

GUARANTEE

dated [\_\_\_\_\_]

created by

*GULF OIL INTERNATIONAL LIMITED*

as the Guarantor

in favour of

*ICICI BANK UK PLC*

as the Lender

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THIS DEED is dated [ ] and made between:

- (1) Gulf Oil International Limited, Grand Cayman, a company incorporated under the laws of The Cayman Islands and having its registered office at Sterling Trust (Cayman) Limited, Whitehall House, 238 North Church Street, P.O. Box 1043, George Town, Grand Cayman, Cayman Islands with registration number 63831, as guarantor (the "**Guarantor**"); and
- (2) ICICI BANK UK PLC, a company incorporated under the laws of England and Wales with registration number 4663024, as lender (the "**Lender**").

## **Background**

- (A) Pursuant to the facility agreement dated August 08, 2008 (as amended from time to time), (the "Facility Agreement") entered into between inter alia the Borrower (as defined below) and the Lender, the Lender provided the Borrower facilities aggregating USD 17,000,000 (US Dollars Seventeen Million Only) ("Facilities") for the purposes of and upon the terms and conditions provided in the Original Agreement.
- (B) One of the conditions for the Borrower to avail and continue availing the Facilities (defined below) is that the Guarantor will provide an unconditional and irrevocable guarantee in favour of the Lender in respect of the obligations and liabilities of the Borrower in relation to the Facilities in such manner and form as may be prescribed by the Lender.
- (C) The Guarantor is entering into this Deed in connection with the Finance Documents.
- (D) The Board of Directors of the Guarantor is satisfied that entering into this Deed is for the purposes and to the benefit of the Guarantor and its business.
- (E) The Lender and the Guarantor intend this document to take effect as a deed (even though the Lender only executes it under hand).

IT IS AGREED as follows:

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

In this Deed:

**"Borrower"** means Gulf Oil Marine Limited, a company incorporated under the laws of Hong Kong and having its registered office at 8<sup>th</sup> floor, Gloucester Road, the Landmark, 15<sup>th</sup> Queens Road Central, Hong Kong with registration number 16912984-000-05-19-9.

**"Compliance Certificate"** means a certificate substantially in the form set out in Schedule 1 (*Form of Compliance Certificate*) which is required to be delivered to the Lender from time to time pursuant to Clause 8.2 (*Compliance Certificate*).

**"Expiry Date"** has the meaning ascribed to it in Clause 2.10.

**"Facility Agreement"** means the USD 4.0 million short term redrawable on-demand loan facility agreement dated August 08, 2008 between the Borrower and the Lender as amended from time to time.

**"Finance documents"** has the meaning ascribed to it in the Facility Agreement.

**"Guaranteed Obligations"** means all the obligations and liabilities of the Borrower in relation to the Facilities being guaranteed by the Guarantor in under and in accordance with this Deed.

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

**"Repeating Representations"** means each of the representations set out in Clause 7 (*Representations*).

**1.1 Incorporation of defined terms**

- (a) Unless a contrary indication appears, a term defined in the Facility Agreement has the same meaning in this Deed.
- (b) The principles of construction set out in the Facility Agreement shall have effect as if set out in this Deed.

**1.2 Clauses**

In this Deed any reference to a "Clause" or a "Schedule" is, unless the context otherwise requires, a reference to a Clause of or a Schedule to this Deed.

**1.3 Third Party Rights**

- (a) Except as provided in a Finance Document, the terms of a Finance Document may be enforced and enjoyed only by a party to it and the operation of the Third Parties Act is excluded.
- (b) Notwithstanding any provision of any Finance Document, the consent of any person who is not a party to a Finance Document is not required to vary, rescind or terminate that Finance Document.

**2. GUARANTEE AND INDEMNITY**

**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 obligations under the Finance Documents;
- (b) undertakes with the Lender that whenever the Borrower does not pay any amount when due under or in connection with any Finance Document, the Guarantor shall subject to Clause 2.10 immediately on demand pay that amount as if it was the principal obligor; and
- (c) indemnifies the Lender immediately on demand against any cost, loss or liability suffered by it if any obligation guaranteed by it (or anything which would have been an obligation if not unenforceable, invalid or illegal) is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which the Lender would otherwise have been entitled to recover.

