

IRREVOCABLE AND UNCONDITIONAL GUARANTEE

Date of Issuance: _____
Guaranteed Sum: [PKR _____ (Pak Rupees _____ only.)
Date of Expiry: _____
Guarantee No: _____

This **IRREVOCABLE AND UNCONDITIONAL GUARANTEE** is issued at _____
on this _____ day of _____ 20__

BY:

[insert Insurance Company Name, address and registered address] (hereinafter referred to as the "Guarantor" which expression, where the context so permits, shall include its successors, administrators, assigns and legal representatives, whether jointly or severally);

ON THE REQUEST OF:

[insert Exporter/Applicant Name, NTN, address and registered address/ (hereinafter referred to as the "Principal" which expression, where the context so permits, shall include its successors, administrators, assigns and legal representatives);

IN FAVOUR OF:

The Federal Board of Revenue, Government of Pakistan, through the **Collector of Customs** [insert Collectorate name] (hereinafter referred to as the "Beneficiary" which expression, where the context so permits, shall include its successors, administrators, assigns and legal representatives)

(The Guarantor, the Principal and the Beneficiary shall hereinafter individually be referred to as a “Party” and collectively as the “Parties”)

WHEREAS

(1) The Principal has been duly approved by the Beneficiary to operate under the Export Facilitation Scheme, 2021, including any modifications, amendments or re-enactments thereof (the “Scheme”), as notified by the Beneficiary, under Category (____) and has availed, or intends to avail, the facility of importing, utilizing, and acquiring inputs and capital goods subject to full compliance with all the terms, conditions, and obligations prescribed under the Scheme;

(2) The Beneficiary, as a condition precedent, requires the furnishing of a valid, binding, and enforceable financial security sufficient to cover potential liabilities, including, without limitation, all duties, taxes, surcharges, fines, penalties, or any other lawful charges which may become payable to the Beneficiary, in the event of any breach, default or non-compliance by the Principal with the provisions, terms, or conditions of the Scheme;

(3) The Principal, in compliance with the requirements of the Scheme, requested the Guarantor for the provision of an irrevocable, unconditional and payable on first written demand a Guarantee in favour of the Beneficiary and duly complied with all the requirements, including that of collateral, of the Guarantor in this regard.

(4) At the request of the Principal the Guarantor hereby agrees to furnish this irrevocable, unconditional, and payable on first written demand Guarantee (“Guarantee”) in favour of the Beneficiary, to secure the due and punctual performance of the terms, conditions and obligations by the Principal under the Scheme.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND OBLIGATIONS, THE ADEQUACY WHEREOF IS HEREBY ACKNOWLEDGED BY THE PARTIES, IT IS AGREED AS FOLLOWS:

1. Guarantee Undertaking

1.1 The Guarantor do hereby, as primary obligor and not merely as a surety, irrevocably and unconditionally guarantee to the Beneficiary the due performance and compliance by the Principal with all its obligations (the “Obligations”) under the Scheme, which shall include, without limitation, the following:

(i) payment of all duties, taxes, surcharges, fines, penalties, or any other lawful charges that may become payable to the Beneficiary in respect of duty- and tax-free import/acquisition of input goods; or

(ii) fulfillment and observance of any and all other conditions, undertakings, covenants, or performance requirements prescribed under the Scheme, including, without limitation, export reporting, export value-addition obligations, proper utilization of input goods, observance of wastage norms, maintenance of records, and prohibition on unauthorized disposal or diversion of input goods; or

(iii) payment of any duties, taxes, fines, penalties, surcharges, or other lawful charges that may be assessed, imposed, adjudged, or otherwise determined by any competent authority, adjudicating forum or court of law as payable by the Principal to the Beneficiary, as a consequence of any breach, default, or violation of its Obligations under the Scheme.

2. Maximum Liability/ Guaranteed Sum

2.1 The total/maximum liability of the Guarantor under this Guarantee shall not exceed the amount/sum of PKR_____ [insert amount in figures and words] (the “Guaranteed Sum”).

3. Nature of Guarantee

3.1 This Guarantee is:

- (i) Irrevocable and unconditional;
- (ii) Enforceable on the first written demand by the Beneficiary without proof or conditions, and without reference/recourse to the Principal; and
- (iii) Independent of any dispute, contest, or objection of whatsoever nature by the Principal or the Guarantor.

