

Standard Format for Performance Bond

THIS AGREEMENT is made on the _____ day of _____ BETWEEN _____ (hereinafter called the “Guarantor”) of the one Part and Indah Water Konsortium Sdn. Bhd. (hereinafter called the “Indah Water”) of the other Part.

WHEREAS

- A. Indah Water is authorised pursuant to the Water Services Industry Act 2006 to operate and maintain public sewerage systems and sewer networks.
- B. _____ (the “Developer”) has constructed a sewerage plant, associated sewerage works and sewer network (altogether known as “sewerage system”) at _____ (full details of address preferred). Pursuant to the Water Services Industry Act 2006, the Developer must hand over the sewerage system to Indah Water to operate and maintain the same whereupon Indah Water shall only accept the sewerage system or part of the systems, after Indah Water is satisfied that the sewerage system or part of the systems, as the case may be, meets the requirements set out in the approved plans, specifications and standards.
- C. Subject to para B above and rights of the parties pursuant to Water Services Industry Act 2006, in consideration of Indah Water maintaining and operating the sewerage system, the Developer agrees to guarantee the due performance of the sewerage system for a period of twelve (12) months.
- D. At the request of the Developer, The Guarantor agrees to irrevocably and unconditionally guarantee the due performance of the sewerage system in the manner herein after appearing.

NOW THE GUARANTOR HEREBY AGREES WITH INDAH WATER AS FOLLOWS:

- 1. Upon the Indah Water’s written demand, the Guarantor shall forthwith pay to the Indah Water up to and not exceeding the sum of Ringgit Malaysia: _____ (hereinafter referred to as “the said Sum”) or such part thereof as specified in such demand notwithstanding any contestation or protest by the Developer or Guarantor or by any other third party and without proof or condition. The total amount recoverable against the Guarantor under this Agreement shall not exceed the said Sum. Such payment or payments shall be made by the Guarantor within five (5) working days of the issuance of the Indah Water’s written demand.
- 2. Indah Water reserves the right to make any partial demands if it shall so desire and the total of all such partial demands so made shall not exceed the said Sum and the liability of the Guarantor to pay Indah Water the aforesaid shall correspondingly be reduced proportionate to any payment of partial demands having been made by the Guarantor.
- 3. The Guarantor shall not be discharged or released from this Guarantee by any arrangement with the Developer or any arrangement made between the Developer and Indah Water

and/or any third party in whatever manner with or without the consent of the Guarantor or by any forbearance whether as to payment, time, performance or otherwise.

4. Whenever Indah Water makes a demand on the Guarantor, the Guarantor shall (subject to the proviso in paragraph 1) forthwith make to Indah Water such payment of the amount so demanded and any dispute between Indah Water, and the Developer and/or any third party as to the right of Indah Water to make such a demand shall not in any way relieve the Guarantor from the obligation to pay upon such demand by Indah Water.
5. This Guarantee given by the Guarantor is a continuing guarantee and shall be irrevocable and shall remain in force and effect from _____ to _____ for a period of thirteen (13) months (hereinafter referred to as ' the said Period').
6. The liability of the Guarantor to make any payment hereunder shall arise upon receipt of a demand from Indah Water to make such payment. Any demand from Indah Water shall be submitted in writing not later than ninety (90) days after the Expiry of the said Period.
7. This Guarantee shall not be assigned without the Bank/Guarantor's prior written consent.
8. Any failure by Indah Water to demand for payment under this Guarantee (in accordance with the terms herein) within the period as specified in Clause 6 above shall discharge the Guarantor of all obligations and liabilities under this Guarantee without the need for any notice by the Guarantor to Indah Water.
9. This Guarantee shall be construed in accordance with the laws of Malaysia, and the Malaysian Courts shall have jurisdiction to try any matter relating to this Guarantee.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands the day and year first above written.

Signed for and on behalf of the said)
Guarantor in the presence of)
)
)

.....
(Witness)

Name: Name:

Designation: Designation:

Banker's Stamp:

