

No. 6188

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**INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT**  
and  
**ISRAEL**

**Guarantee Agreement—*Potash Project* (with annexed Loan Regulations No. 4 and Loan Agreement between the Bank and Mifalei Yam Hamelah B.M. (Dead Sea Works Limited)). Signed at Washington, on 11 July 1961**

*Official text: English.*

*Registered by the International Bank for Reconstruction and Development on 9 May 1962.*

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**BANQUE INTERNATIONALE  
POUR LA RECONSTRUCTION ET LE DÉVELOPPEMENT**  
et  
**ISRAËL**

**Contrat de garantie — *Projet relatif à la potasse* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt entre la Banque et la Mifalei Yam Hamelah B.M. [Dead Sea Works Limited]). Signé à Washington, le 11 juillet 1961**

*Texte officiel anglais.*

*Enregistré par la Banque internationale pour la reconstruction et le développement le 9 mai 1962.*

No. 6188. GUARANTEE AGREEMENT<sup>1</sup> (*POTASH PROJECT*) BETWEEN THE STATE OF ISRAEL AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 11 JULY 1961

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AGREEMENT, dated July 11, 1961, between STATE OF ISRAEL (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by an agreement of even date herewith between the Bank and Mifalei Yam Hamelah B.M. (Dead Sea Works Limited) (hereinafter called the Borrower), which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,<sup>2</sup> the Bank has agreed to make to the Borrower a loan in various currencies equivalent to twenty-five million dollars (\$25,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed so to guarantee such obligations of the Borrower;

NOW THEREFORE the parties hereto hereby agree as follows:

*Article I*

*Section 1.01.* The parties to this Guarantee Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated February 15, 1961,<sup>3</sup> subject, however, to the modifications thereof set forth in Schedule 3<sup>4</sup> to the Loan Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein. The terms defined in the Loan Agreement shall have the same meaning herein as if such definitions were fully set forth herein.

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<sup>1</sup> Came into force on 9 November 1961, upon notification by the Bank to the Government of Israel.

<sup>2</sup> See p. 12 of this volume.

<sup>3</sup> See p. 10 of this volume.

<sup>4</sup> See p. 42 of this volume.

## Article II

*Section 2.01.* Without limitation or restriction upon any of the other covenants on its part in this Agreement contained, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and the interest and other charges on, the Loan, the principal of and interest on the Bonds, and the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, all as set forth in the Loan Agreement, the Trust Deed and the Bonds.

## Article III

*Section 3.01.* It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets. To that end, the Guarantor undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Guarantor or of the Bank of Israel or any other institution acting as the central bank of the Guarantor as security for any external debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (ii) any lien on commercial goods to secure a debt maturing not more than one year after the date on which it is originally incurred and to be paid out of the proceeds of sale of such commercial goods; or (iii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

The term "assets of the Guarantor" as used in this Section includes assets of the Guarantor or of any of its political subdivisions or of any agency of the Guarantor or of any such political subdivision.

*Section 3.02.* (a) The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the Guarantor, such information shall include information with respect to financial and economic conditions in the territories of the Guarantor and the international balance of payments position of the Guarantor.

(b) The Guarantor and the Bank shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Guarantor shall

promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

(c) The Guarantor shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Guarantor for purposes related to the Loan.

*Section 3.03.* The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduction for, and free from, any taxes imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the provisions of this Section shall not apply to taxation of, or fees upon, payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

*Section 3.04.* This Agreement, the Loan Agreement, the Trust Deed and the Bonds shall be free from any taxes that shall be imposed under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

*Section 3.05.* The principal of, and interest and other charges on, the Loan and the Bonds shall be paid free from all restrictions imposed under the laws of the Guarantor or laws in effect in its territories.

*Section 3.06.* The Guarantor covenants that, except as the Guarantor and the Bank shall otherwise agree, the Guarantor will not directly or indirectly acquire any shares of the Borrower if, as a result thereof, the number of shares then directly or indirectly owned by the Guarantor would exceed forty-five percent of all shares of the Borrower then outstanding.

#### *Article IV*

*Section 4.01.* The Guarantor shall endorse, in accordance with the provisions of the Loan Regulations, its guarantee on the Bonds to be executed and delivered by the Borrower. The Minister of Finance of the Guarantor and such person or persons as he shall designate in writing are designated as the authorized representatives of the Guarantor for the purposes of Section 6.12 (b) of the Loan Regulations.

#### *Article V*

*Section 5.01.* The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Guarantor :

Minister of Finance  
Jerusalem, Israel

Alternative address for cablegrams and radiograms :

Ozar  
Jerusalem

For the Bank :

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington 25, D.C.  
United States of America

Alternative address for cablegrams and radiograms :

Intbafrad  
Washington, D.C.

*Section 5.02.* The Minister of Finance of the Guarantor is designated for the purposes of Section 8.03 of the Loan Regulations.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Guarantee Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

State of Israel :

By Avraham HARMAN  
Authorized Representative

International Bank for Reconstruction and Development :

By Joseph RUCINSKI  
Director, Department of Operations—  
South Asia and Middle East

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 4, DATED 15 FEBRUARY 1961

REGULATIONS APPLICABLE TO LOANS MADE BY THE BANK TO BORROWERS OTHER THAN  
MEMBER GOVERNMENTS

[Not published herein. See *United Nations, Treaty Series, Vol. 400, p. 212*]

LOAN AGREEMENT  
(POTASH PROJECT)

AGREEMENT, dated July 11, 1961, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and MIFALEI YAM HAMELAH B.M. (Dead Sea Works Limited) (hereinafter called the Borrower), a company duly incorporated under the Companies Ordinance of the Guarantor.

