

## GENERAL TERMS AND CONDITIONS

These GTCs apply to the Facility extended/to be extended by the Lender to the Borrower(s) and shall be read together with the other Facility Documents.

The GTCs together with the other Facility Documents shall commence and be effective on and from the Effective Date and shall continue to remain effective till the Termination Date, unless terminated earlier in accordance with the terms and conditions of the Facility Documents.

### 1 CONSTRUCTION

- 1.1 Any number of days prescribed in the Facility Documents shall be reckoned inclusive of the first and the last day unless the last day does not fall on a Business Day, in which case the last day shall be the previous day which is a Business Day.
- 1.2 References to the Facility Documents and any other documents include amendments, variations, modifications and replacements thereof and supplements thereto, and references to any Facility Documents include references to their respective schedules or annexures.
- 1.3 If any payment under the Facility Documents falls due on a day which is not a Business Day, such payment shall be made on the previous Business Day.
- 1.4 Where the Obligor(s) is/are a partnership firm, references in the Facility Documents to the Obligor(s) shall include all the partners of the Obligor(s) from time to time and at any time and all other persons carrying on business in the name of such partnership firm jointly and severally; all references to the Obligor(s) being an individual in the Facility Documents will also equally apply where the Obligor(s) is/are a sole proprietorship firm.
- 1.5 References to a law or regulation or a provision of law or regulation is a reference to that law, regulation or, as applicable, that provision as amended, consolidated, extended or re-enacted, and to any orders, regulations, instruments or other subordinate legislation made under the relevant statute.
- 1.6 Words importing the singular include the plural and vice versa; a gender shall include references to the female, male and neutral genders.
- 1.7 Where the Lender is expressed to have a right or discretion or is required to make a determination with respect to the 'materiality' or 'reasonability' of any matter, such right or discretion shall be exercised or determination shall be made by the Lender in its sole and absolute discretion, save and except as otherwise specifically provided in the Facility Documents.
- 1.8 A Default (other than an Event of Default) is continuing or outstanding if it has not been remedied or waived in writing and an Event of Default is continuing or outstanding if it has not been waived in writing.

### 2 FACILITY

#### 2.1 Procurement of the Facility

The Borrower(s) agrees and acknowledges that the Borrower(s) can avail the Facility directly from the Lender or through a Referral Partner.

#### 2.2 Disbursement and Drawdown of the Facility

- (i) On and from the Effective Date, the Borrower(s) may avail, and the Lender may make available to the Borrower(s), the Facility amount up to the Facility Value Limit as specified in the MITCs and the KFS in accordance with the terms and conditions set out under the Facility Documents subject to (i) the Obligor(s) not being in breach of any terms of the Facility Documents, (ii) the Borrower(s) and the Security Provider(s)

completing all the condition precedent set out under Annexure A to the satisfaction of the Lender for each drawdown under the Facility; and (iii) the Borrower(s) ensuring that the Margin is not less than the Required Margin at all times. The disbursement of the Facility by the Lender to the Borrower(s) will be at the sole and absolute discretion of the Lender.

- (ii) The Facility amount up to the Facility Value Limit shall be disbursed into (i) the Borrowers' Bank Account, or (ii) to the extent permitted under Applicable Law, the bank account of any other person which shall be specified by the Borrower(s) in writing, in each case through electronic mode or through cheque/demand draft, as may be decided by the Lender in its sole discretion.
- (iii) The Obligor(s) provide their irrevocable consent to the Lender to entitle the Lender, at its sole discretion to obtain, review and/or generate the CIC report, of the Obligor(s) (or, if applicable, any of its/their partners'/designated partners'/directors'/officers') prior to any disbursement of the Facility and from time to time during the tenure of the Facility.

## 2.3 Tenure

- (i) The initial tenure of the Facility shall be as set out under the MITCs.
- (ii) Subject to Applicable Laws with regard to classification of loan account, at the end of the prescribed tenure, the Lender shall at its sole discretion have the right to roll-over the Facility and may require the Obligor(s) to execute/accept necessary modifications to the terms of the Facility Documents.

## 2.4 No Commitment and Recall on Demand

Notwithstanding any provision in any Facility Document to the contrary, the Borrower(s) understands, acknowledges and agrees that: (i) the Facility is in the nature of an uncommitted credit / loan facility, is recallable by the Lender on demand at Lender's absolute discretion, and may be cancelled and repudiated in part or in entirety by the Lender, at any time without notice and without giving any reason and the Lender has no obligation whatsoever to make or continue to make available to the Borrower(s) all or any part of the Facility or to allow any disbursement thereof, and (ii) the Lender may at any time in its sole discretion and without assigning any reasons call upon the Borrower(s), in writing, to pay the entire Outstanding in full within 3 (three) days of such demand without any delay, demur or protest, and (iii) the Lender shall not be liable for any damages, claims of any nature whatsoever by reason of such recall, cancellation or repudiation of the Facility.