**2.2 Continuing guarantee**

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

### 2.3 Reinstatement

If any payment to or any discharge given by the Lender (whether in respect of the obligations of the Borrower and/or the Guarantor or any security for those obligations or otherwise) is avoided or reduced for any reason including, without limitation, as a result of insolvency, breach of fiduciary or statutory duties or any other reason:

- (a) the liability of the Guarantor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) the Lender shall be entitled to recover the value or amount of that security or payment from the Guarantor, as if the payment, discharge, avoidance or reduction had not occurred.

### 2.4 Waiver of defences

The obligations of the Guarantor under this Clause 2 will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Clause 2 (without limitation and whether or not known to it or the Lender) 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 or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, execute, 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 (however fundamental) or replacement of a Finance Document or any 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;
- (g) any insolvency or similar proceedings; or
- (h) this Deed or any other Finance Document not being executed by or binding against any person.

### 2.5 Immediate recourse

The Guarantor waives any right it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Clause 2. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

## **2.6 Appropriations**

Until all amounts which may be or become payable by the Borrower or the Guarantor 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 Clause 2.

## **2.7 Deferral of Guarantor's rights**

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

- (a) to be indemnified by the Borrower;
- (b) to claim any contribution from any other guarantor of, or provider of Security or any other assurance for, the Borrower's obligations under the Finance Documents; and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Lender.

## **2.8 Additional security**

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

## **2.9 Maximum Liability**

Notwithstanding anything to the contrary stated herein and excluding the amount of any interest payable by the Guarantor for failing to timely make any payments due from it under this Deed, the liability of the Guarantor under this Deed will not exceed USD 17,850,000.

## **2.10 Expiry**

Subject to Clause 2.2, this Deed will expire on the earlier of the date ("Expiry Date") on which all amounts payable by the Guarantor under this Deed are repaid and discharged in full or within 6 years from date of this deed.

## **3. INTEREST**

### **3.1 Default interest**

If the Guarantor fails to pay any amount payable by it under this Deed or any other Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which is the sum of two per cent and the rate which would have been payable under the Facility Agreement if the overdue

amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Lender (acting reasonably). Any interest accruing under this Clause 3.1 shall be immediately payable by the Guarantor on demand by the Lender.

**3.2 Compounding**

Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

**3.3 Notification of rates of default interest**

The Lender shall promptly notify the Guarantor of the determination of a rate of default interest under this Deed.

**4. TAX GROSS UP AND INDEMNITIES**

**4.1 Definitions**

**(a) In this Deed:**

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

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

"**Tax Payment**" means either the increase in a payment made by the Guarantor to the Lender under Clause 4.2 (*Tax gross-up*) or a payment under Clause 4.3 (*Tax indemnity*).

**(b) 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**

**(a) All payments to be made by the Guarantor to the Lender under or in connection with this Deed or any other Finance Document shall be made free and clear of and without any Tax Deduction, unless a Tax Deduction is required by law in which case the sum payable by the Guarantor shall be increased to the extent necessary to ensure that the Lender concerned receives a sum, net of any Tax Deduction, equal to the sum which it would have received if no Tax Deduction had been required.**

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

**(c) If the Guarantor is required to make a Tax Deduction, it 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.**

**(d) 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 Lender an original receipt (or certified copy**

thereof) evidencing to the reasonable satisfaction of the Lender that the Tax Deduction has been made or (as applicable) any appropriate payment has been paid to the relevant taxing authority.

#### **4.3 Tax indemnity**

- (a) Without prejudice to Clause 4.2 (*Tax gross-up*), if the Lender is required to make any payment of or on account of Tax on or in relation to any sum received or receivable under or in connection with this Deed (including any sum deemed for purposes of Tax to be received or receivable by such Lender, whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against the Lender, the Guarantor shall (within three Business Days of demand by the Lender) indemnify the Lender against such payment or liability together with any interest, penalties, costs and expenses payable or incurred in connection therewith.
- (b) Paragraph (a) above shall not apply:
  - (i) with respect to any Tax imposed:
    - (A) by the jurisdiction in which the Lender is incorporated or, if different, the jurisdiction (or jurisdictions) in which the Lender is treated as resident for tax purposes; or
    - (B) by the jurisdiction in which the Lender's Facility Office is located, which is calculated by reference to the net income actually received or receivable (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by the Lender but not actually received or receivable) by the Lender; or
  - (ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 4.2 (*Tax gross-up*).
- (c) If the Lender makes, or intends to make, a claim under paragraph (a) above, it shall promptly notify the Guarantor of the event which will give, or has given, rise to the claim.