WHEREAS

(A) the Borrower is engaged in a project to expand its facilities for the extraction and processing of minerals at the Dead Sea;

(B) the Borrower proposes to raise part of the financing required for said project by the issuance of twenty-seven million Israel Pounds (I£27,000,000) aggregate nominal amount of its Ordinary Shares;

(C) the Bank of America proposes to make a loan in the aggregate principal amount of ten million dollars (\$10,000,000) to finance part of the cost of said project;

(D) the Bank is prepared to make a loan to the Borrower for the purpose of financing part of said cost;

NOW THEREFORE, the parties hereto hereby agree as follows :

*Article I*

LOAN REGULATIONS; SPECIAL DEFINITIONS

*Section 1.01.* The parties to this Loan Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated February 15, 1961,<sup>1</sup> subject, however, to the modifications thereof set forth in Schedule 3<sup>a</sup> to this Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

*Section 1.02.* Wherever used in the Loan Agreement, unless the context shall otherwise require, the following terms have the following meanings :

- (a) The term " Debenture Trust Deed " means the trust deed dated August 22nd, 1952, made between the Borrower and others, as trustees, securing the 5% Debenture Stock of the Borrower, maturing by their terms on or before December 31, 2002 and presently outstanding in the aggregate principal amount of I£390,000.
- (b) The term " First Bank Leumi Debenture " means the debenture dated April 17th, 1955, issued by the Borrower in favor of the Bank Leumi Le-Israel B.M., in the principal amount of I£50,000.
- (c) The term " Second Bank Leumi Debenture " means the debenture dated August 9th, 1960, issued by the Borrower in favor of the Bank Leumi Le-Israel B.M., in the principal amount of I£2,200,000.

<sup>1</sup> See p. 10 of this volume.

<sup>a</sup> See p. 42 of this volume.

- (d) The term “ Junior Debenture Trust Deed ” means the debenture trust deed dated June 19th, 1961, made between the Borrower and Bank Leumi Le-Israel Trust Company Limited, as trustee, securing the Junior Debentures of the Borrower, maturing by their terms serially from September 30th, 1971 to September 30th, 1980, both inclusive, and presently outstanding in the principal amount of I£11,777,749.
- (e) The term “ Junior Debentures ” means the debentures secured by the Junior Debenture Trust Deed.
- (f) The term “ Bank of America loan ” means the loan proposed to be made to the Borrower by the Bank of America National Trust and Savings Association in the aggregate principal amount of \$10,000,000.
- (g) The term “ Government Conversion and Loan Agreement ” means the agreement dated June 15th, 1961, made between the Guarantor and the Borrower providing, *inter alia*, for the conversion of certain debt owed by the Borrower to the Guarantor into Junior Debentures and fully paid “ A ” Shares of the Borrower and for a loan by the Guarantor to the Borrower from time to time of amounts not exceeding in the aggregate the sum of the dividends paid by the Borrower in respect of the period of construction of the Project on its “ A ” Shares and of the interest paid in respect of such period on the Junior Debentures held by the Guarantor.
- (h) The term “ Government Trust Agreement ” means the agreement dated July 10th, 1961, made between the Guarantor and the Bank of Israel, providing for the deposit from time to time with the Bank of Israel, as trustee, of share warrants as necessary in order to limit the voting shares of the Borrower directly or indirectly owned by the Guarantor to not more than thirty-five percent of the total number of voting shares at any time outstanding.
- (i) The term “ Dead Sea Concession ” means the concession granted by the Deed of Concession dated May 30th, 1961, made between the Guarantor and the Borrower.
- (j) The term “ linked debt ” means debt linked to the dollar, to the cost-of-living index, or to any other index from time to time approved by the Minister of Finance under the Law of Interest, 1957 of the Guarantor.
- (k) The term “ Compounds ” means Tirkotov Brome B. M. (Bromine Compounds Company Limited), a company duly incorporated under the Companies Ordinance of the Guarantor.
- (l) The term “ Magnesite ” means Hevrat Magnesit Yam Hamelah B. M. (Dead Sea Magnesite Company Limited), a company duly incorporated under the Companies Ordinance of the Guarantor.
- (m) The term “ subsidiary ” means any company, other than Compounds and Magnesite, which is a subsidiary of the Borrower within the meaning of the Companies Ordinance of the Guarantor.
- (n) The term “ Trust Deed ” means the trust deed to be executed by the Borrower in accordance with the provisions of Section 5.04 (a) of this Agreement and shall include any deed supplemental thereto which shall be executed and delivered in accordance with the provisions of Section 5.04 (b) of this Agreement.

- (o) The term "Israel Pounds" and the letter and sign "₪" mean pounds in the currency of the Guarantor.

## Article II

### THE LOAN

*Section 2.01.* The Bank agrees to lend to the Borrower, on the terms and conditions set forth in this Loan Agreement, an amount in various currencies equivalent to twenty-five million dollars (\$25,000,000).

*Section 2.02.* The Bank shall open a Loan Account on its books in the name of the Borrower and shall credit to such Account the amount of the Loan. The amount of the Loan may be withdrawn from the Loan Account as provided in the Loan Agreement; provided, however, that, except as the Bank may otherwise agree, until the Borrower shall have complied with the provisions of Section 5.04 (i) of this Agreement, no more than the equivalent of six million dollars (\$6,000,000) shall be withdrawn from the Loan Account.