## 2.5 Review and Cancellation

- (i) Pursuant to any ongoing review by the Lender, the Lender may, at its sole and absolute discretion, vary, amend or extend the payment period, cancel or terminate the Facility or any part thereof or any other applicable terms by giving notice of 3 (three) Business Days. Any notice or communication by the Lender to the Borrower(s) in this regard shall be final, non-negotiable, and binding on the Borrower(s).
- (ii) Upon notice being given to the Borrower(s) for any cancellation or termination pursuant to this Clause 2.5, the Facility shall cease to be available for drawdown and (a) the Facility and the Outstanding shall become immediately due and payable (unless the Lender gives notice otherwise) and the Lender shall have the right to require immediate payment of all sums then owing to it under or in connection with the Facilities from the Borrower(s); and (b) the Borrower(s) shall procure the release and discharge of the Lender from all contingent and/or un-matured liabilities owing, sustained or incurred by the Lender pursuant to the disbursement of the Facility to the Borrower(s).

## 3 SECURITY AND GUARANTEE

- 3.1 All of the obligations of the Borrower(s) under the Facility and the Facility Documents, including the payment of the Outstanding, shall be secured by the Security created pursuant to the terms under Annexure A and other relevant Facility Document by the Security Provider(s).

- 3.2** All of the obligations of the Borrower(s) under the Facility and the Facility Documents, including the payment of the Outstanding, shall be irrevocably and unconditionally guaranteed pursuant to the terms under Annexure B and other relevant Facility Documents by the Guarantor, if applicable.

## **4 DISCHARGE**

- 4.1** Upon receipt of a request from the Borrower(s) on the Service Platform to discontinue the Facility and subject to receipt and realization of the entire amount of the Outstanding from the Borrower(s) to the satisfaction of the Lender, and if no further amounts are available to be disbursed to the Borrower(s) under the Facility Documents, each of which shall be confirmed by the Lender, the Obligor(s) shall be discharged of his, her, its or their obligations under the Facility Documents, including any obligations in relation to the Guarantee and Security and the Lender shall, on the request of the Borrower(s) and at the costs and expense of the Borrower(s), release the Security granted under the Facility Documents, and intimate the Borrower(s) of the same.
- 4.2** Where the Security Provider(s) is/are not an individual or a partnership firm, upon discharge of the Borrower(s) in accordance with Clause 4.1 above, the Lender shall, in relation to the Security, sign the notice of satisfaction of charge, as required by the Borrower(s) to file with the relevant Registrar of Companies.
- 4.3** Notwithstanding anything to the contrary under any Facility Document, any partial or full repayment of the Facility shall not entitle the relevant Obligor(s) to request for any release of charge over any Security, except in accordance with the provisions of this Clause 4.

## **5 DISCONTINUANCE AND TERMINATION OF THE FACILITY**

### **5.1 Discontinuation and Termination**

The Lender reserves the right at its sole discretion to discontinue the Facility (i) upon giving 3 (three) Business Days written notice by electronic form to the Borrower(s); or (ii) if the Lender determines that there have been no transactions conducted by the Borrower(s) for an extended period, the duration of such period to be determined by the Lender from time to time in its sole discretion; or (iii) where the Lender is unable to verify the identity and/or obtain documents required due to non-cooperation of the Obligor(s) or the data/information furnished by the Obligor(s) to the Lender is not reliable or for any other reason.

### **5.2 Rights of the Lender**

- (i) The rights of the Lender under Clause 14 shall also be available to the Lender *mutatis mutandis* in the event of the Lender's decision to discontinue the Facility including in the event of any cancellation or termination of the Facility pursuant to Clause 2.
- (ii) The termination of the Facility shall not affect the validity of the Facility Documents and any of the rights, liabilities and obligations of either Party which arose prior to termination (other than the liabilities and obligations of the Lender which, for the avoidance of doubt, shall stand discharged). All provisions in the Facility Documents in connection with clawbacks, indemnities, limitation of liability, disclosure of information, tax, and the provisions relating to enforcement, governing law, and confidentiality shall survive termination of the Facility Documents.

## **6 APPLICATION OF MONIES**

Notwithstanding any of the provisions of the Applicable Law, or any terms and conditions to the contrary contained in the Facility Documents, any payment by the Obligor(s) or any net proceeds received from the enforcement/sale of the Security shall, unless otherwise agreed to by the Lender in writing be appropriated in the following manner towards this Facility:

- 6.1** *first*, towards any processing fees due and payable to the Lender;

- 6.2** *then, towards overdue Interest amount payable to the Lender;*
- 6.3** *then, towards overdue Charges (other than processing fee) payable to the Lender;*
- 6.4** *then, towards Interest amounts currently due and payable or becoming due and payable to the Lender;*
- 6.5** *then, towards the Charges (other than processing fee) due and payable to the Lender; and*
- 6.6** *then, towards payment of the Outstanding Principal amounts currently due and payable to the Lender,*  
*provided, however that, the Lender reserves the right to appropriate the monies received in relation to this Facility or any other loan/facility that may be provided by the Lender to any of the Obligor(s) in any other manner or towards any other loan/facility as it may deem appropriate in its sole and absolute discretion.*

## 7 INTEREST

### 7.1 Calculation and period of Interest

- (i) The Borrower(s) shall be liable to pay Interest on each drawdown at the Interest Rate. Interest will be computed on a daily basis on the Outstanding Principal as at the end of the day in the books of the Lender or as otherwise set out in the relevant Facility Document (including in the relevant Drawdown Advice).
- (ii) Interest on each drawdown under the Facility shall begin to accrue from the date of the respective disbursement under the Facility by the Lender. The interest period for each disbursement under the Facility shall be for the duration as set out in the relevant Facility Documents.