#### **4.4 Stamp taxes**

To the extent not paid by the Borrower, the Guarantor shall pay and, within three Business Days of demand, indemnify the Lender against any cost, loss or liability the Lender incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of this Deed.

#### **4.5 Indirect Tax**

- (a) All consideration expressed to be payable under a Finance Document by any Party to the Lender shall be deemed to be exclusive of any Indirect Tax. If any Indirect Tax is chargeable on any supply made by the Lender to any Party in connection with a Finance Document, that Party shall pay to the Lender (in addition to and at the same time as paying the consideration) an amount equal to the amount of the Indirect Tax.
- (b) Where a Finance Document requires any Party to reimburse the Lender for any costs or expenses, that Party shall also at the same time pay and indemnify the Lender against all Indirect Tax incurred by the Lender in respect of the costs or expenses.



#### 4.6 Tax Credit

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

- (a) a Tax Credit is attributable either to an increased payment of which that Tax Payment forms part or to that Tax Payment; and
- (b) the Lender has obtained, utilised and fully retained that Tax Credit on an affiliated group basis,

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

#### 5. OTHER INDEMNITIES

##### 5.1 Currency indemnity

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

- (i) making or filing a claim or proof against the Guarantor; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

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

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

##### 5.2 Indemnities separate

Each indemnity in each Finance Document shall:

- (a) constitute a separate and independent obligation from the other obligations in that or any other Finance Document;
- (b) give rise to a separate and independent cause of action;
- (c) apply irrespective of any indulgence granted by the Lender;
- (d) continue in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of any sum due under any Finance Document or any other judgment or order; and
- (e) apply whether or not any claim under it relates to any matter disclosed by the Guarantor or otherwise known to the Lender.

## **6. COSTS AND EXPENSES**

### **6.1 Transaction expenses**

To the extent not paid by the Borrower, the Guarantor shall within three Business Days of demand pay the Lender the amount of all costs and expenses (including legal fees) reasonably incurred by it in connection with the negotiation, preparation, printing and execution of:

- (a) this Deed and any other documents referred to in this Deed; and
- (b) any other Finance Documents executed after the date of this Deed.

### **6.2 Amendment costs**

If the Guarantor requests an amendment, waiver or consent, to the extent not paid by the Borrower, the Guarantor shall, within three Business Days of demand, reimburse the Lender for the amount of all costs and expenses (including legal fees) reasonably incurred by the Lender in responding to, evaluating, negotiating or complying with that request.

### **6.3 Enforcement costs**

To the extent not paid by the Borrower, the Guarantor shall, within three Business Days of demand, pay to the Lender the amount of all costs and expenses (including legal fees) incurred by the Lender in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

## **7. REPRESENTATIONS**

The Guarantor makes the representations and warranties set out in this Clause 7 to the Lender on the date of this Deed.

### **7.1 Status**

- (a) It is a company, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (b) It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

### **7.2 Binding obligations**

The obligations expressed to be assumed by it in each Finance Document are legal, valid and binding and subject to any general principles of law limiting its obligations which are specifically referred to in any legal opinion accepted pursuant to Clause 4 (*Conditions of Utilisation*) of the Facility Agreement, are enforceable.

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

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

- (a) any law or regulation applicable to it;
- (b) it's or any of its Subsidiaries' constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its Subsidiaries or any of its or any of its Subsidiaries' assets,

nor [(except as provided in any Security Document to which it is a party)] result in the existence of, or oblige it or any of its Subsidiaries to create, any Security over any of their respective assets.