*Section 2.03.* The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ( $\frac{3}{4}$  of 1%) per annum on the principal amount of the Loan not so withdrawn from time to time.

*Section 2.04.* The Borrower shall pay interest at the rate of five and three-fourths per cent ( $5\frac{3}{4}$ %) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

*Section 2.05.* Except as the Bank and the Borrower shall otherwise agree, the charge payable for special commitments entered into by the Bank at the request of the Borrower pursuant to Section 4.02 of the Loan Regulations shall be at the rate of one-half of one per cent ( $\frac{1}{2}$  of 1%) per annum on the principal amount of any such special commitments outstanding from time to time.

*Section 2.06.* Interest and other charges shall be payable semi-annually on May 15 and November 15 in each year.

*Section 2.07.* The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 1<sup>1</sup> to this Agreement.

## Article III

### USE OF PROCEEDS OF THE LOAN

*Section 3.01.* The Borrower shall apply the proceeds of the Loan exclusively to financing the cost of goods required to carry out the Project described in Schedule 2<sup>2</sup> to this Agreement. The specific goods to be financed out of the proceeds of the Loan and the methods and procedures for procurement of such goods shall be determined by agreement between the Bank and the Borrower, subject to modification by further agreement between them.

*Section 3.02.* The Borrower shall cause all goods financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

<sup>1</sup> See p. 38 of this volume.

<sup>2</sup> See p. 40 of this volume.



*Article IV*

## BONDS

*Section 4.01.* The Borrower shall execute and deliver Bonds representing the principal amount of the Loan of the form, tenor and purport prescribed in the Trust Deed and as provided thereby and in the Loan Regulations.

*Section 4.02.* The Borrower shall from time to time designate and notify to the Bank an authorized representative or representatives for the purposes of Section 6.12 (a) of the Loan Regulations.

*Section 4.03.* The Borrower shall effect original issues of the Bonds only as herein provided.

*Section 4.04.* The Bank and the Borrower shall be at liberty to make such arrangements as they may from time to time mutually agree as to the procedure for the issue, authentication and delivery of the Bonds and such arrangements may be in addition to or in substitution for any of the provisions of this Agreement or of the Loan Regulations.

*Article V*

## PARTICULAR COVENANTS

*Section 5.01. (a)* The Borrower shall carry out and operate the parts of the Project described in paragraphs A, B and E of Schedule 2 to this Agreement and cause to be carried out and operated the parts of the Project described in paragraphs C and D of said Schedule, and operate and maintain its undertaking, all with due diligence and efficiency and in conformity with sound engineering, business and financial practices.

*(b)* The Borrower shall employ or cause to be employed engineering consultants and contractors in carrying out the major works included in the Project. The engineering consultants and major contractors and suppliers, and the terms and conditions of their contracts, shall be mutually satisfactory to the Bank and the Borrower.

*Section 5.02. (a)* The Borrower shall furnish or cause to be furnished to the Bank, promptly upon their preparation, the plans and specifications for the Project, the construction schedule and any material modifications subsequently made therein, in such detail as the Bank shall from time to time request.

*(b)* The Borrower shall maintain or cause to be maintained records adequate to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of the Borrower; shall enable the Bank's representatives to inspect the Project, the properties included therein, the undertaking of the Borrower, the goods and any relevant records and documents; and shall furnish or cause to be furnished to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project, the goods, and the operations and financial condition of the Borrower.

*Section 5.03.* (a) The Bank and the Borrower shall co-operate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan.

(b) The Bank and the Borrower shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Borrower shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

(c) The Borrower shall cause each of its subsidiaries to observe and perform the obligations of the Borrower set forth in Sections 3.01, 3.02, 5.01, 5.02, 5.03, paragraphs (h) and (i) of Section 5.04, Sections 5.06, 5.11 and 5.18 of this Agreement to the extent to which the same may be applicable thereto as though such obligations were binding upon each of such subsidiaries.

*Section 5.04.* (a) The Borrower shall execute and deliver and shall procure all other necessary parties to execute and deliver a Trust Deed in favor of such Trustees and in such form as the Bank may reasonably require to constitute by way of security for the Loan and the Bonds :

- (1) a First Specific Mortgage upon the leasehold interest of the Borrower in the lands colored in black on Map " A " attached to the Dead Sea Concession and all buildings, fixtures and other accretions at any time attached to the said lands and owned by or leased to the Borrower, together with all rights of way, easements, licenses, rights and privileges appurtenant thereto;
- (2) a Fixed Charge on the pipes, pipelines, pumping installations, generators, transformers, distribution lines, boilers, dryers, separators, filters, reactors, crystallizers, conveyors, engines, machinery and equipment, owned by or leased to the Borrower and forming part of its undertaking in and around Sdom at the Dead Sea, to the extent that the same are not covered by the First Specific Mortgage in subparagraph (1) of this paragraph referred to; and
- (3) without prejudice to the foregoing, a Floating Charge upon all of the Borrower's undertaking and assets (including uncalled capital and goodwill).