## 8 CONTINGENT CHARGES

### 8.1 Penal Charges

Upon any delay in the payment of any Outstanding Due by the Borrower(s) to the Lender pursuant to the Facility Documents, or for any other conditions as may be communicated by the Lender to the Borrower from time to time, the Borrower(s) shall in addition to the applicable Interest, pay to the Lender the Penal Charges as may be specified under any Facility Document. The Lender has the right to adjust any subsequent payments in such manner as the Lender may deem fit in order to account for the payment of such Penal Charges. For the purpose of calculation of Penal Charges, the Outstanding Due shall exclude any Penal Charges due or payable.

### 8.2 Other Penal Charges

Upon non-compliance of any material terms and conditions as set out in the Facility Documents, the Borrower(s) shall in addition to the applicable Interest, pay to the Lender such Penal Charges as may be specified under any Facility Document. The Lender has the right to adjust any subsequent payments in such manner as the Lender may deem fit in order to account for the payment of such Penal Charges.

### 8.3 Foreclosure charges

If the Obligor(s) terminates the Facility Documents prior to the maturity of the Facility as specified in the MITCs or the KFS or if the Borrower(s) does not take disbursement in respect of the Facility, the Obligor(s) shall on demand pay to the Lender (or the Lender may at its discretion retain) an amount equal to such interest, fees and charges as the Lender may determine in connection with such cancellation, termination or non-disbursement. In such cases, the Lender shall also have the right to invoke any Payment Instructions. The Obligor(s) shall bear the cost of doing or refraining from doing any act, matter or thing which it is required to do or refrain from doing under or in connection with any Facility Document.

### 8.4 Dishonour and non-registration Charges

In the event of dishonour of any Payment Instruction issued by the Obligor(s) or any non-registration of any Payment Instruction issued by the Obligor(s) due to any action or omission of the Obligor(s), the Obligor(s) shall be liable to a flat charge separately for each dishonour or non-registration of Payment Instruction so issued by the Obligor(s) as set out in the Facility Documents. In case of dishonouring / non-payment/ non-registration on the second presentation, a further charge would be levied. The levy of such charge is without prejudice to the rights of the Lender under the Facility Documents or Applicable Laws.

## **8.5 Other Contingent Charges**

The Lender shall, in addition to the applicable Interest and contingent charges set out in Clause 8.1 to Clause 8.4 above, be entitled to charge other contingent charges, fees, penalties or costs as may be communicated by the Lender to the Borrower(s) from time to time under the KFS.

## **9 GENERAL CONDITIONS IN RELATION TO PAYMENT OF INTEREST AND CONTINGENT CHARGES**

- (i) All Outstanding Due paid by the Obligor(s) to the Lender towards any interest, fees or Charges are non-refundable. In case of any dispute, the Obligor(s) can raise a Disputes Notice as set out in Clause 27.3.
- (ii) The Obligor(s) acknowledges that the Facility provided under the Facility Documents is for one or more commercial transactions and irrevocably and unconditionally waives any defences available under usury or other Applicable Laws relating to the charging of Interest.
- (iii) The Borrower(s) acknowledges that any contingent charges payable by the Borrower(s) pursuant to Clause 8 are reasonable, and commensurate with the non-compliance by the Borrower(s) with any or all of the material terms and conditions of the Facility Documents, and such charges are not discriminatory within any particular loan or product category provided by the Lenders to its customers.

## **10 REPAYMENT**

### **10.1 Scheduled Payments**

- (i) The Borrower(s) shall pay the Facility on the applicable Due Dates or on any date as may be communicated by the Lender from time to time, as applicable, without any delay or demur or protest: (a) as per the terms and conditions set out in the Facility Documents; and (b) without any set-off or counterclaim or Tax deduction or otherwise of any amount due or alleged to be due or outstanding from the Lender or any other Person.
- (ii) Without prejudice to its obligation to pay the Outstanding in respect of the disbursement under the Facility on the Due Dates, (a) the Borrower(s) may also pay the Facility (in full or in part) on or before the applicable Due Date as indicated in the Facility Documents, or (b) the Lender may call upon the Borrower(s) to pay the Facility (in full or in part) on or before the applicable Due Date as indicated in the Facility Document. Any payment received by the Lender will be applied by the Lender in accordance with the terms of the Facility Documents. In such an event, the Lender shall use reducing balancing rate/method for determining the principal amount of the Facility outstanding on any relevant date.
- (iii) No notice, reminder or intimation shall be required to be given by the Lender to the Borrower(s) in respect of the payment of any Outstanding Due.
- (iv) Any dispute or difference of any nature whatsoever shall not entitle the Borrower(s) to withhold or delay payment of any Outstanding Due or other sum to the Lender and the Lender shall be entitled to: (a) present the Payment Instructions on the respective Due Dates for payment of the relevant Facility, and/or (b) demand payment from the Borrower(s) of the Outstanding Due or other Charges which have remained due and payable by the Borrower(s) on the respective Due Dates.

### **10.2 Variation**

The Borrower(s) agrees and acknowledges that the Lender shall be entitled at its sole discretion by providing a prior notice of 1 (One) Business Day to vary, modify, amend, revise and/or reschedule the payment terms (including the Interest Rate and/or any additional interest), at any time and from time to time in accordance with the Lender's internal policies and/or Applicable Laws, and such revised payment terms shall be binding on the Borrower(s) and deemed to be included in and forming part of the Facility Documents.