#### **7.4 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, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

#### **7.5 Validity and admissibility in evidence**

All Authorisations required or desirable:

- (a) 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;
- (b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation;
- (c) for it and its Subsidiaries to carry on its and their business,

have been obtained or effected and are in full force and effect, subject to any registrations specifically referred to in any legal opinion accepted pursuant to Clause 4 (*Conditions of Utilisation*) of the Facility Agreement.

#### **7.6 Governing law and enforcement**

- (a) Subject to any matters specifically referred to in any legal opinion accepted pursuant to Clause 4 (*Conditions of Utilisation*) of the Facility Agreement the choice of English law as the governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation.
- (b) [Subject to any matters specifically referred to in any legal opinion accepted pursuant to Clause 4 (*Conditions of Utilisation*) of the Facility Agreement any judgment obtained in England in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation.

#### **7.7 Deduction of Tax**

Subject to any matters specifically referred to in any legal opinion accepted pursuant to Clause 4 (*Conditions of Utilisation*) of the Facility Agreement, it is not required to make any deduction for or on account of Tax from any payment it may make under any Finance Document.

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

Subject to any matters specifically referred to in any legal opinion accepted pursuant to Clause 4 (*Conditions of Utilisation*) of the Facility Agreement, under the law of its jurisdiction of incorporation it is not necessary that the Finance Documents 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 the Finance Documents or the transactions contemplated by the Finance Documents, save that Cayman Islands stamp duty may be payable if the original Finance Documents are brought to or executed in the Cayman Islands.

**7.9 No default**

- (a) No Default is continuing or might reasonably be expected to result from the making of any Utilisation.
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which might have a Material Adverse Effect.

**7.10 No misleading information**

- (a) Any factual information provided by or on behalf of any member of the Group in connection with the Facility was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (b) Any financial projections provided by or on behalf of any member of the Group were prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- (c) Nothing has occurred or been omitted from the information so provided and no information has been given or withheld that results in that information provided by or on behalf of any member of the Group being untrue or misleading in any material respect.

**7.11 Financial statements**

- (a) Its Original Financial Statements were prepared in accordance with GAAP consistently applied.
- (b) Its Original Financial Statements give a true and fair view of its financial condition and operations as at the end of and for the relevant financial year.
- (c) There has been no material adverse change in its condition (financial or otherwise), assets, operations, prospects or business or in the consolidated condition (financial or otherwise), assets, operations, prospects or business of the Group since April 01, 2012.

**7.12 Pari passu ranking**

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

**7.13 No proceedings pending or threatened**

No litigation, arbitration, investigative or administrative proceedings of or before any court, arbitral body or agency (including any arising from or relating to Environmental Law) which, if adversely determined, might have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against it or any of its Subsidiaries.

**7.14 Environmental laws and licences**

It and each of its Subsidiaries has:

- (a) complied with all Environmental Laws to which it may be subject;
- (b) obtained all Environmental Licences required or desirable in connection with its business; and
- (c) complied with the terms of those Environmental Licences,

in each case where failure to do so might have a Material Adverse Effect.

#### 7.15 Environmental releases

No:

- (a) property currently or previously owned, leased, occupied or controlled by it or any of its Subsidiaries (including any offsite waste management or disposal location utilised by it or any of its Subsidiaries) is contaminated with any Hazardous Substance; and
- (b) discharge, release, leaching, migration or escape of any Hazardous Substance into the Environment has occurred or is occurring on, under or from that property,

in each case in circumstances where this might have a Material Adverse Effect.

#### 7.16 Title

It (and each other member of the Group) has good and marketable title to, or valid leases and licences of or is otherwise entitled to use, all material assets necessary or desirable for it to carry on its business as it is being or is proposed to be conducted.

#### 7.17 No immunity

Neither it nor any of its assets is entitled to immunity from suit, execution, attachment or other legal process in England or India. Its entry into the Finance Documents constitutes, and the exercise of its rights and performance of and compliance with its obligations under the Finance Documents will constitute, private and commercial acts done and performed for private and commercial purposes.