(b) The Borrower shall further, as and when it shall acquire any of the properties specified in subparagraphs (1), (2) or (3) of this paragraph, duly execute, deliver and register and shall procure all the necessary parties to duly execute, deliver and register supplemental trust deeds in favor of such Trustees and in such form as the Bank may reasonably require to constitute by way of security for the Loan and the Bonds :

- (1) a First Specific Mortgage upon the leasehold interest of the Borrower in any additional lands which the Borrower may acquire in pursuance of Clause 6 of the Dead Sea Concession and all buildings, fixtures and other accretions at any time attached to the said lands and owned by or leased to the Borrower, together with all rights of way, easements, licenses, rights and privileges appurtenant thereto;

- (2) a First Specific Mortgage upon all that parcel of land situated in Beersheba and known as Parcel No. One, Block No. 38018, together with all buildings, fixtures and other accretions for the time being attached to the said parcel of land and all rights of way, easements, licenses, rights and privileges appurtenant thereto;
- (3) a Fixed Charge on the pipes, pipelines, pumping installations, generators, transformers, distribution lines, boilers, dryers, separators, filters, reactors, crystallizers, conveyors, engines, machinery and equipment which the Borrower will, from time to time, acquire and which will form a part of its undertaking in and around Sdom at the Dead Sea, to the extent that the same are not covered by the First Specific Mortgage in subparagraph (1) of Section 5.04 (a) or subparagraphs (1) and (2) of Section 5.04 (b).

(c) The mortgages and charges referred to in Sections 5.04 (a) and 5.04 (b) hereof shall rank in point of security, subject only to the charges created by or pursuant to the Debenture Trust Deed, the First Bank Leumi Debenture, the Second Bank Leumi Debenture and the Junior Debenture Trust Deed, and to any mortgage, charge, pledge, or lien created as permitted under Section 5.05 hereof, prior to any mortgage, charge, pledge or lien of or upon any of the properties or assets of the Borrower, now existing or hereafter created.

(d) The Bank shall, from time to time, release and cause the said Trustees to release from all the said First Specific Mortgages, Fixed Charges and Floating Charges referred to in this Section, such area of land as it may be reasonably necessary for the Borrower to lease to Magnesite in order to enable Magnesite to operate the part of the Project referred to in paragraph D of Schedule 2 to this Agreement.

(e) The Trust Deed shall contain provisions empowering the Borrower to lease to Dead Sea Bromine Company Limited, subject to the mortgages and charges referred to in this Section, such area of land as may be reasonably necessary to enable said Company to operate the part of the Project referred to in paragraph B of Schedule 2 to this Agreement.

(f) The Borrower shall take all necessary steps and shall procure all other necessary parties to take all necessary steps to ensure that all mortgages, charges, pledges, and liens outstanding upon the property and assets to be mortgaged or charged by or pursuant to the Trust Deed shall be discharged or be varied to the reasonable satisfaction of the Bank so as to provide that the mortgages and charges constituted by the Trust Deed shall, subject to the charges created by or pursuant to the Debenture Trust Deed, the First Bank Leumi Debenture, the Second Bank Leumi Debenture and the Junior Debenture Trust Deed, and to any mortgage, charge, pledge, or lien created as permitted by Section 5.05 of this Agreement, rank first in point of security upon such property and assets.

(g) The Borrower shall obtain all necessary consents for the valid execution and delivery of the Trust Deed and shall duly register, or cause to be registered, the Trust

Deed together with such other documents as may be necessary or proper in order to render the same fully effective in accordance with its terms.

(h) The Borrower shall hold or acquire and cause each of its subsidiaries and Compounds and Magnesite to hold or acquire, to the reasonable satisfaction of the Bank, all such lands and properties and all such rights of way, easements, licenses, concessions, consents or other rights or privileges as shall be necessary or required for the construction of the Project, the operation of the properties included therein, and for the operation of its undertaking, or shall (to the like satisfaction) make or cause to be made effective arrangements therefor; and the Borrower shall supply to the Bank a certificate, satisfactory to the Bank, setting forth particulars of the foregoing.

(i) The Borrower shall, not later than March 31, 1962, furnish evidence, satisfactory to the Bank, that it has duly performed its obligations pursuant to subparagraphs (a), (g) and (h) of this Section. As part of such evidence there shall be furnished an opinion or opinions satisfactory to the Bank of counsel acceptable to the Bank showing that the requirements of subparagraphs (a), (g) and (h) of this Section have been duly complied with and that, with such exceptions as the Bank may agree, as to such property, lands and interests in land specified in the certificate referred to in subparagraph (h) as being owned or held or having been acquired, the Borrower, a subsidiary, Compounds or Magnesite, as the case may be, has good and marketable title thereto; that as to such licenses, consents or other rights or privileges specified in said certificate as having been acquired, the Borrower, a subsidiary, Compounds or Magnesite, as the case may be, has validly acquired the same and that the same are valid and effective; and that, as to arrangements specified in said certificate for the acquisition of any of the foregoing, such arrangements are valid and effective.

(j) The Borrower shall from time to time, whenever required, furnish evidence, satisfactory to the Bank, that it has duly performed its obligations pursuant to paragraph (b) of this Section and the provisions of paragraph (i) of this Section shall *mutatis mutandis* apply to the requirements of this paragraph.

(k) The Bank and the Borrower may from time to time agree upon modifications of the foregoing requirements of this Section.

*Section 5.05.* (a) The Borrower undertakes that, except for the charges created by or pursuant to the Debenture Trust Deed, the First Bank Leumi Debenture, the Second Bank Leumi Debenture and the Junior Debenture Trust Deed, and except as the Bank shall otherwise agree, no mortgage, pledge, charge, or lien, which would rank prior to or *pari passu* with the mortgage or charges created or to be created by or pursuant to the Trust Deed shall, after the date of this Agreement, be created on any of its assets as security for any debt, or extended to secure any additional debt, except that the Borrower may create mortgages, charges, pledges, or liens ranking in priority to the Floating Charge created or to be created under the Trust Deed, but subject to the First Specific Mortgage and Fixed Charge created or to be created by or pursuant to the Trust Deed, securing indebtedness incurred to bankers in the ordinary course of business in an amount not exceeding in the aggregate at any one time the equivalent of six million dollars (\$6,000,000); but so that no lender or other person dealing with the Borrower shall be

entitled or concerned to see or inquire whether these limits are observed or not, provided that the lender has obtained from the Borrower a certificate certifying that the amounts borrowed and then to be borrowed are within the aforesaid limits.

