

**DEED OF GUARANTEE**

**DATED 8 SEPTEMBER 2021**

**BURGAN SENIOR SPC LIMITED**

**U.S.\$1,500,000,000  
EURO MEDIUM TERM NOTE PROGRAMME  
unconditionally and irrevocably guaranteed by**

**BURGAN BANK K.P.S.C.**

**ALLEN & OVERY**

Legal Consultants

**Allen & Overy LLP**

0013035-0001569 DBO1: 2001507996.8

## **GUARANTEE OF BURGAN BANK K.P.S.C.**

**THIS DEED OF GUARANTEE** is made on 8 September 2021 by Burgan Bank K.P.S.C. (the **Guarantor**) in favour of the Relevant Account Holders (as defined in the Deed of Covenant referred to below) in relation to Underlying Notes (as defined in such Deed of Covenant) and the holders for the time being of the Notes (as defined below) or the Coupons (as defined in the Agency Agreement (as defined below)). Each Relevant Account Holder referred to above and each holder of a Note or Coupon is a **Holder**.

### **WHEREAS:**

- (A) **BURGAN SENIOR SPC LIMITED** (the **Issuer**) and the Guarantor have entered into an amended and restated programme agreement (the **Programme Agreement**, which expression includes the same as it may be amended, supplemented or restated from time to time) dated 8 September 2021 with the Dealers named therein under which the Issuer proposes from time to time to issue Notes (**Notes**). As used herein the expression **Notes** includes each Definitive Note issued by the Issuer and each Global Note issued by the Issuer representing a Note (where **Definitive Note** and **Global Note** have the meanings ascribed thereto in the Agency Agreement (as defined below)).
- (B) The Issuer has executed a deed of covenant dated 8 September 2021 (the **Deed of Covenant**, which expression includes the same as it may be amended, supplemented or restated from time to time) relating to Global Notes issued by the Issuer pursuant to the Programme Agreement.
- (C) The Issuer and the Guarantor have entered into an amended and restated agency agreement (the **Agency Agreement**, which expression includes the same as it may be amended, supplemented or restated from time to time) dated 8 September 2021 with the Agents named therein.
- (D) The Guarantor has agreed to enter into this Deed of Guarantee to guarantee the payment of all sums expressed to be payable from time to time by the Issuer to Holders.
- (E) Terms defined in the Conditions of the Notes (the **Conditions**), the Programme Agreement, the Agency Agreement and the Deed of Covenant and not otherwise defined in this Deed of Guarantee shall have the same meaning when used in this Deed of Guarantee.

### **NOW THIS DEED WITNESSES AS FOLLOWS:**

1. The Guarantor irrevocably and unconditionally guarantees to each Holder that, if for any reason, the Issuer does not pay any sum payable by it to such Holder in respect of any Note, Coupon or under the Deed of Covenant, as the case may be, (including any premium or any other amounts of whatever nature or additional amounts which may become payable under any of the foregoing) as and when such sum shall become due under any of the foregoing, the Guarantor will pay to such Holder on demand (without requiring such Holder to take steps against the Issuer or any other person) the amount (as to which the certificate of such Holder shall in the absence of manifest error be conclusive) payable by the Issuer to such Holder in the manner and currency prescribed by the Conditions for payment by the Issuer in respect of such Notes. Any Holder may make a demand under this Deed of Guarantee by giving notice in writing of the same to the Issuer and Burgan Bank K.P.S.C. at Al-Sharq-Abdullah Al Ahmed Street, Burgan Tower, PO Box 5389, Al Sagent 12170, Kuwait or such other address as the Guarantor shall designate by giving notice of the same to Holders in accordance with Condition 15 and, for this purpose, the Guarantor hereby undertakes promptly to notify Holders of any such change of address.
2. Without affecting the Issuer's obligations, the Guarantor will be liable under this Deed of Guarantee as if it were the sole principal debtor and not merely a surety. Accordingly, neither the obligations of the Guarantor herein contained nor the rights, powers and remedies conferred upon the Holders by

