

المرفقات: ٠٢

الموضوع: شراء البنك معادن بالأجل وبيعها بضمن حال أو آجل

## قرار الهيئة الشرعية رقم (٦٣)

الحمد لله رب العالمين، والصلاة والسلام على نبينا محمد وعلى آله وصحبه أجمعين، وبعد:

فإن الهيئة الشرعية لبنك البلاد في جلستها التاسعة والثلاثين بعد المائتين المنعقدة يوم الأربعاء ١٤٢٦/٠٨/٢٤ هـ الموافق ٢٠٠٥/١٠/٠٣ م، في مدينة الرياض بالمقر الرئيس للبنك قد اطلعت على منتج شراء البنك معادن بالأجل وبيعها بضمن حال أو آجل المرفوع من مجموعة الخزينة. حيث يقوم البنك في حال حاجته للسيولة بشراء معادن بالأجل من مؤسسة مالية، ثم يبيعها البنك على غير من اشتراها منه بضمن حال أو آجل.

وبعد دراسة المنتج والمداولة والمناقشة قررت الهيئة إجازته بالصيغة المرفقة بالقرار، وتؤكد الهيئة على أهمية الالتزام بقرار الهيئة الشرعية رقم: (١١) المعنون بـ "البيع الآجل في المعادن الأساسية والثمينة"، والقرار رقم: (١٥) المعنون بـ "ضوابط عقد المراجعة".

وفق الله الجميع لهداه، وجعل العمل في رضاه، والله أعلم، وصلى الله على نبينا محمد وعلى آله وصحبه وسلم.

## الهيئة الشرعية

د. عبدالعزيز بن فوزان الفوزان (عضواً)



د. محمد بن سعود العصيمي (عضواً وأميناً)



أ.د. عبدالله بن موسى العمار (عضواً)



د. يوسف بن عبدالله الشبيلي (عضواً)





شرح منتج:

## شراء البنك معادن بضمن حال وبيعها بضمن حال أو آجل المرفوع من قطاع الخزينة

صمم هذا المنتج للحصول على التمويل من البنوك وهو من ضمن الاستراتيجية العامة لإدارة الخزينة وشرح المنتج كآتي:

١. يوقع بنك البلاد اتفاقية البيع بالمراجحة مع بيت مؤسسة مالية - بيت التمويل الكويتي مثلاً - (حيث يكون بيت التمويل البائع والبلاد المشتري).
٢. بعد الاتفاق على السعر يقوم بيت التمويل بشراء البضاعة بضمن حال من المورد.
٣. يقوم بيت التمويل الكويتي ببيع تلك البضاعة بضمن آجل على بنك البلاد.
٤. يلتزم بنك البلاد بدفع ثمن البضاعة آجلاً لبيت التمويل.
٥. يتم استلام شهادة الحيازة من المورد و التي تشير إلى نقل الملكية من بيت التمويل إلى بنك البلاد.
٦. يتم توقيع اتفاقيات المراجحة مع البنوك للبيع عليهم بضمن حال أو آجل.
٧. يقوم بنك البلاد ببيع البضاعة بضمن حال أو آجل على أحد البنوك.
٨. يقوم البنك المشتري بالسداد لبنك البلاد.



# MURABHA SALE AGREEMENT

BETWEEN

1) BANK AL BILAD

AND

2) .....

THIS AGREEMENT is made the                      day of                      2005 BY and

BETWEEN:

- (1) **BANK AL BILAD** , a joint stock company established under the laws of the Kingdom of Saudi Arabia, registered at the Commercial Register in Riyadh under No 1010208295, having its offices P.O. Box 140, Riyadh 11411, Saudi Arabia (the "**Purchaser**");

And

- (2) ..... (the "**BANK**");

(Collectively referred to as the "**Parties**").

IT IS AGREED as follows:

**1. Purpose and definitions**

**1.1 Purpose**

This Agreement sets out the terms and conditions upon and subject to which the parties hereto may agree from time to time to enter into sales transactions to the **Purchaser** of spot metals of London Metal Exchange grade material on a deferred payment basis.

