITY**

Neither the Lender nor any of its officers shall be liable or responsible in any way to the Guarantor for any loss or liability of any kind arising from any act or omission by it of any kind in relation to this Guarantee, except to the extent caused by its gross negligence or wilful misconduct.

## **12 SUPPLEMENTAL**

### **12.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with this Guarantee, the entries made in the accounts maintained by the Lender are *prima facie* evidence of the matters to which they relate.

### **12.2 Certificates and determinations**

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

### **12.3 Partial invalidity**

If, at any time, any provision of this Guarantee 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 of this Guarantee or any other Finance Document under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

### **12.4 Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy under this Guarantee shall operate as a waiver of any such right or remedy or constitute an election to affirm this Guarantee. No election to affirm this Guarantee on the part of the Lender shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Guarantee are cumulative and not exclusive of any rights or remedies provided by law.

### **12.5 Guarantor acknowledgement of the Facility Agreement**

The Guarantor is fully familiar with, and acknowledges all of the provisions of, the Facility Agreement and the other Finance Documents to which it is not a party.

## **13 CHANGES TO THE PARTIES**

### **13.1 Guarantor**

The Guarantor may not assign any of its rights or transfer any of its rights or obligations under this Guarantee.

### **13.2 Lender**

The Lender may:

- (a) assign any of its rights; or
- (b) transfer any of its rights or obligations to a successor lender,

under this Guarantee in accordance with and subject to the provisions of the Facility Agreement.

## **14 NATURAL DISASTER CLAUSE**

14.1 This clause applies following the occurrence of any Earthquake Event, Tropical Cyclone Event or Covered Area Rainfall Event which is eligible for the coverage provided for under the CCRIF Policies and in respect of which a Policy Payment has been made to the Guarantor under a CCRIF Policy whereupon, subject to Clause 14.2 below, the Guarantor may, by written notice to the Lender, elect to defer payment of any Deferred Payment Amount on a Deferral Date for a period of two years commencing on that Deferral Date (such period being a "**Deferral Period**"). Any such Deferred Payment Amount shall remain outstanding and shall become due and payable at the end of the Deferral Period.

14.2 The Guarantor shall only be entitled to defer a Deferred Payment Amount following the occurrence of an Event pursuant to Clause 14.1 above if all of the following conditions are satisfied to the Lender's satisfaction on the relevant Deferral Date:

- (a) each CCRIF Policy is in full force and effect and CCRIF has issued a written report confirming that the relevant Event is an Insured Event in respect of which a Policy Payment has been made to the Guarantor pursuant to the relevant CCRIF Policy;
- (b) since the 22nd day of April, 2021, neither of the Coverage Limit or the Exhaustion Point applicable to earthquakes, tropical cyclone or excess rainfall has been reduced under the relevant CCRIF Policy, unless it has been reduced by CCRIF and CCRIF has declined a request submitted by the Guarantor to CCRIF to maintain such Coverage Limit or Exhaustion Point under the relevant CCRIF Policy, as the case may be;
- (c) the Modelled Loss, in the case of an Earthquake Event or a Tropical Cyclone Event, or the Rainfall Index Loss, in the case of a Covered Area Rainfall Event, to Barbados from the Event is greater than US\$5,000,000;
- (d) the Grace Period has expired; and
- (e) no Default or Event of Default has occurred and is continuing.

14.3 Upon electing to defer the Deferred Payment Amount, the Guarantor shall, at its own expense, provide notice thereof (a "**Deferral Request**") to the Lender, describing in reasonable detail the particulars of the Event giving rise to the right to make such Deferral Request.