4. Demand and Terms of Payment of Guaranteed Sum

4.1 A demand in writing (“Demand”) by the Beneficiary stating that any sum or sums are due and payable by the Guarantor under the terms of the Scheme shall be a sufficient demand under this Guarantee.

4.2 In the event of any default, delay, or failure by the Principal to perform all or any of its Obligations under the Scheme, of which event the Beneficiary shall be the sole arbiter, the Guarantor shall, upon the Beneficiary’s / Collector of Customs’, [insert Collectorate name] first (1st) written Demand, immediately pay to the Beneficiary / Collector of Customs’, [insert Collectorate name] the Guaranteed Sum, or any part of the Guaranteed Sum as specified in the Demand, in such a manner as the Beneficiary may specify.

4.3 The Beneficiary’s Demand shall state that the Principal has defaulted in, delayed, or failed, to perform all or any of the Obligations under the Scheme, and such statement shall be sufficient and conclusive for invoking this Guarantee. The decision of the Beneficiary in this regard shall be final and binding on the Guarantor, and shall not be questioned, challenged or disputed by the Guarantor or the Principal in any manner.

4.4 The Beneficiary shall be the sole and final judge for deciding whether the Principal has duly performed its Obligations under the Scheme or has defaulted in fulfilling the said Obligations, and the Guarantor further agrees that the Guarantor’s liability under this Guarantee shall be independent of any dispute between the Beneficiary and the Principal, whatsoever.

4.5 The Guarantor hereby binds itself absolutely, unconditionally and irrevocably to pay the Guaranteed Sum (or any part thereof), upon the Beneficiary’s Demand, without protest, demur, set-off, counterclaim, or reference to the Principal and without reliance upon or recourse to any arrangement executed between the Principal and the Beneficiary, and expressly waives all its rights to contest, deny or delay its obligations to the Beneficiary under this Guarantee, irrespective of any dispute, difference or disagreement between the Principal and the Beneficiary or any objection raised by any other party.

4.6 The Beneficiary may, at any time during the validity of this Guarantee, make one or more Demands for payment of the whole or any part of the Guaranteed Sum. Any partial payment made by the Guarantor pursuant to such Demands shall not discharge or diminish this Guarantee, which shall continue to remain in full force and effect for the balance amount of the Guaranteed Sum until the validity of this Guarantee.

4.7 The Guarantor shall pay the Guaranteed Sum or any part thereof, due under this Guarantee in Pakistani Rupees (PKR) immediately upon the receipt of the Demand, without any deduction, set-off, counterclaim, reduction, or diminution.

4.8 The Demand(s) made by the Beneficiary under this Guarantee may be communicated/transmitted by fax, email, hand delivery, or courier at the discretion of the Beneficiary. Notwithstanding anything contained in this clause, the Beneficiary may at any time, at its sole discretion, issue an original duly signed and stamped Demand, in which case such Demand shall be conclusive and binding on the Guarantor.

4.9 The Guarantor's obligations under this Guarantee shall remain absolute, unconditional and binding and shall not be modified, reduced, impaired, or otherwise affected in any manner whatsoever during the validity of this Guarantee, notwithstanding any extension, discharge, amendment, variation or alteration in the terms of the Scheme or in the Obligations of the Principal thereunder. The Guarantor hereby gives its advance consent to such extension, discharge, amendment, variation or alteration in the Scheme or in the Obligations of the Principal thereunder.

5. Validity Period of Guarantee

5.1 This Guarantee and the Guarantor's obligations hereunder shall remain valid and in full force and effect until the earlier of:

- (i) the expiry date of _____ [insert the expiry date of the Guarantee **not less than the Authorization Period plus twelve (12) months**];
- (ii) payment in full by the Guarantor to the Beneficiary of the Guaranteed Sum; or
- (iii) discharge in writing by the Beneficiary.

5.2 If a Demand is made by the Beneficiary under this Guarantee within the validity period of this Guarantee and this Guarantee subsequently expires, the Guarantor shall be bound to honour the said Demand and pay the amount mentioned in the Demand as per the terms of this Guarantee notwithstanding the subsequent expiry of the Guarantee.