**1.2 Definitions**

In this Agreement the following expressions, unless the context otherwise requires, shall have the following meanings:

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for business in Riyadh, London and New York City;

"**Confirmations**", in relation to any Sale Transaction, means, collectively, the Sale Confirmation and the Purchase Confirmation pertaining to such Sale Transaction;

"**Deferred Payment Date**", in relation to any Sale Transaction, means the date for payment of the Price pursuant to such Sale Transaction;

"**Delivery Instruction**", in relation to any Sale Transaction, means an instruction in the form set out in the Third Form attached to this Agreement to be issued by the **BANK** to its broker or other relevant person to deliver the Metals to the order of the **Purchaser**;

"**Dollars**" and "\$" means the lawful currency for the time being of the United States of America;

"**Saudi Riyal**" and "S.R." means the lawful currency for the time being of the Kingdom of Saudi Arabia;

"**Metals**" means the metals comprised or intended to be comprised in a Sale Transaction, except gold and silver.

“**Price**”, in relation to any Sale Transaction, means the amount payable there under by the **Purchaser** for the Metals on the Deferred Payment Date and includes any Value Added Tax or Sales Tax or other similar tax with respect thereto;

“**Purchase Confirmation**” means a confirmation in the form set out in the Second Form attached to this Agreement to be sent by the **Purchaser** to **the BANK** acknowledging that the terms of a Sale Confirmation are correct and agreeing to the same;

“**Sale Confirmation**” means a confirmation in the form set out in the First Form attached to this Agreement to be sent by **the BANK** to the **Purchaser** in respect of a Sale Transaction confirming the terms upon which the **Purchaser** will purchase from **the BANK** the Metals and containing, *inter alia*, details of the quantity, type and quality of the Metals, the Price and the Deferred Payment Date;

“**Sale Transaction**” means any agreement between the Parties for the spot purchase of Metals on a deferred payment basis by the **Purchaser**, constituted by the issue of a Sale Confirmation and a Purchase Confirmation, and made pursuant to Clause 2 hereof.

- 1.3 References to Clauses and Forms are references to clauses and Forms of this Agreement.
- 1.4 The headings in this Agreement are for the purpose of reference only and shall be ignored in the interpretation of this Agreement.

## **2. Implementation**

- 2.1 Whenever a Party hereto desires to enter into a Sale Transaction it shall so request the other party by telephone.
- 2.2 In the event that **the BANK** is prepared to offer to enter any such Sale Transaction, it shall by telephone advice the **Purchaser** of the proposed terms thereof. The **Purchaser** may accept any offer so made by so advising **the BANK** by telephone, upon the **Purchaser's** telephone advice to **the BANK** a sale transaction binding to both parties is considered to be created.
- 2.3 In the event that the **Purchaser** shall so accept the said offer; **the BANK** shall, as soon as practicable, send to the **Purchaser** a Sale Confirmation. And, if the **Purchaser** agrees that the details set out therein accurately record the parties' agreement over the telephone, it shall, as soon as practicable, send to **the BANK** a Purchase Confirmation. Upon **the BANK's** receipt of such Purchase Confirmation, these confirmations shall be considered as a confirmation for whatever agreed on over the phone and incorporating the terms and conditions of this Agreement.
- 2.4 If any Sale Transaction is created as mentioned in Clause 2.3, **the BANK** shall as soon as practicable thereafter issue a Delivery Instruction and deliver to the **Purchaser** the Metals with full title guarantee together with the warrants and title documents. The **Purchaser** shall pay the Price in respect of such Sale Transaction on the Deferred Payment Date in accordance with the payment instructions contained in the Sale Confirmation.