### **10.3 Payment mechanism**

- (i) The Borrower(s) shall make payment on the Due Date or as otherwise permitted under the Facility Documents using any of the payment mechanisms specified in the Facility Document or by using any other payment mechanism acceptable to the Lender.
- (ii) The Borrower(s) may also issue irrevocable instructions (in a form and substance satisfactory to the Lender) to the Borrower(s)'s bankers to ensure payment to the Lender pursuant to the Payment Instruction(s) issued by the Borrower(s). However, in such cases, the failure of the Borrower's bank for any reason to transfer any such amounts to the Lender shall be a failure by the Borrower(s) to pay the amounts and shall constitute an Event of Default. If required by the Lender, the Borrower(s) shall provide to the Lender a confirmation (in a form and substance satisfactory to the Lender) of the acceptance by the Borrower's bank of the stated Payment Instruction(s).
- (iii) The Lender may at its discretion, by providing a prior notice of 3 (Three) Business Days, require the Borrower(s) to adopt or switch to any alternate mode of payment and/or additional Payment Instruction(s) and the Borrower(s) shall comply with such request, without any demur or delay or protest.
- (iv) Save and except with the prior written consent of the Lender, the Borrower(s) shall not, under any circumstances, revoke, cancel or modify or alter the Payment Instruction(s), if any, or cancel or issue stop-payment instructions with respect to these Payment Instruction(s) or do or omit to do anything which may result in the Borrower's bank not transferring the amounts equal to the Outstanding due under the Facility Documents to the bank account of the Lender on the relevant Due Date or otherwise.
- (v) The Payment Instruction(s) are intended to be used at any time by the Lender as the Lender may consider fit, to recover the Outstanding owed by the Borrower(s) to the Lender, and the Borrower(s), by executing the Facility Documents, has unconditionally and irrevocably authorised the Lender to do so for an aggregate amount not exceeding the aggregate Outstanding under the Facility from time to time. In the absence of such authority having been given by the Borrower(s) to the Lender, the Lender would not have granted the Facility to the Borrower(s).
- (vi) The authority given by the Borrower(s) to the Lender herein to fill in the details of the Payment Instruction(s), including the amounts payable under the Facility Documents is as permitted under the provisions of Applicable Law (including, without limitation, the Negotiable Instruments Act, 1881 and Payment and Settlement Systems Act, 2007) as applicable and does not amount to a material alteration of the Payment Instruction(s), by the Lender. By execution of the Facility Documents, the Borrower(s) has/have agreed and confirmed that in the event the acts of the Lender in filling the Payment Instruction(s) as aforesaid are construed by any Governmental Authority to be an alteration within the meaning of Applicable Law (including, without limitation, the Negotiable Instruments Act, 1881 and Payment and Settlement Systems Act, 2007), then the Borrower(s) agrees and acknowledges as follows:
  - (a) the Borrower(s) has/have provided to the Lender its unconditional and irrevocable consent for such an alteration and that by reason of such alteration, Payment Instruction(s) shall/should not be construed to be void or otherwise unenforceable and the Borrower(s) has/have also unconditionally and irrevocably agreed and accepted to honour such Payment Instruction(s) when presented for payment;
  - (b) the Borrower(s) has/have confirmed that such alteration is made to record the common intention of the Lender and Borrower(s), which common intention is to fill in the Payment Instruction(s) with the

amounts due by the Borrower(s) to the Lender and to present the same for payment on such dates as the Lender may in its absolute and sole discretion decide.

- (vii) The Payment Instruction(s) issued by the Borrower(s) may not be specific to this Facility and in such cases, the Lender may use such Payment Instruction(s) for any other loan/facility availed by the Borrower(s) from the Lender and all the provisions hereof shall apply thereto.
- (viii) The Borrower(s) shall promptly issue fresh Payment Instruction(s), as and when requested by the Lender, if the Payment Instruction(s) submitted by the Borrower(s) to the Lender are exhausted or about to exhaust or if the Lender is facing any difficulty/impediment for any reason whatsoever in presenting such Payment Instruction(s) or if required at any time by the Lender at its sole discretion.
- (ix) No notice, reminder or intimation shall be required to be given by the Lender to the Borrower(s) prior to the presentation of any Payment Instruction(s) to the drawee banks for encashment thereof.
- (x) The Borrower(s) hereby unconditionally and irrevocably covenants that at no point during the continuity of the Facility shall the Borrower(s) claim that Payment Instructions, is invalid due to any reason whatsoever. The Borrower(s) further confirms that the Borrower(s) shall ensure availability of funds in the Borrower's Bank Account on and immediately prior to the Due Date(s) and thereafter in respect of which the Payment Instructions, have been made and that the Borrower(s) will not at any time close the Borrower's Bank Account and/or issue any notice instructing the Lender not to present any such Payment Instructions, towards payment of any instalments. It is the duty of the Borrower(s) to ensure that the Borrower's Bank Account is debited towards every Outstanding Due and in case of such debit not occurring, the Borrower(s) shall inform the Lender in this regard within 3 (Three) days from the Due Date of such Outstanding Due that it has available funds for the due payment of such Outstanding Due.

