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| **DOCUMENT APPROVED BY LEGAL RESEARCH COMMITTEE** | |
| **Explanatory Note** | |
| **Document name:** | Share Purchase Agreement – Short Form |
| **Document Summary:** | Short Form Share Purchase Agreement for the sale of shares by two sellers to a corporate purchaser. |
| **PLEASE READ:**    *This precedent has been prepared by Al Tamimi & Company without reference to any particular matter, transaction or set of facts.  Substantive changes to this precedent may be required to adapt it to the requirements of a specific client or matter.  As of the date of publication, this template has been drafted pursuant to all applicable legislation and statutes. Laws and/or procedures may have changed since this precedent was published.*      ***NOTE: THIS IS A BASIC SAMPLE ONLY AND SPECIFIC ADVICE SHOULD BE SOUGHT FROM COUNSEL DULY LICENSED TO OPINE ON THE LAWS OF THE UNITED ARAB EMITRATES PRIOR TO A PARTY ENTERING INTO SUCH AN AGREEMENT.*** | |

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| **Notes:**   1. The draft contemplates the governing law to be UAE law. 2. The governing law and jurisdiction clause (clauses 17) should also be carefully considered. Ensure this issue is discussed with a senior lawyer and prior to considering whether the clause is to be amended to provide for arbitration consult the arbitration department to consider whether the subject matter is suitable for resolution by arbitration. |

DATED 201[------]

(1) [------]

and

(2) [------]

and

**(3) [------]**

|  |
| --- |
| SHARE PURCHASE AGREEMENT RELATING TO [------] |

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**THIS AGREEMENT** is dated 201[------].

**Parties**

1. **[------],** a [------] national with passport no. [------], whose address is at [------];
2. **[------],** a [------] national with passport no. [------], whose address is at [------],

(together the “**Sellers**”); and

1. **[------]**, a company incorporated and registered in the emirate of **[------]**, UAE with commercial registration number **[------]** and whose registered office is at **[------]**,**[------]**, UAE (the “Buyer”).

**Recitals**

1. The Sellers are the legal and beneficial owners of all of the shares in the issued share capital of [------], a company incorporated and registered in [------], UAE with commercial registration number [------] and whose registered office is at [------],[------], (the “**Company**”).
2. The Company has an issued and paid-up share capital of [------] Dirhams (AED [------]) divided into [------] ([------]) shares of [------] Dirhams (AED [------]) each, of which [------] holds [------] ([------]) shares in the Company and [------] holds [------] ([------]) shares in the Company (the “**Sale Shares**”).
3. The Sellers have agreed to sell and the Buyer has agreed to buy the Sale Shares subject to the terms and conditions of this Agreement.

**Agreed terms**

1. Interpretation
   1. The definitions and rules of interpretation in this clause apply in this agreement (“**Agreement**”).

“AED”/“Dirhams” means the lawful currency of the UAE.

“**Affiliate**”with respect to any person, any entity which is a direct or indirect holding company or subsidiary of such person or which directly or indirectly (a) owns or controls such person; (b) is owned or controlled by such person; or (c) is under common ownership or control with such person. For the purposes of this definition, “**control**” shall mean the power to direct the management or policies of such entity, whether through the ownership of voting securities, by contract or otherwise.

“Business Day” any Day, excluding Fridays, Saturdays and any other Day, which shall in the UAE be a public holiday or a Day on which banking institutions in the UAE are authorised or required by law or other governmental action to close.

“**Company**” has the meaning given in Recital (A).

“Completion” completion of the sale and purchase of the Sale Shares in accordance with this Agreement.

“Completion Date” [the date of the execution by the parties of the Short Form Share Transfer Agreement and Amendment to the Memorandum of Association before the Notary Public in [------] in order to complete the transfer of the Sale Shares as contemplated by this Agreement/ the registration of the Sale Shares in the name of the Buyer, as entered by the production of the revised commercial licence of the Company recording the Buyer (and the Buyer’s Nominee) as the holders of the Sale Shares].[[1]](#footnote-1)

“**DED**” means the Dubai Department of Economic Development.

“Encumbrance” any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, hypothecation, security, title retention or any other security agreement or arrangement.