#### 7.18 Solvency

- (a) It is able to, and has not admitted its inability to, pay its debts as they mature and has not suspended making payment on any of its debts.
- (b) It, by reason of actual or anticipated financial difficulties, has not commenced, and does not intend to commence, negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- (c) The value of its assets is more than its liabilities (taking into account contingent and prospective liabilities) and it has sufficient capital to carry on its business.
- (d) No moratorium has been, or may, in the reasonably foreseeable future be, declared in respect of any of its indebtedness.

#### 7.19 Authorised signatories

Each person specified as its authorised signatory in any document accepted by the Lender pursuant to paragraph 1(c) of Part I (*Conditions precedent to initial Utilisation*) of Schedule 1 (*Conditions precedent*) of the Facility Agreement or delivered to the Lender pursuant to paragraph (e) of Clause 8.4 (*Information: miscellaneous*) is, subject to any notice to the contrary delivered to the Lender pursuant to Clause 8.4 (*Information: miscellaneous*), authorised to sign all notices on its behalf under or in connection with the Finance Documents.

#### 7.20 Repetition

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 the first day of each Interest Period.

## **8. INFORMATION UNDERTAKINGS**

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

### **8.1 Financial statements**

The Guarantor shall supply to the Lender as soon as the same become available, but in any event within 180 days after the end of each of its financial years its audited financial statements (both consolidated and non-consolidated) for that financial year.

### **8.2 Compliance Certificate**

- (a) The Guarantor shall supply to the Lender, with each set of financial statements delivered pursuant to Clause 8.1 (*Financial statements*), a Compliance Certificate confirming no Default has occurred.
- (b) Each Compliance Certificate shall be signed by two authorised signatories of the Guarantor and, in the case of the financial statements delivered pursuant to paragraph (a) of Clause 8.1 (*Financial statements*), shall be signed by the Guarantor's auditors in the form specified in Schedule 1 (*Compliance Certificate*).

### **8.3 Requirements as to financial statements**

- (a) Each set of financial statements delivered pursuant to Clause 8.1 (*Financial statements*) shall be certified by a director of the relevant company as giving a true and fair view of its (or, as the case may be, the Group's consolidated) financial condition and operations as at the end of and for the period in relation to which those financial statements were drawn up.
- (b) The Guarantor shall procure that each set of financial statements delivered pursuant to Clause 8.1 (*Financial statements*) is prepared using GAAP.

### **8.4 Information: miscellaneous**

The Guarantor shall supply to the Lender:

- (a) all documents dispatched by the Guarantor to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;
- (b) promptly upon becoming aware of them, the details of any action or steps taken or legal proceedings started by or against it in any court of law for its winding-up, dissolution, administration or reorganisation or for the appointment of a judicial manager, receiver, administrator, liquidator, custodian, administrative receiver, trustee or similar officer of an Obligor or any of its assets;
- (c) promptly upon becoming aware of them, the details of any other litigation, arbitration, investigative or administrative proceedings which are current, threatened or pending against any member of the Group, and which might, if adversely determined, have a Material Adverse Effect;
- (d) promptly, such further information regarding the financial condition, business and operations of any member of the Group as the Lender (through the Lender) may reasonably request; and

- (e) promptly, notice of any change in the authorised signatories of the Guarantor, signed by a Director or the secretary of the Guarantor, whose specimen signature has previously been provided to the Lender, accompanied (where relevant) by a specimen signature of each new signatory.

#### **8.5 Notification of default**

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

#### **8.6 Access to books and records**

Upon the request of the Lender, the Guarantor shall provide the Lender and any of its representatives, professional advisers and contractors with access to and permit inspection by them of the assets, premises, books and records of any member of the Group in each case at reasonable times and upon reasonable notice.

#### **8.7 "Know your customer" checks**

If:

- (a) 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 Deed;
- (b) any change in the status of the Guarantor after the date of this Deed; or
- (c) a proposed assignment or transfer by the Lender of any of its rights and obligations under this Deed,

obliges the Lender (or, in the case of paragraph (c) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Guarantor shall promptly upon the request of the Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Lender (for itself or, in the case of the event described in paragraph (c) above, on behalf of any prospective new Lender) in order for the Lender (or, in the case of the event described in paragraph (c) 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.