(b) Except as the Bank shall otherwise agree : (i) no subsidiary shall at any time after the date of this Agreement create any mortgage, charge or security on its undertaking, properties or assets (including uncalled capital and goodwill) or any part thereof otherwise than in favor of the Borrower; (ii) all mortgages, charges or securities created by any subsidiary in favor of the Borrower shall be retained by the Borrower and shall not be sold, transferred or otherwise disposed of by it; (iii) the Borrower shall not sell, transfer or otherwise dispose of any shares for the time being held by it in any subsidiary so that such subsidiary shall cease to be a subsidiary of the Borrower; and (iv) the Borrower shall not sell, transfer or otherwise dispose of any shares for the time being held by it in Compounds and Magnesite.

*Section 5.06.* (a) The Borrower shall at all times take or cause to be taken all requisite steps for the acquisition, retention and renewal of all such lands, interests in land and properties and all such rights, powers and privileges as may be necessary or proper for the construction of the Project, the operation of the properties included therein and of its other properties and the carrying on of its undertaking.

(b) The Borrower shall at all times maintain its corporate existence and right to carry on operations and shall, except as the Bank may otherwise agree, acquire, maintain and renew all rights, powers, privileges and franchises owned or held by it and necessary or useful in the conduct of its business.

(c) The Borrower shall operate its undertaking and conduct its affairs in accordance with sound business, industrial and financial practices and shall maintain, renew and repair its plants, machinery, equipment and property as required in accordance with sound engineering practices.

*Section 5.07.* The Borrower shall not, except as otherwise agreed by the Bank, make any payment on account of the debentures secured by the Debenture Trust Deed, the Junior Debentures and the Bank of America loan in advance of the respective dates provided therefor at the date of this Agreement, or as they may be extended, except from amounts raised by the issuance of the Borrower's ordinary shares at not less than par.

*Section 5.08.* The Borrower shall not, without the approval of the Bank, (i) issue or permit to be issued any debentures provided for in the Debenture Trust Deed in addition to the aggregate principal amount of such debentures presently outstanding, or (ii) renew or reissue any such debentures presently outstanding.

*Section 5.09.* Subject to such exemption as shall be conferred by the provisions of Section 3.03 and Section 3.04 of the Guarantee Agreement<sup>1</sup> or otherwise, the Borrower

<sup>1</sup> See p. 4 of this volume.

shall pay or cause to be paid all taxes, if any, imposed under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery or registration of the Loan Agreement, the Guarantee Agreement, the Trust Deed or the Bonds, or the payment of principal, interest or other charges thereunder; provided, however, that the provisions of this Section shall not apply to taxation of (including duties levied in respect of, or fees or impositions upon) payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

*Section 5.10.* The Borrower shall pay or cause to be paid all taxes, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries on or in connection with the execution, issue, delivery or registration of the Loan Agreement, the Guarantee Agreement, the Trust Deed or the Bonds.

*Section 5.11.* (a) The Borrower shall satisfy the Bank that adequate arrangements have been made to insure the goods financed out of the proceeds of the Loan against risks incident to their purchase and importation into the territories of the Guarantor.

(b) The Borrower shall, in addition to the insurance provided for in subparagraph (a) of this Section, take out or cause to be taken out, and maintain or cause to be maintained, such insurance, against such risks and in such amounts as shall be consistent with sound industrial and business practice.

*Section 5.12.* The Borrower shall not consent to any action taken at any meeting of bondholders or by written instrument pursuant to the provisions of the Trust Deed which would change the terms of the Bonds or adversely affect the holders thereof or the Bank unless the Bank shall have expressed in writing its approval of such action or such consent.

*Section 5.13.* The Borrower shall duly perform all obligations to be performed by it under the Trust Deed.

*Section 5.14.* The Borrower shall not amend its Memorandum or Articles of Association without the approval of the Bank, provided, however, that such approval shall not be required for any amendment to increase the authorized capital of the Borrower.

*Section 5.15.* The Borrower shall enter into and cause to be performed an agreement with Compounds providing, on terms satisfactory to the Bank, (a) for the management of Compounds by the Borrower; and (b) that Compounds will carry out the part of the Project described under paragraph C of Schedule 2 to this Agreement, and that it will take all action necessary in order to enable the Borrower to carry out its obligations under Sections 5.01, 5.02, 5.03, paragraphs (h) and (i) of Section 5.04, and Section 5.06 of this Agreement.

*Section 5.16.* The Borrower shall not later than March 31st, 1962 or such later date as may be agreed between the Bank and the Borrower, enter into and cause to be performed an agreement with Magnesite providing, on terms satisfactory to the Bank, (a) for the management of Magnesite by the Borrower; and (b) that Magnesite will carry out the part of the Project described under paragraph D of Schedule 2 to this Agreement, and that it will take all action necessary in order to enable the Borrower to

carry out its obligations under Sections 5.01, 5.02, 5.03, paragraphs (h) and (i) of Section 5.04, and Section 5.06 of this Agreement.

*Section 5.17.* The Borrower shall not, except as the Bank and the Borrower shall otherwise agree, take or concur in any action which would have the effect of amending, abrogating, or assigning the Dead Sea Concession.