“Group” in relation to a company, that company, its subsidiaries, subsidiary undertakings, any holding company of which it is a subsidiary and any other subsidiaries or subsidiary undertakings of any such holding company; and each company in a group is a member of the group.

Unless the context otherwise requires, the application of the definition of “Group” to any company at any time will apply to the company as it is at that time.

“holding company” and “subsidiary” means in relation to an undertaking, any other undertaking in which that undertaking (or persons acting on its behalf) for the time being directly or indirectly holds or controls either:

* + 1. the majority of the voting rights exercisable at general meetings of the members of that undertaking on all, or substantially all, matters; or
    2. the right to appoint or remove directors having a majority of the voting rights exercisable at meetings of the board of directors of that undertaking on all, or substantially all, matters,
    3. and any undertaking which is a subsidiary of another undertaking shall also be a subsidiary of any further undertaking of which that other is a subsidiary.

“Laws” any applicable statute, law, regulation, injunction, judgment, decree or order of any governmental authority; and “Law” means any of them.

“**Memorandum of Association**” the memorandum of association of the Company, as amended.

“**Proceedings**” any litigation, administrative, mediation or arbitration proceedings or other proceedings or hearings before any court of competent jurisdiction or arbitration or mediation body or agency.

“Purchase Price” the purchase price for the Sale Shares to be paid by the Buyer to the Sellers in accordance with clause ‎3.

“Sale Shares” has the meaning given in Recital (B).

“**Short Form Share Transfer Agreement** **and Amendment to the Memorandum of Association**” means the amendment to the Memorandum of Association in the form attached as Schedule 2, providing, among other things, for i) the transfer of the Sale Shares to the Buyer; ii) the removal of [------] as manager of the Company; and iii) the appointment of [------] as manager of the Company.

“UAE” the United Arab Emirates.

“**Undertaking**” means a body corporate or partnership or an unincorporated association situated in any jurisdiction carrying on a trade or business with or without a view to profit and, in relation to an undertaking which is not a company, expressions in this Agreement appropriate to companies shall be construed as references to the corresponding persons, officers, documents or organs (as the case may be) appropriate to undertakings of that description.

“Warranties” the representations and warranties in Schedule 1 Parts 1 and 2.

* 1. Clause and Schedule headings do not affect the interpretation of this Agreement.
  2. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors or permitted assigns.
  3. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
  4. Subject to clause ‎9, a reference to any **party** shall include that party's personal representatives, successors and permitted assigns.
  5. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
  6. Writing or written includes faxes but not e-mail.
  7. References to clauses and Schedules are to the clauses and Schedules of this Agreement; references to paragraphs are to paragraphs of the relevant Schedule.

1. Sale and purchase

On the terms of this Agreement, the Sellers shall sell and the Buyer shall buy, with effect from the Completion Date, the Sale Shares free from all Encumbrances and together with all rights that attach (or may in the future attach) to them including, in particular, the right to receive all dividends and distributions declared, made or paid on or after the date of this Agreement.

1. Purchase price

The Purchase Price is [------] Dirhams (AED [------]), payable by the Buyer to the Sellers by cheque on Completion in the following proportions:

* + 1. to [------] the amount of [------] Dirhams (AED [------]); and
    2. to [------] the amount of [------] Dirhams (AED [------]).