### **9. GENERAL UNDERTAKINGS**

The undertakings in this Clause 9 remain in force from the date of this Deed for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

#### **9.1 Authorisations**

- (a) The Guarantor shall promptly:
  - (i) obtain, comply with and do all that is necessary to maintain in full force and effect; and

(ii) supply certified copies to the Lender of,

any Authorisation required under any law or regulation to enable it to perform its obligations under the Finance Documents (including, without limitation, in connection with any payment to be made thereunder) and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document or (in the case of paragraph (i) above only) otherwise required for a purpose specified in Clause 7.5 (*Validity and admissibility in evidence*).

- (b) [The Guarantor shall promptly make the registrations, obtain all Authorisations and otherwise comply with other requirements specifically referred to in any legal opinion accepted pursuant to Clause 4 (*Conditions of Utilisation*) of the Facility Agreement.

**9.2 Compliance with laws**

The Guarantor shall comply in all respects with all laws and regulations to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents.

**9.3 Negative pledge**

- (a) The Guarantor shall not (and shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets, without the prior consent of the Lender.
- (b) The Guarantor shall not (and shall ensure that no other member of the Group will), without the prior consent of the Lender:
- (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by any member of the Group;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into or permit to subsist any title retention arrangement;
  - (iv) enter into or permit to subsist any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
  - (v) enter into or permit to subsist any other preferential arrangement having a similar effect,
- in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.
- (c) Paragraphs (a) and (b) above do not apply to:
- (i) any Security listed in Schedule 5 (*Existing Security*) of the Facility Agreement except to the extent the principal amount secured by that Security exceeds the amount stated in that Schedule;
  - (ii) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;



- (iii) any lien arising by operation of law and in the ordinary course of trading so long as the debt which it secures is paid when due or contested in good faith by appropriate proceedings and properly provisioned;
- (iv) title retention arrangements arising pursuant to a supplier's usual terms of supply provided that there is no default in payment for any goods so supplied (and no other event is subsisting) which might entitle the supplier to reclaim possession of the relevant goods;
- (v) any Security created pursuant to any Finance Document; or
- (vi) any Security securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of Security given by any member of the Group other than any permitted under paragraphs (i) to (v) above) does not exceed USD 20,000,000 (or its equivalent in another currency or currencies).

#### **9.4 Disposals**

- (a) The Guarantor shall not (and shall ensure that no other member of the Group will) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, transfer or otherwise dispose of any asset, without the prior consent of the Lender.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal of an asset:
  - (i) made in the ordinary course of trading of the disposing entity;
  - (ii) of assets in exchange for other assets comparable or superior as to type, value and quality and for a similar purpose; or
  - (iii) where the higher of the market value or consideration receivable (when aggregated with the higher of the market value or consideration receivable for any other sale, lease, transfer or other disposal, other than any permitted under paragraphs (i) or (ii) above) does not exceed USD 10,000,000 (or its equivalent in another currency or currencies) in any financial year.

#### **9.5 Merger**

The Guarantor shall not (and shall ensure that no other member of the Group will) enter into any amalgamation, demerger, merger or corporate reconstruction, without the prior consent of the Lender.

#### **9.6 Ownership and Management Control**

Until the Final Settlement Date, the Guarantor will directly or indirectly own 100% of the share capital and voting rights of the Borrower.

#### **9.7 Change of business**

The Guarantor shall procure that no substantial change is made to the general nature of the business of the Guarantor or the Group taken as a whole from that carried on at the date of this Deed, without the prior consent of the Lender.

#### 9.8 Insurance

The Guarantor shall (and shall ensure that each other member of the Group will) maintain insurances on and in relation to its business and assets with reputable underwriters or insurance companies against those risks, and to the extent, usually insured against by prudent companies located in the same or a similar location and carrying on a similar business.

#### 9.9 Environmental undertakings

The Guarantor shall (and shall ensure that each other member of the Group will):

- (a) comply with all Environmental Laws to which it may be subject;
  - (b) obtain all Environmental Licences required or desirable in connection with its business; and
  - (c) comply with the terms of all those Environmental Licences,
- in each case where failure to do so might have a Material Adverse Effect.