### **14.4 For purposes of this clause:**

Each of the terms "**Earthquake Event**", "**Tropical Cyclone Event**", "**Covered Area Rainfall Event**", "**Coverage Limit**", "**Exhaustion Point**", "**Insured Event**", "**Policy Payment**" and "**Rainfall Index Loss**" shall have the meanings given to those terms in the relevant CCRIF Policy;

"**CCRIF**" means CCRIF SPC (formerly, the Caribbean Catastrophe Risk Insurance Facility), or any successor thereof, with whom the Government of Barbados has entered into the CCRIF Policies;

"**CCRIF Policies**" means:

- (a) the Parametric Insurance Contract dated 1st June, 2023 which the Government of Barbados has entered into with CCRIF to insure against risks of earthquake and tropical cyclone, including any documents incorporated by reference therein and any attachments, annexes, appendices or supplements thereto (including but not limited to the applicable coverage summary and



associated loss curve data spreadsheet), as such CCRIF Policy may be amended or supplemented from time to time; and

- (b) the Parametric Insurance Contract dated 1st June, 2023 which the Government of Barbados has entered into with CCRIF to insure against risks of excess rainfall, including any documents incorporated by reference therein and any attachments, annexes, appendices or supplements thereto (including but not limited to the applicable coverage summary and associated loss curve data spreadsheet), as such CCRIF Policy may be amended or supplemented from time to time;

**"Deferral Request"** has the meaning given to that term in Clause 14.3 above;

**"Deferral Date"** means, in relation to any Deferral Request, the next Repayment Date to occur under the Facility Agreement immediately following the date of submission of that Deferral Request;

**"Deferred Payment Amount"** means, on any Deferral Request, any amount which is then due and payable, or becomes due and payable during the Deferral Period relating to that Deferral Request, by the Guarantor to the Lender under the terms of the Guarantee;

**"Event"** means an Earthquake Event, a Tropical Cyclone Event or a Covered Area Rainfall Event;

**"Modelled Loss"** has the meaning given to that term in each CCRIF Policy, in each case calculated as provided for under the relevant CCRIF Policy as in effect on the Closing Date, and using the relevant Return Period (years) applicable to the Event. When calculating the Reference Modelled Loss, the Return Period (years) applicable to the Event, if not divisible by 5, shall be rounded down to the nearest number that is divisible by 5; that if the Modelled Loss from an Event is more than 10.0% higher than the Reference Modelled Loss, "Modelled Loss" for purposes of paragraph (c) of Clause 14.2 above and the definition of "Deferral Date" in this clause will be the Reference Modelled Loss;

**"Reference Modelled Loss"** means the Modelled Loss in respect of an Event; and

**"Return Period"** in relation to years, means the return period applicable to the Event as that term is used in the model and formulae detailed in each CCRIF Policy.

## **15 NOTICES**

### **15.1 Communications in writing**

Any communication to be made under or in connection with this Guarantee shall be made in writing and, unless otherwise stated, may be made email or letter.

### **15.2 Addresses**

The 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 this Guarantee is:

#### **(a) Lender**

Address: 72 (B) El-Maahad El-Eshteraky Street, Heliopolis, Cairo 11341, Egypt

Attention: Director (Banking Operations)

Email: FrancoandNorth@afreximbank.com

**(b) Guarantor**

Address: Government Headquarters, Bay Street. St. Michael, Barbados.

Attention: Permanent Secretary, Finance

Email: barbadosloans@barbados.gov.bb

or any substitute address or email or department or officer as a Party may notify to the Lender (or the Lender may notify to the other Parties, if a change is made by the Lender) by not less than five (5) Business Days' notice.

**15.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this Guarantee will only be effective:

- (i) if by way of email, when received in legible form; or
- (ii) if by way of letter, when it has been delivered by hand left at the relevant address or five (5) Business Days after being deposited with an express international courier service in the post postage prepaid in an envelope addressed to the Party at the relevant address,

and, if a particular department or officer is specified as part of its address details provided under Clause 15.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified in Clause 15.2 (*Addresses*).
- (c) Any communication or document which becomes effective, in accordance with paragraphs (a) and (b) above, on a day which is not a Business Day, or after 5:00 p.m. on a Business Day, in each case in the place of receipt shall be deemed only to become effective on the following Business Day.