this Deed of Guarantee or by law shall be discharged, impaired or otherwise affected by: (a) any time, indulgence, waiver or consent at any time given to the Issuer or any other person; (b) any amendment, novation, supplement, extension, (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature) or replacement, waiver or release of, any obligation of the Issuer under or in respect of any Note, Coupon or the Deed of Covenant or to any security or other guarantee or indemnity in respect thereof including without limitation any change in the purposes for which the proceeds of the issue of any Note are to be applied and any extension of or any increase of the obligations of the Issuer in respect of any Note or Coupon or the addition of any new obligations for the Issuer under the Deed of Covenant; (c) the making or absence of any demand on the Issuer or any other person for payment; (d) the enforcement or absence of enforcement of any Note, Coupon, the Deed of Covenant or of any security or other guarantee or indemnity; (e) the release of any such security, guarantee or indemnity; (f) the winding-up, dissolution, amalgamation, reconstruction or reorganisation, administration or moratorium of the Issuer or any other person or any change in its or their status, function, control or ownership; (g) the illegality, invalidity or unenforceability of or any defect in any provision of any Note, Coupon or the Deed of Covenant or any of the Issuer's obligations under any of them or (h) any other act, event or omission which, but for this subclause, might operate to discharge, impair or otherwise affect the obligations expressed to be assumed by the Guarantor herein or any of the rights, powers or remedies conferred upon the Holders or any of them by this Deed of Guarantee or by law.

3. The Guarantor's obligations under this Deed of Guarantee are continuing obligations notwithstanding any settlement of account or other matter or thing whatsoever and shall not be considered satisfied by any intermediate payment or satisfaction of all or any of the Issuer's obligations under or in respect of any Note, Coupon or the Deed of Covenant and will remain in full force and effect until all sums due from the Issuer in respect of any Note, Coupon or the Deed of Covenant have been paid and all other actual or contingent obligations of the Issuer thereunder or in respect thereof have been satisfied, in full. Furthermore, these obligations of the Guarantor are complementary to, and not instead of, any security or other guarantee or indemnity at any time existing in favour of a Holder, whether from the Guarantor or otherwise. The Guarantor irrevocably waives all notices and demands whatsoever.
4. If any payment owed to a Holder is, on the subsequent bankruptcy, liquidation or insolvency of the Issuer, avoided or reduced under any laws relating to bankruptcy, liquidation or insolvency, such payment will not be considered as having discharged or diminished the liability of the Guarantor and the guarantees contained in this Deed of Guarantee will continue to apply as if such payment had at all times remained owing by the Issuer.
5. The Guarantor irrevocably and unconditionally agrees as a primary obligation to indemnify each Holder from time to time from and against any loss, liability or cost incurred by such Holder as a result of any of the obligations of the Issuer under or pursuant to any Note, Coupon or the Deed of Covenant or any provision thereof being or becoming void, voidable, unenforceable or ineffective for any reason whatsoever, whether or not known to such Holder or any other person, the amount of such loss being the amount which such Holder would otherwise have been entitled to recover from the Issuer. Any amount payable pursuant to this indemnity shall be payable in the manner and currency prescribed by the Conditions for payments by the Issuer in respect of the Notes. This indemnity constitutes a separate and independent obligation from the other obligations in this Deed of Guarantee, gives rise to a separate and independent cause of action and will apply irrespective of any indulgence granted by any Holder.
6. The obligations of the Guarantor under this Deed of Guarantee are direct, unconditional, unsubordinated and (subject to the provisions of Condition 5 - *Negative Pledge*) unsecured obligations of the Guarantor and (save for certain obligations required to be preferred by law) rank equally with all other unsecured obligations (other than subordinated obligations, if any) of the Guarantor, from time to time outstanding.

7. All payments by the Guarantor under this Deed of Guarantee will be made without withholding, retention or deduction for or on account of any present or future taxes or duties of whatever nature (**Taxes**) imposed or levied by or on behalf of any Tax Jurisdiction unless such withholding, retention or deduction is required by law. In such event, the Guarantor will pay such additional amounts as shall be necessary in order that the net amounts received by the Holders after such withholding, retention or deduction shall equal the respective amounts which would have been receivable in respect of the Notes or, as the case may be, Coupons, or the Deed of Covenant in the absence of such withholding, retention or deduction; except that no additional amounts shall be payable with respect to any payment in respect of any Note or Coupon:
- (a) where the relevant Holder of which is liable for such Taxes in respect of such Note or Coupon by reason of them having some connection with any Tax Jurisdiction other than the mere holding of such Note or Coupon; or
  - (b) presented for payment more than 30 days after the Relevant Date except to the extent that the holder thereof would have been entitled to an additional amount on presenting the same for payment on such thirtieth day assuming that day to have been a Payment Day; or
  - (c) where such withholding, retention or deduction is required pursuant to an agreement described in Section 1471(b) of the Code or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, or official interpretations thereof.