#### 9.10 Environmental claims

The Guarantor shall (and shall ensure that each other member of the Group will) promptly notify the Lender of any claim, notice or other communication received by it in respect of any actual or alleged breach of or liability under Environmental Law which, if substantiated, might have a Material Adverse Effect.

#### 9.11 Financial Indebtedness

The Guarantor shall not (and shall ensure that no other member of the Group shall) incur or permit to subsist any Financial Indebtedness other than:

- (a) Financial Indebtedness arising under the Finance Documents;
- (b) Financial Indebtedness incurred with the prior consent of the Lender;
- (c) Financial Indebtedness due from one member of the Group to another to the extent expressly permitted under Clause 9.13 (*Loans and guarantees*); and
- (d) Financial Indebtedness (in addition to that permitted under paragraph (a) to (c) above) in an aggregate principal amount not exceeding USD 20,000,000 (or its equivalent in any other currency or currencies).

#### 9.12 Acquisitions and investments

The Guarantor shall not (and shall ensure that no other member of the Group shall), without the prior consent of the Lender:

- (a) invest in or acquire, whether by incorporation or otherwise, any share in or any security issued by any person, or any interest therein or in the capital of any person, or make any capital contribution to any person;
- (b) invest in or acquire any business or going concern, or the whole or substantially the whole business of the assets, property or business of any person or any assets that constitute a division or operating unit of the business of any person; or
- (c) enter into any joint venture, consortium, partnership or similar arrangement with any person.

#### **9.13 Financial year**

The Guarantor shall not alter (and shall ensure that no member of the Group alters) its financial year so that such financial year ends on any date other than on 31 March of each year, without the prior consent of the Lender.

#### **9.14 Loans and guarantees**

- (a) The Guarantor shall not (and shall ensure that no other member of the Group will), without the prior consent of the Lender:
- (i) make any loan, or provide any form of credit or financial accommodation, to any other person; or
  - (ii) give or issue any guarantee, indemnity, bond or letter of credit to or for the benefit of any person; or
  - (iii) permit to subsist any guarantee of any Financial Indebtedness of any of its Subsidiaries.
- (b) Paragraph (a) above does not apply to trade credit given in the ordinary course of trading on normal commercial terms.

#### **9.15 Arm's length dealings**

The Guarantor shall not (and shall ensure that no other member of the Group will) enter into any arrangement, agreement or commitment with any person or pay any fees, commissions or other sums on any account whatsoever to any persons other than:

- (a) in the ordinary course of trading, at arm's length and on normal commercial terms; or
- (b) as required by the Finance Documents.

#### **9.16 Restricted payments**

The Guarantor shall not, without the prior consent of the Lender:

- (a) pay, repay or prepay any principal, interest or other amount on or in respect of, or redeem, purchase or defease any Financial Indebtedness owed actually or contingently, to any shareholder of the Guarantor or to any Affiliate of any shareholder of the Guarantor;
- (b) declare, pay or make any dividend or other payment or distributor of any kind on or in respect of any class of its shares; or
- (c) reduce, return, purchase, repay, cancel or redeem any of its share capital.

#### **9.17 Taxes**

- (a) The Guarantor shall pay and discharge all Taxes, rates, rents and governmental charges upon the Guarantor and its assets before penalties become attached thereto and shall establish adequate reserves for the payment of any Taxes, rates, rents and governmental charges becoming due unless such Taxes, rates, rent and governmental charges are being contested in good faith by appropriate proceedings.
- (b) The Guarantor shall make all filings required under applicable laws and regulations (including, without limitation, the obligations to file tax returns with any relevant Governmental Agency).

## **10. CHANGES TO THE PARTIES**

### **10.1 Changes to the Lender**

The Lender may assign any of its rights or transfer by novation any of its rights and obligations (including, without limitation, under this Deed and the other Finance Documents) in accordance with Clause 23 (*Changes to the Lender*) of the Facility Agreement, without the prior consent of, or notice to, the Guarantor.

### **10.2 Changes to the Guarantor**

The Guarantor may not assign any of its rights or transfer any of its rights or obligations under this Deed or the other Finance Documents.