## **11 REPRESENTATIONS AND WARRANTIES**

Each of the relevant Obligor(s) makes the representations and warranties set out in Schedule I and paragraph 8 of Annexure A to the Lender on the Effective Date by reference to the facts and circumstances then existing on the Effective Date. Each of the representations and warranties: (i) shall be repeated on each date until the Termination Date; (ii) are true, correct, accurate and not misleading as on the Effective Date; and (iii) shall remain true, correct, accurate and not misleading on each date until the Termination Date.

## **12 GENERAL COVENANTS AND UNDERTAKINGS**

Each of the relevant Obligor(s) irrevocably and unconditionally undertakes to the Lender that on or from the Effective Date, at all times during the availability of the Facility and until the Termination Date, it shall comply with the undertakings and covenants set out in Schedule II and paragraph 9 of Annexure A.

## **13 EVENTS OF DEFAULT AND TERMINATION**

Each of the events or circumstances set out in this Clause 13 shall be an Event of Default.

### **(i) Failure to Pay**

The Borrower(s) does not pay to the Lender on the relevant Due Date, any amount payable by the Borrower(s) pursuant to the Facility Documents strictly in the manner in which it is expressed to be payable under the Facility Documents.

### **(ii) Breach of Obligations**

Any of the Obligor breaches any covenant, undertaking or obligation or does not comply with any provision of the Facility Documents (other than those referred to in a payment default under the Facility Documents).

### **(iii) Misrepresentation**

Any representation, warranty, particulars, information, details or statement given/filled in/made by any Obligor in the Facility Documents and/or in any document delivered by or on behalf of the Obligor under or in connection with the Facility is or proves to have been incorrect or misleading in any respect when made or deemed to be made.

(iv) **Material Adverse Effect**

Any event or circumstance occurs or might in the opinion of the Lender be expected to occur, or any legal proceedings, suit or action of any kind whatsoever (whether criminal or civil) is instituted or pending against any Obligor, whether in India or elsewhere which in the opinion of the Lender could have a Material Adverse Effect.

(v) **Unlawfulness or Fraud**

Any of the following events occurs: (A) it is or will become unlawful for any Obligor or the Lender to perform or comply with any of their respective obligations under the Facility Documents, (B) any obligation of any Obligor under the Facility Documents is not or ceases to be legal, valid, binding or enforceable, (C) any Obligor acts fraudulently or dishonestly, or (D) any Obligor is/are convicted of a crime or legal proceedings to recover debts or any criminal proceedings are commenced against any Obligor.

(vi) **Repudiation**

Any Obligor rescinds or purports to rescind or repudiates or purports to repudiate the Facility Documents or evidences an intention to rescind or repudiate the Facility Documents.

(vii) **Facility Documents**

The Facility Documents are not (once entered into), or cease to be, in full force and effect.

(viii) **Expropriation**

Any Governmental Authority or other authority (whether de jure or de facto) nationalises, compulsorily acquires, expropriates or seizes all or any part of the business or assets of any Obligor or takes any steps in relation thereto.

(ix) **Judgment or Creditor's process**

Any of the following event occurs: (A) any Obligor or its Affiliate or its Subsidiary fails to comply with or pay any sum due from such Obligor and/or Affiliate and/or Subsidiary under any judgment or any order made or given by a court of competent jurisdiction, or (B) any attachment, sequestration, distress or execution affects any asset or assets of any Obligor and/or its Affiliates and/or its Subsidiaries.

(x) **Insolvency and Insolvency Proceedings**

Any of the following events occurs: (A) any Obligor ceases to be solvent or is unable to or deemed by law to be unable to or admits his, her, its or their inability to, pay his, her, its or their debts as they fall due, suspends making payments on any of its debts or, by reason of actual financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness, or (B) any action, legal proceedings or other procedure or step is taken in relation to (i) filing of an application with the National Company Law Tribunal or such similar authority or other court or tribunal under the Applicable Law seeking commencement of an insolvency resolution process, fresh start process, insolvency proceedings, bankruptcy proceedings or other similar process under the Insolvency and Bankruptcy Code, 2016, or any other analogous law in respect of any Obligor, (ii) the suspension of payments or a moratorium of any indebtedness of any Obligor, or (iii) enforcement of any security over any assets of any Obligor, or any analogous procedure or step is taken in any jurisdiction.

(xi) **Cross default**

- (a) Any Indebtedness of any Obligor is not paid when due nor within any originally applicable grace period;
- (b) Any Indebtedness of any Obligor is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of any actual or potential default, event of default, or any similar event (however described);
- (c) Any commitment for any Indebtedness of any Obligor is cancelled or suspended by a creditor as a result of any actual or potential default, event of default, or any similar event (however described); or
- (d) Any creditor of any Obligor becomes entitled to declare any Indebtedness of such Obligor due and payable prior to its specified maturity (however described).

**(xii) Legal proceeding**

- (a) Where any Obligor is an individual/are individuals, the Obligor is/are convicted of a crime or legal proceedings to recover debts or any criminal proceedings are commenced against the Obligor.
- (b) Where any Obligor is/are a partnership firm or a limited liability partnership firm, any partner and/or any designated partner of such Obligor is/are convicted of a crime or legal proceedings to recover debts or any criminal proceedings are commenced against any partner and/or any designated partner.
- (c) Where any Obligor is/are a company, any director of the Obligor is/are convicted of a crime or legal proceedings to recover debts or any criminal proceedings are commenced against any director.
- (d) Any litigation, arbitration, investigative, regulatory, governmental or administrative proceeding is commenced, continuing, pending or threatened to restrain any Obligor entry into, the exercise of any of the Obligor rights under, or compliance by the Obligor with any of he/she/its/their obligations under, the Facility Documents or the transactions contemplated therein.