1. Completion
   1. On or immediately following the date of this Agreement, the sale and purchase of the Sale Shares as contemplated by this Agreement shall be completed by the parties in accordance with this clause [------].
   2. [[------] shall deliver to the Buyer of a letter of resignation from the Board (expressed to be with effect from Completion), acknowledging that he has no claims against the Company for compensation or otherwise, in a form acceptable to the Buyer].
   3. The Buyer (and a party nominated by the Buyer to hold [fifty one per cent (51%)] (the “**Buyer’s Nominee**”) of the Sale Shares) and the Sellers shall:
      1. execute the Short Form Share Transfer Agreement and Amendment to the Memorandum of Association before the Notary Public in [------] in order to complete the transfer of the Sale Shares as contemplated by this Agreement; and
      2. following the execution by the Sellers, the Buyer and the Buyer’s Nominee of the Short Form Share Transfer Agreement and Amendment to the Memorandum of Association before the Notary Public in [------], the Buyer shall pay to each of the Sellers by cheque their proportion of the Purchase Price as set out in clause 3.
   4. The Sellers undertake to provide all reasonable cooperation as may be requested by the Buyer in formalising and/or registering the transfer of the Sale Shares with the DED, whether such cooperation is required before, at, or after Completion.
   5. The Buyer shall not be obliged to complete the purchase of the Sale Shares under this Agreement:
      1. unless the Sellers comply fully with their obligations under this clause [------];
      2. unless the purchase of all the Sale Shares is completed simultaneously; or
      3. if any event or circumstance arises or becomes known to the Buyer which constitutes a breach of or is materially inconsistent with any of the Warranties or which is likely to make any of them inaccurate or misleading or which has or is likely to have an adverse effect on the financial position or business prospects of the Company or which is otherwise material to be known by a buyer for value of the Sale Shares.
   6. If the Buyer elects not to complete the purchase of the Sale Shares for any of the reasons specified in clause ‎4.5, the Buyer shall be entitled, in addition and without prejudice to any other right or remedy available to it, to terminate this Agreement without any liability to it, save that the Sellers shall then promptly and fully indemnify the Buyer for and against all costs and expenses incurred or suffered by the Buyer (including but not limited to all legal expenses and other professional fees) in connection with the negotiation, preparation and rescission of this Agreement.
2. Warranties
   1. The Buyer and the Sellers are entering into this Agreement on the basis of, and in reliance on, the respective Warranties as set out in Schedule 2 Part 1 and Schedule 2 Part 2 hereto.
   2. The Sellers jointly and severally warrant and represent to the Buyer that each Warranty set out in Schedule 2 Part 1 is true, accurate and not misleading as of the date of this Agreement and the Buyer warrants and represent to the Sellers that each Warranty set out in Schedule 2 Part 2 is true, accurate and not misleading as of the date of this Agreement.
   3. The Warranties are deemed to be repeated on each day up to and including the Completion Date.
   4. Each of the Warranties is separate and is not limited by reference to any other Warranty or any other provision in this Agreement.
3. Restriction on Sellers

The Sellers covenant with the Buyer that they shall not, for the period commencing on the date of this Agreement and ending on the Completion Date, affect any transfer of the Sale Shares nor cause any Encumbrance or agreement, arrangement or obligation to create or give an Encumbrance in relation to any of the Sale Shares.

1. Confidentiality
   1. The parties undertake to each other to keep confidential the terms of this Agreement and all information which each party has acquired about the other parties and to use the information only for the purposes contemplated by this Agreement.
   2. A party does not have to keep confidential or to restrict its use of:
      1. information that is or becomes public knowledge other than as a direct or indirect result of a breach of this Agreement; or
      2. information that it receives from a source not connected with the party to whom the duty of confidence is owed that it acquires free from any obligation of confidence to any other person.
   3. Any party may disclose any information that it is otherwise required to keep confidential under this clause 7:
      1. to such professional advisers, consultants and employees or officers of its Group as are reasonably necessary to advise on this Agreement, or to facilitate the sale and purchase of the Sale Shares, if the disclosing party procures that the people to whom the information is disclosed keep it confidential as if they were that party; or
      2. with the written consent of each of the other parties; or
      3. to confirm that the sale has taken place and the date of the sale of the Sale Shares (but without otherwise revealing any other items of sale or making any other announcement).
      4. to the extent that the disclosure is required:
         1. by Law; or
         2. by a regulatory body, authority or securities exchange; or
         3. to make any filing with, or obtain any authorisation from, a regulatory body, authority or securities exchange; or
         4. under any arrangements in place under which negotiations relating to terms and conditions of employment are conducted; or
         5. to protect the disclosing party’s interest in any Proceedings,

but in each case shall use reasonable endeavours to consult each of the other parties and to take into account any reasonable requests they may have in relation to the disclosure before making it.

* 1. Each party shall supply any other party with any information about itself, its Group or this Agreement as such other party may reasonably require for the purposes of satisfying the requirements of any Law, regulatory body or securities exchange to which such other party is subject.