*Section 5.18.* Except as shall be otherwise agreed between the Bank and the Borrower, the Borrower shall not (a) prior to the completion of the Project incur or permit any subsidiary to incur any indebtedness (other than the Bank of America loan, the Junior Debentures and the loan provided for in the Government Conversion and Loan Agreement) and (b) after completion of the Project incur or permit any subsidiary to incur any indebtedness if, after the incurring of any such indebtedness, the consolidated indebtedness of the Borrower and all its subsidiaries, if any, would exceed the consolidated capital and surplus of the Borrower and all its subsidiaries.

For the purposes of this Section :

- (a) Whenever in connection with this Section it shall be necessary to value in terms of Israeli currency indebtedness payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such indebtedness.
- (b) The term “ indebtedness ” shall not include (i) any debt maturing not more than one year after this date; (ii) any linked debt maturing not more than two years and six months after its date; or (iii) the debt secured by the Debenture Trust Deed.
- (c) The term “ consolidated indebtedness ” shall mean the total amount of indebtedness of the Borrower and all its subsidiaries excluding indebtedness owed by the Borrower to any subsidiary or by any subsidiary to the Borrower or by any subsidiary to any other subsidiary.
- (d) The term “ capital and surplus ” shall mean capital and surplus determined in accordance with sound accounting procedures, taking into account any revaluation of such capital and surplus because of a change in the par value of the currency of the Guarantor.
- (e) The term “ consolidated capital and surplus ” shall mean the total capital and surplus of the Borrower and all its subsidiaries after excluding such items of capital and surplus as shall represent equity interest by the Borrower or any subsidiary in the Borrower or any subsidiary.

*Section 5.19.* The Borrower shall not declare or pay any dividend (except dividends payable solely in shares of capital stock) nor make any distribution on any shares of its capital stock (other than the payment of interest on the Ordinary Shares of the Borrower in accordance with the provisions of Article 6, paragraph E, of the Articles of Association of the Borrower) except out of earnings accumulated after March 31, 1961.

*Section 5.20.* The Borrower shall use its best efforts to achieve not later than March 31, 1968 and thereafter to maintain a ratio of current assets to current liabilities of not less than 1.25:1. For the purposes of this Section, the term “ current assets ” shall be considered as cash and assets readily convertible to cash and all other assets, which would within one year in the ordinary course of the Borrower’s business be converted into cash or assets readily convertible into cash; and “ current liabilities ” shall be considered

as liabilities due and payable and all other liabilities which would be payable or could be called for payment within one year, including portions of long-term debt due within one year, and linked debt maturing not more than two years and six months after its date.

*Section 5.21.* Prior to the completion of the Project, the Borrower shall not undertake any investment, other than in the Project and in the operation and maintenance of the Borrower's present undertaking, the estimated cost of which is in excess of the equivalent of \$250,000, or enter into any commitment in respect of any such investment, except in accordance with a financial plan approved by the Bank.

#### *Article VI*

##### REMEDIES OF THE BANK

*Section 6.01.* (i) If any event specified in paragraph (a), paragraph (b), paragraph (e) or paragraph (f) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of thirty days, or (ii) if any events specified for the purposes of paragraph (j) of Section 5.02 of the Loan Regulations shall occur, or (iii) if any events specified in paragraph (c) or paragraph (k) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower, then at any subsequent time during the continuance thereof, the Bank, at its option, may declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in this Agreement or in the Bonds to the contrary notwithstanding.

*Section 6.02.* The following are specified as events for the purposes of paragraph (j) of Section 5.02 of the Loan Regulations :

- (i) the Dead Sea Concession shall have been amended, abrogated, assigned or terminated, without the approval of the Bank;
- (ii) the Government Conversion and Loan Agreement shall have been amended, abrogated or prematurely terminated, without the approval of the Bank;
- (iii) the Government Trust Agreement shall have been amended, abrogated or prematurely terminated, without the approval of the Bank;
- (iv) any part of the principal amount of any loan made to the Borrower and having an original maturity of one year or more, shall, in accordance with the terms thereof, have become due and payable prior to the agreed maturity thereof;
- (v) the security constituted by the Trust Deed shall have become enforceable.

#### *Article VII*

##### EFFECTIVE DATE; TERMINATION

*Section 7.01.* The following events are specified as additional conditions to effectiveness within the meaning of Section 9.01 (c) of the Loan Regulations :

- (a) that without limiting the generality of Section 9.01 (a) of the Loan Regulations
- (i) the Directors of the Borrower shall have validly authorized or ratified and adopted this



Agreement on behalf of the Borrower, and (ii) all necessary consents for the valid execution, ratification and adoption of this Agreement by and on behalf of the Borrower shall have been secured;

(b) that the execution and delivery of the Dead Sea Concession on behalf of the Guarantor and the Borrower shall have been duly authorized or ratified by all necessary governmental and corporate action;

(c) that the Dead Sea Concession Law, 1961 of the Guarantor has been duly enacted;

(d) that the conditions precedent to disbursement under the Bank of America loan shall have been fulfilled;

(e) that twenty-seven million Israel Pounds (I£27,000,000) of Ordinary Shares of the Borrower shall have been subscribed, allotted and payment made therefor to the Borrower fully and irrevocably in cash at not less than par;

(f) that the execution and delivery on behalf of the Guarantor and the Borrower of the Government Conversion and Loan Agreement shall have been authorized or ratified by all necessary corporate and governmental action;