**(xiii) Security**

- (a) Any Security created in favour of the Lender pursuant to the Facility Documents is jeopardised, or becomes unenforceable, is withdrawn or terminated without the Lender's consent.
- (b) The Borrower(s) failing to ensure that the Margin is not less than the Required Margin (each as defined under Annexure A) within the timelines specified by the Lender under the Facility Documents.
- (c) Any non-compliance with the conditions subsequent, if any, in relation to creation and perfection of the Security under the Facility Documents.
- (d) Any additional Encumbrance is created or any action is undertaken to create an additional Encumbrance over the Security created in favour of the Lender pursuant to the Facility Documents.
- (e) Any Security proposed to be created in favour of the Lender pursuant to the Facility Documents is not created and/or perfected within the timelines set out in the Facility Documents.
- (f) Any circumstance or event occurs which is prejudicial to or impairs or imperils or jeopardise or is likely to prejudice, impair, imperil, depreciate or jeopardise the Security for the Facility.

**(xiv) Other Events**

- (a) Any Applicable Law, or any change in any Applicable Law, does or purports to vary, suspend, terminate, or excuse performance by any Obligor of any of his, her, its or their obligations under the Facility Documents.

- (b) Any Obligor suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business or disposes of all or a substantial part of its business or assets, or proposes to do any of the foregoing without the prior written consent of the Lender.
- (c) There exists any circumstance which, in the sole opinion of the Lender, jeopardizes the Lender's interest in relation to the Facility.
- (d) The failure of the Borrower's bank for any reason to transfer the amount as per the Payment Instruction(s) and the Facility Documents.
- (e) Where any Obligor is an individual/are individuals, the Obligor (a) dies, becomes incapacitated or of unsound mind or is placed under custody, or (b) changes its residential status such that the Borrower(s) ceases to be a person resident in India as defined under the Foreign Exchange Management Act, 1999.
- (f) Where any Obligor is/are a partnership firm or a limited liability partnership firm or a company, the Obligor undertakes any change in control or management or partnership/ shareholding, as the case may be, without the prior written consent of the Lender,
- (g) Where any Obligor is/are a partnership firm or a limited liability partnership firm or a company, any step (other than one which is, in the opinion of the Lender, frivolous or vexatious) is taken by any Person with the view to the dissolution or winding-up or reconstitution of such Obligor or for the appointment of a receiver, receiver and manager, trustee or similar officer of the Borrower(s) or over any part of the assets of the Obligor or any analogous proceeding is taken against the Obligor in any other jurisdiction or, where any Obligor is/are a partnership firm, any partner of the Obligor dies or any step (other than one which is, in the opinion of the Lender, frivolous or vexatious) is taken by any Person with a view to the bankruptcy of any partner of the Obligor or the Obligor.
- (h) Save and except with the prior written consent of the Lender, the Borrower(s) under any circumstances, revokes, cancels or modifies or alters the Payment Instruction(s), if any, or cancels or issues stop-payment instructions with respect to the Payment Instruction(s) or do or omit to do anything which may result in the Borrower's bank not transferring the amounts equal to the Outstanding due under the Facility Documents to the bank account of the Lender on the relevant Due Date or otherwise.
- (i) Any other circumstance, which in the sole opinion of the Lender is prejudicial to the interest of the Lender.
- (j) An Event of Default has occurred under any other agreement entered into by the Obligor(s) or any associate/affiliate of the Obligor(s) or a person or entity related to the Obligor(s).

## **14 CONSEQUENCES OF AN EVENT OF DEFAULT**

Upon occurrence of an Event of Default, the Lender may exercise any or all of the following rights in its absolute and sole discretion:

- 14.1** declare the Outstanding to be immediately due and payable, whereupon they shall be immediately due and payable without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived, notwithstanding anything contained herein to the contrary;
- 14.2** cancel and terminate the Lender's obligations and any outstanding limit under the Facility, whereupon they shall immediately stand cancelled and terminated;
- 14.3** levy additional interest as specified in the MITCs, KFS and/or communicated from time to time to the Borrower(s) through any other Facility Documents;
- 14.4** cancel any undrawn portion of the Facility amount whereupon it shall immediately be cancelled;