1. Further assurance

Each of the parties shall (at its expense) promptly execute and deliver all such documents, and do all such things, as may be from time to time reasonably be required for the purpose of giving full effect to the provisions of this Agreement.

1. Assignment And Entire Agreement
   1. Except as provided otherwise in this Agreement, no party may assign, or grant any Encumbrance over any of its rights under this Agreement or any document referred to in it.
   2. This Agreement and any documents referred to in it, constitute the entire agreement between the parties and supersede any and all arrangements, understanding or previous agreements between them relating to the subject that is covered by this Agreement.
2. Variation and waiver
   1. Any variation of this Agreement shall be in writing and signed by or on behalf of each party.
   2. Any waiver of any right under this Agreement is only effective if it is in writing and signed by the waiving or consenting party and it applies only in the circumstances for which it is given and shall not prevent the party who has given the waiver from subsequently relying on the provision it has waived.
   3. No failure to exercise or delay in exercising any right or remedy provided under this Agreement or by Law constitutes a waiver of such right or remedy or shall prevent any future exercise in whole or in part thereof.
   4. No single or partial exercise of any right or remedy under this Agreement shall preclude or restrict the further exercise of any such right or remedy.
   5. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by Law.
3. Costs

Unless otherwise provided, all costs in connection with the negotiation, preparation, execution and performance of this Agreement, and any documents referred to in it, shall be borne by the party that incurred the costs.

1. Notice
   1. A notice given under this Agreement:
      1. shall be in writing in the English language (or be accompanied by a properly prepared translation into English);
      2. shall be sent for the attention of the person, and to the address or fax number, specified in this clause [------] (or such other address, fax number or person as each party may notify to the others in accordance with the provisions of this clause ‎12); and
      3. shall be:
         1. delivered personally; or
         2. sent by pre-paid first-class post or recorded delivery; or
         3. (if the notice is to be served by post outside the country from which it is sent) sent by airmail.
   2. The addresses for service of notice are:
      1. [------]:
         1. address: P.O. Box [------],[------], UAE
         2. for the attention of: [------]
      2. [------]:
         1. address: P.O. Box [------],[------], UAE
         2. for the attention of: [------]
      3. the Buyer:
         1. address: [------],
         2. for the attention of: [------]
   3. A notice is deemed to have been received:
      1. if delivered personally, at the time of delivery; or
      2. in the case of fax, at the time of transmission; or
      3. in the case of recorded delivery, five (5) Business Days from the date of posting; or
      4. in the case of airmail, ten (10) Business Days from the date of posting; or
      5. if deemed receipt under the previous paragraphs of this clause [------] is not within business hours (meaning 9.00 am to 5.30 pm on a day that is not a public holiday in the place of receipt), when business next starts in the place of receipt and all references to time are to local time in the place of deemed receipt.
   4. To prove service, it is sufficient to prove that the notice was transmitted by fax to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.
2. Severance
   1. If any provision of this Agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
   2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
3. Agreement survives completion

This Agreement (other than obligations that have already been fully performed) remains in full force after Completion.

1. Counterparts

This Agreement may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.

1. Language

If this Agreement is translated into any language other than Arabic, the Arabic language text shall prevail.

1. Governing law and jurisdiction
   1. This Agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the Laws of the UAE as applied in the Emirate of [------].
   2. The parties irrevocably agree that the courts of the UAE have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement has been entered into on the day stated at the beginning of it.

|  |  |
| --- | --- |
| Signed by [-----] | ....................................... |

|  |  |
| --- | --- |
| Signed by [-----] | ....................................... |
| Signed by [------]:  for and on behalf of [-----] | .......................................  Authorised signatory |