- 2.5 Risk in and title over the Metals shall pass to the **Purchaser** upon delivery pursuant to the Delivery Instruction.
- 2.6 For the avoidance of doubt, the metals sale arrangement contained in this Agreement is of an uncommitted nature. Accordingly, notwithstanding any other provision hereof, there is no obligation on the part of either **the BANK** or the **Purchaser** to enter into any Sale Transaction.

### 3. Representations and Covenants

- 3.1 Both Parties represent and covenant to the other that:
- (a) It has the legal capacity to enter into this Agreement and the Sale Transaction hereby contemplated;
  - (b) Its execution of this Agreement and each document delivered by it under this Agreement is and will be duly authorized;
  - (c) The sold commodity shall not be of the type that cannot be deferred, such as gold or silver;
  - (d) This Agreement and each Sale Transaction entered into pursuant to this Agreement will be binding on and enforceable against it (subject to generally applicable insolvency laws and principles of equity) and will not violate the terms of any agreement to which it is party; and
  - (e) It has and will at all times maintain all authorizations, approvals, licences and consents required to enable it lawful to perform its obligations under this agreement.
- 3.2 **The BANK** represents and covenants that it has not created and will not create any charge or encumbrance, and has not granted and will not grant any third party rights, over its interest in such Metals.
- 3.3 The representations and covenants in Clause 3.1 shall be deemed to be repeated on each date upon which a Sale Transaction is created pursuant to Clause 2.

### 4. Payments and Expenses

- 4.1 All sums payable by the **Purchaser** hereunder and under each Sale Transaction shall be paid without set-off, withholding, counterclaim or deduction whatsoever and shall be free from any tax or other deductions whatsoever, unless any such deduction shall be compelled by law. In such event, the **Purchaser** shall pay to **the BANK** such further amounts, as may be necessary, in order that the net amounts received by **the BANK**, after such deduction, withholding or tax, shall equal the amounts which would have been received in the absence of such deduction, withholding or tax.
- 4.2 Where any payment hereunder and/or under a Sales Transaction is due on a day which is not a Business Day, the due date shall be the next following Business Day but the amount to be paid on such day shall be unchanged.
- 4.3 The Purchaser agrees to pay on demand all costs and expenses (including legal fees) incurred by **the BANK** in connection with the preservation and/or enforcement by action or of its rights under this Agreement or any Sale Transaction, except where such costs and expenses were incurred as a consequence of "Force Majeure".

**5. Waiver**

Any failure or delay on the part of a Party in availing itself of any right or remedy it may have hereunder against the other Party shall not be deemed to be a waiver of such right or remedy and shall not preclude the subsequent exercise by such Party of the same.

**6. Partial Invalidity**

If at any time any provision hereof or of any Sale Transaction becomes illegal, unlawful, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions hereof or thereof nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

**7. Assignment**

Neither of the parties hereto shall be entitled to assign or transfer any of its rights, benefits or obligations under this Agreement or under any Sale Transaction without the prior written consent of the other.

**8. Notices**

8.1 Any notice given hereunder shall be in writing using the communication details set out below or such other telex or facsimile number as either party shall previously have notified to the other party:

To: **BANK AL BILAD**

Tel #: .....

Fax #: .....

Swift #:.....

Attn: .....

To: .....

Tel #: .....

Fax #: .....

Swift #:.....

Attn: .....

8.2 Notice by telex or facsimile shall be deemed effective at the time of transmission of the telex or facsimile, provided that the appropriate answerback or confirmation of transmission receipt shall have been received.

**9. Counterparts**

This Agreement may be executed in two identical counterparts and both such counterparts taken together shall be deemed to constitute one and the same instrument.

**10. Law and Jurisdiction**

10-1 Both parties shall endeavor to solve any dispute arising between them amicably

10-2 If the dispute couldn't be solved amicably then the following should be considered :

صفحة ٧ من ١١

المرفق (٢) للقرار (٦٣)

Arbitration through choosing a representative for each party and that choice of the third party should be through an Islamic Institution in accordance with Saudi Arbitration Regulations . And will be subject to the Sharia Laws.