- 14.5** utilize the Payment Instructions, if any, towards payment of the Outstanding;
- 14.6** initiate legal proceedings, including without limitation, under Section 138 of the Negotiable Instruments Act, 1881 or under Section 25 of the Payment and Settlement Systems Act, 2007, as the case maybe;
- 14.7** publish a public notice, including with the national newspapers, local magazines and social media sites declaring the occurrence of an Event of Default and publishing the name and photograph of the Borrower(s);
- 14.8** disclose details of the Event(s) of Default to CIC and/ or any other agency authorized in this behalf by RBI or any other authority;
- 14.9** stipulate such other conditions or amend any terms of the Facility Documents as the Lender considers necessary;
- 14.10** enforce all of the Security created pursuant to the Facility Documents and exercise such other rights as may be available to the Lender under the Facility Documents and all Applicable Laws;
- 14.11** transfer the Collateral in the name of the Lender during the continuance of the pledge in accordance with the provisions of the Facility Documents;
- 14.12** receive all amounts payable in respect of the Security;
- 14.13** invoke the Security and/or associated collateral and/or transfer or register in its name or in the name of a delegate or in the name of any other Person, as it shall deem fit, all or any of such Security and/or associated collateral without the intervention of the court and without any consent of or further notice to the Security Provider(s) and/or the Borrower(s);
- 14.14** exercise the powers conferred on it pursuant to any relevant power of attorney;
- 14.15** invoke the Guarantee provided by the Guarantor in terms of the Facility Documents, if applicable; and/or
- 14.16** exercise such other rights and remedies as are available to the Lender under Applicable Law or the Facility Documents in such manner that the Lender may deem fit.

Any excess amounts available with the Lender, after the irrevocable discharge and repayment in full of all the obligations of the Obligor(s), shall be transferred by the Lender to the Borrower(s).

The above rights are cumulative rights and not to the exclusion of each other or any other right of the Lender. The Lender shall be entitled to enforce all or some of the rights above as it so desires and any such action undertaken shall be binding upon the Obligor(s).

This Clause 14 shall survive the termination of the Facility Documents.

## **15 EXEMPTION FROM LENDER'S LIABILITY**

- 15.1** All obligations of the Lender and the performance thereof by the Lender shall be excused by events beyond the control of the Lender (including circumstances caused by force majeure, acts of God, calamity, natural disaster, industrial actions, power failure, computer breakdown, war, acts of terrorism, civil strife, sabotage, the occurrence of any extraordinary event, delays on the part of any agents or other entities or authorities or any other factors beyond the control of the Lender).
- 15.2** No other Subsidiary or Affiliate of the Lender shall be responsible or liable for any of the liabilities or obligations of the Lender hereunder arising from any cause whatsoever, whether or not beyond the control of the Lender, and shall not in any circumstance be responsible or liable in any manner for any direct, indirect, special or consequential damages or Losses suffered by the Obligor(s).
- 15.3** The Lender may at its sole discretion grant time or other indulgence to the Obligor(s) or any other Person, without impairing or affecting in any way any of the Lender's rights as against the Obligor(s) or any such other Persons.

- 15.4** Nothing in the Facility Documents shall require the Lender to do or not do anything if it would or might in its reasonable opinion constitute a breach of its policy or any Applicable Law or requirement of any Governmental Authority.
- 15.5** The Lender shall not be responsible or liable in any manner for any direct, indirect, special or consequential damages or Losses suffered by the Obligor(s): (i) pursuant to any action or omission by the Lender under or in connection with, or any transaction contemplated under, the Facility Documents, (ii) pursuant to any delay(s) in receipt of information, documents or photographs required for verification by the Lender from the Obligor(s) from time to time, (iii) for anything bona fide done or omitted or suffered in reliance upon the advice or information sought by the Lender from its agents or advisors or as a consequence of any mistake or oversight or error of judgment on the part of the Lender or any other Person appointed by the Lender hereunder, (iv) pursuant to any diminution in the value of any funds due to any reason whatsoever and whether arising in India or in any place or otherwise, any loss of business, loss of reputation, loss of opportunity, loss of profit or exemplary damages, or any type of special, consequential or indirect loss whatsoever, (v) pursuant to any sale of Security in the public or private market for recovering the Outstanding under the Facility in accordance with the terms of the Facility, (vi) pursuant to any delay in discharge of Security by the Lender in accordance with the terms of the Facility Documents; or (vii) pursuant to any delay in disbursement of the Facility.

## **16 OBLIGORS' RIGHTS AND LIABILITIES**

- 16.1** The Obligor(s) agrees and confirms that the terms and conditions of the Facility Documents do not constitute any warranty (express or implied) or similar obligation on the part of the Lender.
- 16.2** The Obligor(s) does not in any event have, or shall acquire, any rights against the Lender except as expressly conferred on the Obligor(s) pursuant to the Facility Documents.
- 16.3** Time is of the essence in the performance of the Obligors' obligations. If a Facility Document specifies when the Obligor(s) must perform an obligation, the Obligor(s) must perform it by the time specified. The Obligor(s) must perform all other obligations promptly.
- 16.4** The Obligor(s) shall be liable for any Losses suffered by the Lender or the Obligor(s) arising from or in relation to the Obligor(s)' inability or incapacity of whatever nature to act and comply with its obligations under the Facility Documents.
- 16.5** The Obligor's obligations hereunder will remain in full force and effect on and from the Effective Date until the full, prompt and complete performance of all the terms, undertakings and conditions of the Facility Documents.
- 16.6** Other than where the Obligor(s) is/are a company or a limited liability partnership, the Obligor(s) shall be personally liable to the Lender for performance of all obligations under the Facility. In the event of death of the Obligor(s), the Lender shall at its discretion deal with the heirs and legal representatives of the deceased individual for discharge of such Obligor's liabilities under the Facility Documents.
- 16.7** Where the Obligor(s) is/are a partnership, all the partners shall be jointly and severally liable to the Lender for performance of all obligations under the Facility. The provisions of the Facility Documents shall remain binding on such Obligor(s) notwithstanding any change in the name of the partnership or any change in the numbers of partners due to death, retirement or introduction of a partner or partners or any other change in the constitution of such partnership and the liabilities of all such Persons shall continue and be binding on such Obligor(s) notwithstanding any such change. In the event of death or retirement of any partner, the Lender shall at its discretion deal with the surviving and/or continuing partner(s), without affecting its rights as against the retiring partner or the heirs and legal representatives of the deceased partner, as the Lender shall think fit and proper, and the retiring partner and/or the heirs, executors, administrators, legal representatives of the deceased partner shall have no claim as against the Lender in respect of such dealing.