## **11. INCORPORATION OF TERMS**

The provisions of Clause 25 (*Conduct of business by the Lender*) and Clause 26 (*Payment Mechanics*) to Clause 33 (*Counterparts*) of the Facility Agreement shall be incorporated into this Deed as if set out in full in this Deed and as if references in those clauses to "this Agreement" and "the Borrower" were references to this Deed and the Guarantor, and provided that the address and fax number (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 Deed or any other Finance Document is that identified below or any substitute address, fax number or department or officer as the Party may notify to the other Parties by not less than five Business Days' notice.

The Guarantor

Address: Gulf Oil International Limited, Grand Cayman, Sterling Trust (Cayman) Limited,  
Whitehall House, 238 North Church Street, P.O. Box 1043, George Town, Grand Cayman,  
Cayman Islands

Fax No.: +345 949 8062

Attention: Mr. Durga Patnaik

The Lender

Address: ICICI BANK UK PLC, One Thomas More Square, London E1W 1YN  
United Kingdom

Fax No.: +44 20 77021507

Attention: Mr Vikash Mehta (Head – Corporate and Commercial Banking)

## **12. GOVERNING LAW**

This Deed is governed by English law.

### 13. ENFORCEMENT

#### 13.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) (a "**Dispute**").
- (b) 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.
- (c) This Clause 13.1 is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

#### 13.2 Consent to Enforcement etc.

The Guarantor irrevocably and generally consents in respect of any proceedings anywhere in connection with any Finance Document to the giving of any relief or the issue of any process in connection with those proceedings including, without limitation, the making, enforcement or execution against any assets whatsoever (irrespective of their use or intended use) of any order or judgment which may be made or given in those proceedings.

#### 13.3 Waiver of Immunity

The Guarantor irrevocably agrees that, should any Party take any proceedings anywhere (whether for an injunction, specific performance, damages or otherwise in connection with any Finance Document), no immunity (to the extent that it may at any time exist, whether on the grounds of sovereignty or otherwise) from those proceedings, from attachment (whether in aid of execution, before judgment or otherwise) of its assets or from execution of judgment shall be claimed by it or with respect to its assets, any such immunity being irrevocably waived. The Guarantor irrevocably agrees that it and its assets are, and shall be, subject to such proceedings, attachment or execution in respect of its obligations under the Finance Documents.

#### 13.4 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Guarantor: irrevocably appoints Mr. Richard Hoare (whose address is, at the date of this Deed, Gulf Oil International UK Limited, 16 Charles II Street, London, SW1Y 4QU, UK) as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and agrees that failure by a process agent to notify the Guarantor of the process will not invalidate the proceedings concerned.]

**This Deed has been entered into on the date stated at the beginning of this Deed.**

**SCHEDULE 1**  
**COMPLIANCE CERTIFICATE**

To: ICICI Bank UK PLC as Lender

From: [Guarantor]

Dated:

Dear Sirs

**[Guarantor] - Guarantee dated [ ] (the "Guarantee")**

1. We refer to the Guarantee. This is a Compliance Certificate. Terms defined in the Guarantee shall have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
2. We confirm that: [Insert details of covenants to be certified]
3. [We confirm that no Default is continuing.]\*

Signed:.....

[Director/Authorised signatory]

of

[Guarantor]

.....

[Director/Authorised

of

[Guarantor]

signatory]

**[Amend as appropriate – refer to Clause 8.2 and Clause 9.18]**

*[We have reviewed the Guarantee and the audited consolidated financial statements of the Guarantor for the year ended [•].*

*On the basis of that review and audit, nothing has come to our attention which would require any modification to the confirmations in paragraph 2 of the above Compliance Certificate or which we know to be a continuing Default.]*

.....  
for

and

on

behalf

of


[name of auditors of the Guarantor]\*\*

\* If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

\*\* Delete unless certificate made in relation to financial covenants is calculated by reference to annual accounts.

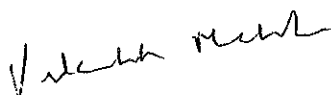
**The Guarantor**

Signed as a DEED by  
**Gulf Oil International Limited**  
acting by a director



**The Lender**

Signed as a DEED by  
**ICICI BANK UK PLC**  
By:





NISHANT KUMAR  
Senior RM