IN WITNESS whereof the duly authorized representatives of the Parties have executed this Agreement on the date first above written.

Signed For and on Behalf of

By : .....

By : .....

Name : .....

Name : .....

Title : .....

Title : .....

Date : .....

Date : .....

Signed For and on Behalf of  
Bank Al Bilad

By : .....

By : .....

Name : .....

Name : .....

Title : .....

Title : .....

Date : .....

Date : .....



**FIRST FORM**

**Sale Confirmation**

From : (the "Purchaser")  
Our Reference :  
To : BANK AL BILAD  
Attn. :  
Date :  
\_\_\_\_\_

This form is subject to the terms and conditions of the Murabha Sale agreement signed between us Dated: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

1. We refer to our telephone conversation dated .....
2. We confirm that the terms of the Sale Transaction, which we agreed over the telephone with you, are as follows:
  - (i) Commodity..... (Detailed Description of goods)
  - (ii) Quantity.....(Weight in oz.,ton etc.)
  - (iii) Commodity Description : .....
  - (iv) Price: US\$ .....(Price per oz.,ton etc.)
  - (v) Total Sale Price:..... (Total price payable)
  - (vi) Deferred Payment Date: .....
  - (vii) Delivery Date: .....
  - (viii) Delivery :..... (detailed description of warehouse, vault etc. )
3. Your payment of the Total Sale Price is to be made on the Deferred Payment Date to our account with .....
4. This Sale Transaction shall be upon and subject to the terms of the Agreement and words and expressions defined in the Agreement shall have the same meaning when used herein.

Signed .....

For and on behalf of  
.....



**SECOND FORM**

**Purchase Confirmation**

From : Bank Al Bilad  
Our Reference :  
To : The Purchaser  
Our Reference :  
Attn. :  
Date :

This form is subject to the terms and conditions of the Murabha Sale agreement signed between us Dated: / /

1. We refer to your Sale Confirmation dated..... 2005 (the "Sale Confirmation").
2. We confirm that the Sale Confirmation accurately records our agreement over the telephone as to the terms of the Sale Transaction entered into between us.
  - (i) Commodity..... (Detailed Description of goods)
  - (ii) Quantity.....(Weight in oz.,ton etc.)
  - (iii) Commodity Description: .....
  - (iv) Price: US\$ .....(Price per oz.,ton etc.)
  - (v) Total Sale Price:..... (Total price payable)
  - (vi) Deferred Payment Date: .....
  - (vii) Delivery Date: .....
  - (viii) Delivery :..... (detailed description of warehouse, vault etc. )
3. Our payment of the Price will be made on the Deferred Payment Date to your account with .....
4. Upon your receipt of this Purchase Confirmation, a Sale Transaction shall be created in accordance with Clause 2.3 of the Agreement upon and subject to the terms of the Agreement and words and expressions defined in the Agreement shall have the same meaning when used herein.

**Bank Al Bilad.**

Riyadh, Kingdom of Saudi Arabia



**THIRD FORM**

**DELIVERY INSTRUCTIONS**

FROM: The Purchaser

TELEPHONE NUMBER: [ ]

FAX NUMBER: [ ]

OUR REFERENCE: [ ]

TO: Broker

FAX NUMBER:

TELEPHONE NUMBER:

ATTENTION:

DATE: [ ]

Dear Sirs,

We refer to our sale (the "Murabaha Sale Transaction") of the Commodity (as defined below) to [insert name of purchaser] (the "Purchaser") on the trade date specified below ("Trade Date"):

Commodity: [detailed description of commodity]

Commodity Description: [ ]

Quantity of Metal: [GOZ ]

Trade Date: [ ]

Value Date: [ ]

We hereby instruct you to deliver the Commodity with full title together with the title documents held to our order and which forms the subject of the Murabaha Sale Transaction to the Purchaser for value on the Value Date by delivery of the Commodity to the Purchaser's metal account with you.

For and on behalf of

The Purchaser

.....

cc: to Bank Al Bilad