(g) that the outstanding indebtedness of the Borrower to the Guarantor as of March 31, 1961 in the amount of I£35,076,652, and of the Dead Sea Bromine Company Limited to the Guarantor as of that date in the amount of I£3,641,096, shall have been converted into fully paid "A" Shares and Junior Debentures of the Borrower, and the security therefor shall have been discharged (or arrangements for such conversion, and discharge shall have been made), all to the satisfaction of the Bank;

(h) that the execution and delivery on behalf of the parties thereto of the agreement in Section 5.15 of this Agreement referred to, shall have been duly authorized or ratified by all necessary corporate action;

(i) that the execution and delivery on behalf of the Guarantor and the Bank of Israel of the Government Trust Agreement shall have been authorized or ratified by all necessary corporate and governmental action;

(j) that the Borrower shall have certified in writing to the Bank that, as of a date to be agreed between the Borrower and the Bank (which shall be prior to the Effective Date), there has been no material adverse change in its condition since the date of this Agreement.

*Section 7.02.* The following are specified as additional matters, within the meaning of Section 9.02 (c) of the Loan Regulations, to be included in the opinion or opinions to be furnished to the Bank :

(a) that the actions provided for in Section 7.01 (a) of this Agreement have been duly and validly taken, and that the Borrower has full power and authority to raise money by the issuance of Bonds and otherwise as herein provided, and that all acts, consents and approvals necessary therefor have been duly and validly performed or given;

(b) that the Dead Sea Concession Law, 1961 of the Guarantor is valid and effective and has not been amended;

(c) that the Dead Sea Concession is valid and enforceable in accordance with its terms;

(d) that the agreement providing for the Bank of America loan is valid and enforceable in accordance with its terms;

(e) that the agreement in Section 5.15 of this Agreement referred to is valid and enforceable in accordance with its terms;

(f) that the Government Conversion and Loan Agreement is valid and enforceable in accordance with its terms;

(g) that the Government Trust Agreement and the trust constituted thereby, is valid and enforceable in accordance with its terms;

(h) that the Borrower has full power and authority to construct and operate the Project and to carry on its undertaking and has all necessary rights and powers in connection therewith, and that all acts, licenses, concessions, consents and approvals necessary therefor have been duly and validly performed or given.

*Section 7.03.* A date 90 days after the date of this Agreement is hereby specified for the purposes of Section 9.04 of the Loan Regulations.

### *Article VIII*

#### MISCELLANEOUS

*Section 8.01.* The Closing Date shall be October 1, 1966.

*Section 8.02.* The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Borrower :

Dead Sea Works Limited  
Potash House  
Beersheba, Israel

Alternative address for cablegrams and radiograms :  
Israpotash, Beersheba

For the Bank :

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington 25, D.C.  
United States of America

Alternative address for cablegrams and radiograms :  
Intbafrad  
Washington, D.C.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

International Bank for Reconstruction and Development :

By Joseph RUCINSKI  
Director, Department of Operations—  
South Asia and Middle East

Mifalei Yam Hamelah B.M.  
(Dead Sea Works Limited) :

By Arieh MANOR  
Authorized Representative

### SCHEDULE 1 AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars) *</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars) *</i>
November 15, 1966 . . . . .	\$ 884,000	May 15, 1972 . . . . .	\$1,207,000
May 15, 1967 . . . . .	909,000	November 15, 1972 . . . . .	1,242,000
November 15, 1967 . . . . .	935,000	May 15, 1973 . . . . .	1,277,000
May 15, 1968 . . . . .	962,000	November 15, 1973 . . . . .	1,314,000
November 15, 1968 . . . . .	990,000	May 15, 1974 . . . . .	1,352,000
May 15, 1969 . . . . .	1,018,000	November 15, 1974 . . . . .	1,391,000
November 15, 1969 . . . . .	1,047,000	May 15, 1975 . . . . .	1,431,000
May 15, 1970 . . . . .	1,077,000	November 15, 1975 . . . . .	1,472,000
November 15, 1970 . . . . .	1,108,000	May 15, 1976 . . . . .	1,514,000
May 15, 1971 . . . . .	1,140,000	November 15, 1976 . . . . .	1,557,000
November 15, 1971 . . . . .	1,173,000		

\* To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.03), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

### PREMIUMS ON PREPAYMENT AND REDEMPTION

The following percentages are specified as the premiums payable on repayment in advance of maturity of any part of the principal amount of the Loan pursuant to Section 2.05 (b) of the Loan Regulations or on the redemption of any Bond prior to its maturity pursuant to Section 6.16 of the Loan Regulations.

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than three years before maturity . . . . .	½ of 1%
More than three years but not more than six years before maturity . . . . .	2%
More than six years but not more than eleven years before maturity . . . . .	3 ½%
More than eleven years but not more than thirteen years before maturity . . . . .	4 ¾%
More than thirteen years before maturity . . . . .	5 ¾%

## SCHEDULE 2

## DESCRIPTION OF PROJECT

The Project is the construction of additional facilities designed to increase the capacity of the Borrower's undertaking to produce potash and bromine from Dead Sea brine and the construction of new facilities for the production of bromine compounds, magnesia and table salt from the spent brines.

The Project includes the following works and installations :

A. *Potash and Salt*

The production capacity of the present potash plant is to be increased from about 150,000 tons to about 590,000 tons annually by the expansion of existing plant installations and pumping stations, by the construction of a total of about 60 kilometers of dikes, by the enclosure of about 100 square kilometers of the Dead Sea to form concentrating ponds, by the construction of additional processing plant for the annual production of about 400,000 tons of potash from carnallite produced in the pond system, and by necessary modifications to the present concentrating and crystallizing ponds. The design and construction of the dikes and the processing plant will be such as to permit the addition of facilities required to increase production to about 900,000 tons of potash per year.