As used herein:

- (i) **Tax Jurisdiction** means the United Arab Emirates (including the Dubai International Financial Centre) or Kuwait or in each case any political subdivision or any authority thereof or therein having power to tax or any political subdivision or any authority thereof or therein having power to tax or any other jurisdiction or any political subdivision or any authority thereof or therein having power to tax to which payments made by the Guarantor under this Deed of Guarantee become generally subject to tax; and
  - (ii) the **Relevant Date** means the date on which such payment first becomes due, except that, if the full amount of the moneys payable has not been duly received by the Issuing and Principal Paying Agent on or prior to such due date, it means the date on which, the full amount of such moneys having been so received, notice to that effect is duly given to the Holders in accordance with Condition 15 of the Notes.
8. The Guarantor will not, and the Guarantor will procure that none of its Subsidiaries will, create or have outstanding any Security Interest upon, or with respect to, any of their present or future business, undertaking, assets or revenues (including any uncalled capital) of the Guarantor and/or any of its Subsidiaries to secure (i) any Relevant Indebtedness, or (ii) any guarantee or indemnity in respect of any Relevant Indebtedness, unless the Guarantor, in the case of the creation of the Security Interest, before or at the same time and, in any other case, promptly, takes any and all action necessary to ensure that:
- (a) all amounts payable by it under this Deed of Guarantee are secured by the Security Interest equally and rateably with the Relevant Indebtedness, guarantee or indemnity, as the case may be; or
  - (b) such other Security Interest or other arrangement (whether or not it includes the giving of a Security Interest) is provided as is approved by an Extraordinary Resolution of the Noteholders.

9. The Guarantor hereby warrants, represents and covenants with each Holder that it has all corporate power, and has taken all necessary corporate or other steps, to enable it to execute, deliver and perform this Deed of Guarantee, and that this Deed of Guarantee constitutes a legal, valid and binding obligation of the Guarantor.
10. The Guarantor will pay any stamp and other duties and taxes, including interest and penalties, payable on or in connection with the execution of this Deed of Guarantee and any action taken by any Holder to enforce the provisions of this Deed of Guarantee.
11. This Deed of Guarantee shall take effect as a deed poll for the benefit of the Holders from time to time and for the time being. This Deed of Guarantee shall be deposited with and held by the Issuing and Principal Paying Agent, until all the obligations of the Guarantor have been discharged in full.
12. The Guarantor hereby acknowledges the right of every Holder to the production of, and the right of every Holder to obtain (upon payment of a reasonable charge) a copy of, this Deed of Guarantee, and further acknowledges and covenants that the obligations binding upon it contained herein are owed to, and shall be for the account of, each and every Holder, and that each Holder shall be entitled severally to enforce the said obligations against the Guarantor.
13. Until all amounts which may be payable under the Notes and/or the Coupons and/or the Deed of Covenant have been irrevocably paid in full, the Guarantor shall not by virtue of this Deed of Guarantee be subrogated to any rights of any Holder or claim in competition with the Holders against the Issuer.
14. If any provision in, or obligation under, this Deed of Guarantee is or becomes invalid, illegal or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair (i) the validity, legality or enforceability under the law of that jurisdiction of any other provision in or obligation under this Deed of Guarantee, or (ii) the validity, legality or enforceability under the law of any other jurisdiction of that or any other provision in or obligation under this Deed of Guarantee.
15. The Guarantor shall not be entitled to assign or transfer all or any of its rights, benefits and obligations hereunder.
16. If, under any applicable law and whether pursuant to a judgment being made or registered against the Guarantor or in the liquidation, bankruptcy, insolvency or any similar process of the Guarantor or for any other reason, any payment under or in connection with this Deed of Guarantee is made or falls to be satisfied in a currency (the **other currency**) other than that in which the relevant payment is expressed to be due (the **required currency**) under this Deed of Guarantee, then, to the extent that the payment (when converted into the required currency at the rate of exchange on the date of payment or, if it is not practicable for the relevant Holder to purchase the required currency with the other currency on the date of payment, at the rate of exchange as soon thereafter as it is practicable for it to do so or, in the case of a liquidation, insolvency or analogous process, at the rate of exchange on the latest date permitted by applicable law for the determination of liabilities in such liquidation, insolvency or analogous process) actually received by the relevant Holder falls short of the amount due under the terms of this Deed of Guarantee, the Guarantor undertakes that it shall, as a separate and independent obligation, indemnify and hold harmless the Holder against the amount of the shortfall. For the purpose of this clause, **rate of exchange** means the rate at which the relevant Holder is able on the London foreign exchange market on the relevant date to purchase the required currency with the other currency and shall take into account any premium and other reasonable costs of exchange.
17. This Deed of Guarantee and any non-contractual obligations arising out of or in connection with it are governed by, and construed in accordance with, English law.