6. Preservation of Rights, Waiver and Partial Invalidity

6.1 The obligations of the Guarantor under this Guarantee shall not be discharged, released or effected by reason of, or on account of, any of the following:

- (i) any extension of time, indulgence, or waiver granted to or agreed to be granted to the Principal in respect of the Obligations under or pursuant to the Scheme.

- (ii) any legal limitation, incapacity, disability or other restriction affecting the Principal.
- (iii) the liquidation, winding-up, dissolution, administration, reorganization, amalgamation, or any change in status, function, control or ownership of the Principal.
- (iv) the invalidity, illegality or unenforceability, in whole or in part, of any of the provisions of this Guarantee or of any Obligations of the Principal under the Scheme.
- (v) the exercise by the Beneficiary of its right under Section 202 of the Customs Act, 1969, including any modifications, amendments or re-enactments thereof; to proceed directly against the Principal.

6.2 No failure, delay or omission by the Beneficiary in exercising any of its right, power or privilege under this Guarantee shall operate as, impair, or be construed as a waiver thereof; nor shall any single or partial exercise of any such right, power or privilege preclude any further or subsequent exercise thereof or the exercise of any other right, power or privilege

6.3 The Guarantor irrevocably and unconditionally waives any right it may have to require the Beneficiary, as a condition precedent to the making of any Demand or the enforcement of this Guarantee, to first proceed against, make demand upon, or exhaust any other remedies available against the Principal, before making a Demand on the Guarantor under this Guarantee.

6.4 The invalidity, illegality or unenforceability in whole or in part of any of the provisions of this Guarantee shall not affect the validity, legality and enforceability of the remaining part or provisions of this Guarantee to the maximum extent permitted by law.

7. Representation and Warranties

7.1 The Guarantor hereby represents and warrants that:

- (i) it has taken all the necessary corporate actions and obtained all requisite authorizations to execute, perform and deliver this Guarantee in favor of the Beneficiary;
- (ii) it is duly empowered under the applicable laws of Pakistan, and its constitutive documents, including memorandum and articles of association, to execute and deliver this Guarantee and to perform its obligations hereunder;
- (iii) it has secured/obtained from the Principal, and shall at all times during the validity of this Guarantee continue to maintain sufficient collateral/security in terms of the Credit and Suretyship (Conduct of Business) Rules, 2018, including any modifications, amendments or re-enactments thereof (the “Credit and Suretyship Rules”), or under any other relevant rules/directive of the Securities & Exchange Commission of Pakistan, and shall, upon written request from the Beneficiary, promptly provide a certificate evidencing the existence, sufficiency and maintenance of such collateral/security.
- (iv) the issuance of this Guarantee has not contravened the “net retained exposure” and “aggregate net retained exposure” limits prescribed under the Credit and Suretyship Rules and that it shall, at all times during the validity of this Guarantee, ensure that its “net retained

exposure” and “aggregate net retained exposure” do not exceed the limits prescribed under the Credit and Suretyship Rules and/or under any other relevant rules/directive of the Securities & Exchange Commission of Pakistan.

(v) this Guarantee has been duly executed by the Guarantor's duly authorized representatives and constitutes a legal, valid, and binding obligation of the Guarantor, enforceable in accordance with its terms;

(vi) this Guarantee has been executed and delivered to the Beneficiary for a valid commercial consideration between the Principal and the Beneficiary, and the Guarantor shall raise no objection, claim or defence on the grounds of lack of consideration or any other similar ground.

(vii) the Guarantor has a [insert the rating (AAA (ifs) or AA++ (ifs))] PACRA credit rating at the time of issuance of this Guarantee.

8. Governing Law and Jurisdiction

8.1 This Guarantee shall be governed by and construed exclusively in accordance with the laws of Pakistan, and shall be subject to the exclusive jurisdiction of the competent courts of Pakistan as defined under the relevant provisions of the Customs Act, 1969.

IN WITNESSES WHEREOF, this Guarantee is executed on this ____ day of ____ 20__ by the Guarantor.

[insert name and designation of authorized
signatory]
For and on behalf of
[insert the name of Insurance Company]
(Guarantor)

Witnesses:

1. Signature: _____

Name: _____

Address: _____

CNIC No: _____

2. Signature: _____

Name: _____

Address: _____

CNIC No: _____