**15.4 English language**

- (a) Any notice given under or in connection with this Guarantee must be in English.
- (b) All other documents provided under or in connection with this Guarantee must be:
- (i) in English; or
  - (ii) if not in English, and if so required by the Lender, 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.

## **16 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.

## **17 GOVERNING LAW**

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

## **18 ENFORCEMENT**

### **18.1 Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Guarantee (including a dispute regarding the existence, validity or termination of this Guarantee or any non-contractual obligation arising out of or in connection with this Guarantee) (a "**Dispute**").
- (b) Each of the Parties agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.

### **18.2 Service of process**

Without prejudice to any other mode of service allowed under any relevant law, the Guarantor:

- (a) irrevocably appoints the High Commissioner for Barbados in London, 1 Great Russell St, London WC1B 3ND as its agent for service of process in relation to any proceedings before the English courts in connection with this Guarantee (the "**Process Agent**");
- (b) agrees that failure by the Process Agent to notify the Guarantor of the process will not invalidate the proceedings concerned or any judgment based on them; and
- (c) agrees that if for any reason the Process Agent is unable to act as such or its appointment ceases to be effective, that the Guarantor will promptly notify the Lender and within thirty (30) days will appoint a substitute process agent in England acceptable to the Lender (but if it fails to make such appointment within such period the Lender shall be entitled to appoint such substitute process agent by notice to the Guarantor).

### **18.3 Waiver of immunity**

- (a) The Guarantor hereby irrevocably waives, to the extent permitted by applicable law and international conventions:
  - (i) any immunity from jurisdiction it may have in any Dispute in the courts of England or in any other jurisdiction; and
  - (ii) except as provided below, any immunity from attachment or execution to which its assets or property might otherwise be entitled in any Dispute in the courts of England, and agrees that it will not claim any such immunity in any such Dispute.
- (b) Notwithstanding the foregoing, the above waiver shall not constitute a waiver of immunity from attachment or execution with respect to:

- (i) any property of the Central Bank of Barbados;
- (ii) any property located in or outside the territory of Barbados that provides an essential public service;
- (iii) any property entitled to the privileges and immunities of the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations of 1963, including, but not limited to, property, premises and bank accounts used by the missions of Barbados;
- (iv) any property of a diplomatic, governmental or consular mission of Barbados;
- (v) taxes, duties, levies, assessments, royalties or any other governmental charges imposed by Barbados, including the right of Barbados to collect any such charges;
- (vi) any property of a military character or under the control of a military authority or defence agency of Barbados;
- (vii) property forming part of the cultural heritage of Barbados; or
- (viii) property of Barbados outside Barbados not used for a commercial purpose.

For the purposes of this Clause 18.3 "property" includes, without limitation, assets, accounts, bank deposits, cash, revenues, securities and rights, including rights against third parties.

**This Guarantee is executed and delivered as a deed on the date stated at the beginning of this Guarantee.**

EXECUTION PAGE

GUARANTOR

EXECUTED as a DEED by  
THE GOVERNMENT OF BARBADOS ACTING  
THROUGH ITS MINISTRY OF FINANCE,  
ECONOMIC AFFAIRS AND INVESTMENT  
acting by THE HON. MIA AMOR MOTILEY, S.C., M.P.  
in the presence of:



Signature of witness: 

Name (in BLOCK CAPITALS): SHARON DEANE

Address: SUPREME COURT COMPLEX  
WHITEPARK ROAD

Occupation: REGISTRAR SUPREME COURT (g)

LENDER

EXECUTED as a DEED by  
AFRICAN EXPORT-IMPORT BANK  
acting by



Authorised Signatory

PROF. BENEDICT OKECHUKWU DRAMAH  
Name

PRESIDENT AND CHAIRMAN OF THE BOARD OF DIRECTORS  
Title

Authorised Signatory

Name

Title

in the presence of:

  
Notary Public

REGISTRAR AND AS SUCH  
A NOTARY PUBLIC IN AND  
FOR BARBADOS. (g)

