

APPENDIX 3.5

PRINCIPLE OF THE BANK GUARANTEE

As a guarantee of its completion commitments, the developer must provide the Fund with a first-demand performance bond from an approved credit institution in the European Community (the Guarantor).

In the context of this request for proposals, in Phase I of selection, the developer will provide a letter of intent from the Guarantor in which the latter declares its intent to commit to the terms and conditions of the bank guarantee template, as set out below.

The Guarantor must undertake to pay, in the event of the developer's failure to fulfil its completion obligation, the sums necessary for the Completion of the Buildings in accordance with the terms of these specifications.

The value of the bank guarantee, for all of the lots (1 and 2) of the "Grünewald-Steichen" project, is:
€38,860,000.00 (Thirty-eight million five hundred thousand euros)

The value of the bank guarantee in the event of the execution of Lot 1 only is:
€29,860,000.00 (twenty-nine million five hundred thousand euros)

The value of the bank guarantee in the event of the execution of Lot 2 only is:
€9,000,000.00 (nine million euros)

The Guarantor's commitment will begin upon the signing of the emphyteutic lease between the developer and the Fund.

Bank guarantee template:

Prepared in Luxembourg, on

Concerning the completion of the “Grünwald-Steichen” mixed-use real estate project on the Kirchberg plateau, the execution of which has been entrusted to:

[investor-developer]

hereinafter referred to as the “**Developer**”;

under the terms of a request for proposals launched by the *Fonds d'Urbanisation et d'Aménagement du Plateau de Kirchberg* [Town Planning and Development Fund of the Kirchberg Plateau] (hereinafter referred to as the “**Fund**”), a public establishment created and governed by the amended law of 7 August 1961, including in particular:

- the information on the application file to be provided by the Developer,
- the procedure for appointing the Developer,
- the main clauses of the emphyteutic lease,

These documents, together with the Developer's bid forming the contract entered into between the latter and the Fund (hereinafter referred to as the “**Contract**”), copies of which have been delivered to:

[BANK]

hereinafter referred to as the “**Guarantor**”

The Guarantor shall act as co-surety for the Developer in favour of the Fund under the following terms and conditions:

- 1) In the event of the Developer failing to fulfil its completion obligation, the Guarantor undertakes to pay the sums necessary for the full completion of the construction work in accordance with the terms of the Contract, provided that this sum does not exceed:

€38,860,000.00 (Thirty-eight million five hundred thousand euros) for the completion of lots 1 and 2;

€29,860,000.00 (twenty-nine million five hundred thousand euros) for the completion of Lot 1 only;

€9,000,000.00 (nine million euros) for the completion of Lot 2 only.
- 2) The Guarantor's commitment will begin upon the signing of the emphyteutic lease between the Developer and the Fund.

- 3) The completion bond may only be invoked by the Fund upon confirmation of the failure to complete, either by the parties involved (Developer, Fund, Guarantor) or by a qualified person.
 - a) The parties' findings will be recorded in a report, a duly signed copy of which must be given to the Guarantor.
 - b) The qualified person's findings will be used in case of a disagreement between the parties. This person will be appointed either by the parties, or at the request of all the parties, or else by the first party to take action, the others having been duly called, by order of the president of the district court of and in Luxembourg.
 - c) The finding of the failure to complete shall be made via a substantiated report by the thus appointed qualified person, and must be submitted to the Developer, Fund and Guarantor.
 - d) In the event of the completion bond being invoked, completion will be carried out under the control of the Fund. If, for whatever reason, the completion has to be carried out by architects, contractors and craftsmen other than those hired by the Developer, they must be approved by the Fund and the Guarantor, to whom their work estimates should be communicated.
 - e) After verification, the Guarantor will pay the invoices approved by the Fund or by a person authorised by the Fund. The Guarantor shall not assume the obligations of the contracting authority or the obligations of the guarantee due to construction defects.
- 4) The completion bond may also be invoked by the Fund when it becomes certain that the Developer has abandoned the site and/or that the deadlines stipulated in the Contract cannot be met due to the Developer's defaulting attitude.
- 5) At any time, regardless of the progress of the work, the Guarantor and the Fund will have the right to carry out any checks and verifications they deem useful.

In the event that an inspecting authority is charged with monitoring the work, the reports of said inspecting authority must be forwarded to the Fund without delay.
- 6) In all circumstances, the Guarantor may refuse to fulfil its commitment for as long as the Fund remains in default of fulfilling its obligations under the Contract.
- 7) The Guarantor may only refuse to grant the Fund the benefit of the completion of the constructions when it is established that these cannot be realised materially or legally.
- 8) Apart from the above scenario, the Guarantor's commitment to the Fund will end on the earlier of the following two dates:
 - a) With the exception of the performance bond of the common outdoor areas, the Guarantor's commitment will end upon signature of the first notarised deed of sale under a VEFA (vente en état futur d'achèvement [presale, prior to completion of work]) agreement, duly accompanied by the issue of a completion bond (with no possibility of the completion bond being converted into a repayment guarantee other than in strict legal cases) (hereinafter: the "VEFA Guarantee"), where applicable in proportion to the coverage provided by the said VEFA Guarantee if it is not complete.
 - b) Five (5) years after the signing of the Contract, the Fund being able to invoke the completion bond under the conditions defined herein during these five years, it being understood that if the Fund were to invoke the completion bond within this period, the payments to be made by the Guarantor may extend beyond this five-year period;
 - (i) The full completion of the buildings in accordance with the Contract, said completion being established either by the parties or by a qualified person.

(ii) The full completion of the buildings will be the subject of a report, a copy of which, duly signed by the parties, must be submitted to the Guarantor.

(iii) If the parties fail to reach an agreement, the report will be prepared by a qualified person. This person will be appointed either by the parties, or at the request of all the parties, or else by the first party to take action, the others having been duly called, by order of the president of the district court of and in Luxembourg.

(iv) The finding of completion shall be made via a substantiated report by the thus appointed qualified person, and must be submitted to the Developer, Fund and Guarantor.

- 9) This guarantee is subject to Luxembourg law and the parties expressly assign jurisdiction to the courts of Luxembourg in the Grand Duchy of Luxembourg for any dispute that may arise therefrom.

Drawn up in three originals in Luxembourg, on

STAMP AND SIGNATURE