Sellers’ Warranties

1. Capacity and authority
   1. The Sellers have taken all necessary action and have all requisite power and authority to enter into and perform this Agreement in accordance with its terms and the other documents referred to herein.
   2. This Agreement and the other documents referred to herein constitute (or shall constitute when executed) valid, legal and binding obligations on the Sellers on the terms of the Agreement and such other documents.
   3. The execution, delivery, and performance by each of the Sellers of this Agreement, and each document to be executed by each of the Sellers referred to herein, and the sale and purchase of the Sale Shares, assuming that all consents, approvals, authorisations and filings necessary for the sale and purchase of the Sale Shares pursuant to and contemplated by this Agreement are obtained or made, will not:
      1. violate or conflict with any Laws applicable to the Sellers;
      2. result in or require the creation or imposition of any Encumbrance upon or with respect to any of the Sale Shares;
      3. result in a breach of, or constitute a default under, an instrument to which either of the Sellers is bound and which is material in the context of the sale and purchase of the Sale Shares; nor
      4. result in a breach of any order, judgment or decree of any court or governmental agency to which either of the Sellers is a party or by which either of the Sellers is bound or submits and which is material in the context of the sale and purchase of the Sale Shares as contemplated by this Agreement.
2. The Sale Shares
   1. The Sellers are the legal and beneficial owner of the number of Sale Shares held by each of them as set out in Recital B.
   2. Each of the Sellers has the right to sell their holding of the Sale Shares in accordance with the terms set out in this Agreement.
   3. Each of the Sellers has the capacity to convey to the Buyer the full legal and beneficial title and ownership to their holding of the Sale Shares free from all Encumbrances.
   4. Each of the Sellers has the right to exercise all voting and other rights over their holding of the Sale Shares.
   5. The Sale Shares have been properly and validly issued and allotted and are fully paid.
   6. There is no Encumbrance, and there is no agreement, arrangement or obligation to create or give an Encumbrance, in relation to any of the Sale Shares.
3. Transactions with the SellerS
   1. There is no outstanding indebtedness or other liability (actual or contingent) and no outstanding contract, commitment or arrangement between the Company and either of the Sellers or his or her Affiliates.
   2. Neither of the Sellers, nor any of his or her Affiliates, is entitled to a claim of any nature against the Company or has assigned to any person the benefit of a claim against the Company to which either of the Sellers or his or her Affiliate would otherwise be entitled.

PART 2 BUYER’s Warranties

1. Capacity and Authority
   1. The Buyer warrants to the Sellers that:
      1. it has the right, power and authority to and has taken all necessary actions to execute, deliver and consummate the sale and purchase of the Sale Shares and each document to be executed by the Buyer at or before the date of this Agreement and the Completion Date and to perform all the terms and conditions required of the Buyer pursuant to the terms of this Agreement;
      2. the Buyer has (and at Completion will have) immediately available on an unconditional basis (subject only to Completion) the necessary cash resources to meet its obligations under this Agreement;
      3. the execution and delivery of, and the performance by the Buyer of each of its obligations under this Agreement will not:
         1. result in a breach of any provision of the memorandum or articles of association or by-laws or equivalent constitutional documents of the Buyer;
         2. result in a breach of, or constitute a default under, an instrument to which the Buyer is bound and which is material in the context of the transactions contemplated by this Agreement;
         3. result in a breach of any order, judgment or decree of any court or governmental agency to which the Buyer is a party or by which the Buyer is bound or submits and which is material in the context of the sale and purchase of the Sale Shares; nor
         4. save in respect of the approval of the DED in connection with the transfer of the Sale Shares, require the Buyer to obtain any consent or approval of, or give any notice to or make any registration with, any governmental or other authority which has not been obtained or made at the date hereof both on an unconditional basis and on a basis which cannot be revoked (save as pursuant to any legal or regulatory entitlement to revoke the same other than by reason of any misrepresentation or misstatement); and
   2. the Buyer is not aware nor has any actual knowledge of any fact, matter or circumstance which might entitle the Buyer either before or on the date of this Agreement or the Completion Date or with the passing of time, to make a claim against the Sellers. Immediately before Completion, the Buyer is deemed to warrant that it is not aware of any such fact, matter or circumstance by reference to the facts and circumstance as at Completion.

**SHORT FORM SHARE TRANSFER AGREEMENT AND AMENDMENT TO THE MEMORANDUM OF ASSOCIATION**

[to be inserted]

1. Please see introductory note 3. [↑](#footnote-ref-1)