18. (a) This Agreement (including the remaining provisions of this clause 18) and any non-contractual obligations arising out of or in connection with this Agreement are governed by, and shall be construed in accordance with, English law.
- (b) Any dispute, claim, difference or controversy arising out of, relating to or having any connection with this Agreement (including any dispute as to its existence, validity, interpretation, performance, breach or termination or the consequences of its nullity and any dispute relating to any non-contractual obligations arising out of or in connection with this Agreement) (a **Dispute**) shall be referred to and finally resolved by arbitration in accordance with the Arbitration Rules of the London Court of International Arbitration (the **LCIA**) (the **Rules**), which Rules (as amended from time to time) are incorporated by reference into this clause 18. For these purposes:
- (i) the seat of arbitration shall be London, England;
  - (ii) there shall be three arbitrators each of whom shall be disinterested in the arbitration, shall have no connection with any party to the Dispute and shall be an attorney experienced in international securities transactions. The parties to the Dispute shall each nominate one arbitrator and both arbitrators in turn shall appoint a further arbitrator who shall be the chair of the tribunal. In cases where there are multiple claimants and/or multiple respondents, the class of claimants jointly, and the class of respondents jointly shall each nominate one arbitrator. If one party or both fails to nominate an arbitrator within the time limits specified by the Rules, such arbitrator(s) shall be appointed by the LCIA. If the party nominated arbitrators fail to nominate the third arbitrator within 15 days of the appointment of the second arbitrator, such arbitrator shall be appointed by the LCIA; and
  - (iii) the language of the arbitration shall be English.
19. The Guarantor irrevocably appoints Maples and Calder at its registered office at 11th Floor, 200 Aldersgate Street, London EC1A 4HD, United Kingdom as its authorised agent for service of process in England. If for any reason such agent shall be unable or unwilling to act as agent for service of process, the Guarantor shall forthwith appoint a new agent for service of process in England and shall notify the Holders of such appointment. The Guarantor will procure that, so long as any of the Notes remains outstanding, a person with an office in London shall be appointed to accept service. The Guarantor agrees that failure by a process agent to notify it of any process will not invalidate service. Nothing in this clause 19 shall affect the right to serve process in any other manner permitted by law.
20. To the extent that the Guarantor may in any jurisdiction claim for itself or its assets or revenues immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that such immunity (whether or not claimed) may be attributed in any such jurisdiction to the Guarantor or its assets or revenues, the Guarantor agrees not to claim and irrevocably and unconditionally waives such immunity to the fullest extent permitted by the laws or such jurisdiction. Further, the Guarantor irrevocably and unconditionally consents to the giving of any relief or the issue of any legal proceedings, including, without limitation, jurisdiction, enforcement, prejudgment proceedings and injunctions in connection with any proceedings or Disputes.

IN WITNESS whereof this Deed of Guarantee has been executed as a deed poll by the Guarantor.


Executed as a deed  
by **BURGAN BANK K.P.S.C.**  
acting by

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acting by

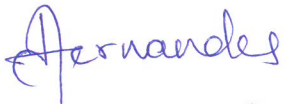
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acting under the authority of that  
company, in the presence of:

Witness's Signature: 

Name: DALAL AL - SAMEH

Address: BURGAN BANK .  
1BT DEPARTMENT - 2ND FLOOR  
ABDULLAH AL - AHMED STREET .  
P.O. BOX 5389 .  
SAFAT 12170 .  
SHARQ , KUWAIT

  
JACINTA FERNANDES  
BURGAN BANK  
1BT DEPT. - 2<sup>ND</sup> FLOOR  
ABDULLAH AL AHMED ST.  
P.O. Box: 5389  
SAFAT 12170  
SHARQ  
KUWAIT