These works are expected to be completed by April 1965.

A plant will be constructed and equipment installed for the annual production of about 20,000 tons of table salt from end brines and waste salt from the potash production unit. These works are expected to be completed by April 1962.

B. *Bromine*

Facilities will be installed to increase the capacity of the Dead Sea Bromine Company Limited to produce bromine and ethylene dibromide from about 2,900 and 1,500 tons annually respectively to 10,000 tons and 6,000 tons annually respectively. These facilities are expected to be completed by January 1962.

C. *Bromine Compounds*

A plant will be constructed for the production of various bromine compounds, including methyl bromide and other organic and inorganic bromides and bromates, with a capacity equal to a bromine content of about 2,000 tons annually. These facilities are expected to be completed about April 1962. The plant will be owned and operated by the Bromine Compounds Company Limited.

D. *Magnesite*

A plant will be constructed for the production of about 75,000 tons of dead-burned magnesia (magnesite) per annum. These facilities are expected to be completed about October 1963. The plant will be owned and operated by the Dead Sea Magnesite Company Limited.

E. *General*

This part of the Project includes the construction and installation of boilers, a 10,000 KW back-pressure turbo-generator, pumping stations, laboratories, pilot plants, repair shops, a water supply system and other facilities required to permit the operation

of the Project to its planned capacity; the construction of a warehouse at Eilat and an office building at Beersheba.

### SCHEDULE 3

#### MODIFICATIONS OF LOAN REGULATIONS No. 4

For the purposes of this Agreement the provisions of Loan Regulations No. 4 of the Bank, dated February 15, 1961, are modified as follows :

(a) The following new paragraph is added to Section 5.02 :

“(k) The Guarantor or any of its political subdivisions or any agency of the Guarantor or of any such political subdivision shall have taken any action which prevents or materially interferes with or is likely to prevent or materially interfere with the performance by the Borrower of any of its obligations in the Loan Agreement contained.”

(b) Section 6.01 is deleted.

(c) Section 6.07 is amended to read as follows :

“Section 6.07. *Form of Bonds and of Guarantee.* (a) The Bonds shall be fully registered bonds without coupons (hereinafter sometimes called registered Bonds) or bearer bonds with coupons for semi-annual interest attached (hereinafter sometimes called coupon Bonds). Bonds delivered to the Bank shall be registered Bonds or coupon Bonds in such temporary or definitive form (authorized by the Trust Deed) as the Bank shall request. Registered Bonds and coupon Bonds payable in dollars and the coupons attached thereto shall be substantially in the forms respectively set forth in the Trust Deed. Bonds payable in any currency other than dollars shall be substantially in the forms respectively set forth in the Trust Deed except that they shall (a) provide for payment of principal, interest and premium on redemption, if any, in such other currency, (b) provide for such place of payment as the Bank shall specify, and (c) contain such other modifications as the Bank shall reasonably request in order to conform to the laws or to the financial usage of the place where they are payable.

“(b) Notwithstanding any other provision of the Loan Agreement or these Regulations, if the Bank shall so require, the Borrower shall execute and deliver bonds pursuant to Section 6.03 before the execution and delivery of the Trust Deed. The provisions of Section 6.07 of Loan Regulations No. 4 of the Bank, dated February 15, 1961, but before modification by subparagraph (a) of this Section, shall apply to the form of any such bonds, with appropriate changes therein satisfactory to the Bank, to provide for the exchange thereof, free of cost to the Bank, for Bonds of the same respective amounts, currencies and maturities issued under the Trust Deed, the Loan Agreement and these Regulations. All other provisions of the Loan Agreement, the Guarantee Agreement and these Regulations relating or referring to Bonds shall apply *mutatis mutandis* to such bonds except where such application would be clearly inconsistent with the requirements of this subparagraph.

“(c) The form of guarantee to be endorsed by the Guarantor on the Bonds shall be substantially as set forth in Schedule 3 to these Regulations.”

(d) The following sentence is added at the beginning of Section 6.09, namely :

“Except as the Bank and the Borrower shall otherwise agree, Bonds shall be dated as hereinafter in this Section provided.”

(e) The first sentence of Section 6.12 (a) is changed to read as follows :

“The Bonds shall be signed in the name and on behalf of the Borrower by its authorized representative designated pursuant to the Loan Agreement for the purposes of this Section.”

(f) Section 6.18 is deleted.

(g) Sub-section (j) of Section 7.04 is amended to read as follows :

“(j) The provisions for arbitration set forth in this Section shall be in lieu of any other procedure for the determination of controversies between the parties under the Loan Agreement and Guarantee Agreement or any claim by any such party against any other such party arising thereunder provided, however, that nothing herein shall be deemed to preclude any of the said parties from exercising, or instituting any legal or equitable action to enforce, any right or claim arising out of or pursuant to the Trust Deed or the Bonds, and submission to arbitration hereunder shall not be deemed to be a condition precedent or in any way to prejudice such exercise or other enforcement of any such right or claim.”

(h) Paragraph 9 of Section 10.01 is deleted and the following new paragraph is substituted therefor :

“The term ‘Bonds’ means Bonds issued and authenticated pursuant to the Trust Deed (except as otherwise provided in Section 6.07 (b)), with the guarantee of the Guarantor endorsed thereon as provided herein, in the Loan Agreement and the Guarantee Agreement.”

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