## 17 SET-OFF

The Obligor(s) agrees and confirms that the Lender shall be entitled in its sole discretion (but not obliged to), with a prior written notice of 1 (One) Business Day to the Obligor(s), without in any way affecting the Facility Documents, to: (i) set-off any obligation due from the Lender under the Facility Documents against any obligation owed by the Lender to the Obligor(s) (whether or not matured), regardless of the place of payment; and (ii) appropriate any payments as made by the Obligor(s) under or pursuant to the Facility Documents towards any other indebtedness or monies due to the Lender, and such appropriation shall be final and binding upon the Obligor(s) who shall continue to remain liable to the Lender for payment of dues under the Facility Documents to the extent of such shortfall.

## 18 COSTS AND EXPENSES

### 18.1 Transaction and Enforcement Costs and Expenses

- (i) The Obligor(s) agrees to bear and pay to the Lender all costs and expenses arising in relation to the Facility, calculated at such rate and on such periodic rests as the Lender may specify.
- (ii) In addition to the above, the Obligor(s) shall promptly on demand pay to the Lender all charges, costs and expenses incurred or paid by the Lender on its own account or on account of the Obligor(s) arising in relation to the Facility and Security granted or extended to the Borrower(s), including: (i) costs and expenses as a result of any change in any law or regulation (or any change in the Interest Rate pursuant to directions, notifications, circulars or regulations issued by the RBI or any other Governmental Authority in this regard, (ii) Taxes, duties, levies, charges or obligations whatsoever charged or falling due, or defaults in payment of any insurance premium, legal or inspection or valuation fees, stamp duty (including any increase or differential duties and penalties payable due to an instrument or copy thereof (including electronic record) being brought in any state other than where the same was executed) or out-of-pocket expenses of any kind whatsoever, and (iii) costs and expenses (including legal and attorney cost and expenses) incurred in or incidental to or in contemplation of preserving, protecting, exercising or enforcing the Lender's rights or powers under the Facility Documents, and until payment in full such amounts shall bear additional charges at such rate and on such basis as the Lender may stipulate from time to time.

## 19 INDEMNITY

- 19.1 Each of the Obligor(s) hereby indemnifies and agrees to indemnify, jointly and severally, and hold harmless the Lender and its Affiliates and all of their respective directors, officers, servants, employees, correspondents, nominees and agents (present, future and past) ("**Indemnified Parties**") from and against any and all losses (direct or consequential), claims, demands, actions, suits, proceedings, orders, damages, costs and expenses (including all taxes and other levies and legal costs on a full indemnity basis) and any and all other liabilities of whatsoever nature or description howsoever arising ("**Losses**"), which the Indemnified Parties may incur or sustain from or by reason of:

- (i) breach by the Obligor(s) of any of its obligations, representations and warranties under the Facility Documents or any document executed pursuant to the Facility Documents or as a result of any Person exercising, or not exercising, rights under the Facility Documents;
- (ii) instructions given to the Indemnified Parties by the Obligor(s) or as a result of any information produced or approved by the Obligor(s) being or being alleged to be misleading and/or deceptive in any respect or any misrepresentation by the Obligor(s);
- (iii) any change in any existing Applicable Law, regulation or official directive relating to the Facility or any related transaction;

- (iv) any enquiry, investigation, subpoena (or similar order) or litigation with respect to the Obligor(s) or with respect to the transactions contemplated or financed under the Facility Documents;
  - (v) any claim by any third party claiming any right, title or interest in respect of the Security;
  - (vi) the Lender enforcing or attempting to enforce any rights it may have against the Obligor(s) pursuant to the Facility Documents;
  - (vii) any action undertaken by the Indemnified Parties pursuant to any instruction issued by the Obligor(s);
  - (viii) failure by the Obligor(s) to pay costs and expenses as per Clause 18 above;
  - (ix) the occurrence of any Event of Default;
  - (x) any and all calls, contributions, instalments or other payments relating to any of the Security and/or the Guarantee which may have been made by the Lender on behalf of the Obligor(s) in fulfilment of the Obligor(s)' obligations under the Facility Documents; or
  - (xi) transfer or redemption of any Security or from any act, or omission of the Lender, any delegate or their respective officers, employees or agents in relation to the Security created pursuant to the Facility Documents or any postponement of such transfer or redemption howsoever caused.
- 19.2** In no event shall the Indemnified Parties be liable for any Losses including, but not limited to, losses due to improper or unauthorized use of the passwords, login information, data, onetime passwords etc. or through any electronic mode, Losses due to fraudulent emails or phone calls by any person falsely pretending to be an employee/representative/agent of the Lender and Losses due to any delay or inability to use the Indemnified Parties website or application or services provided by any electronic mode.
- 19.3** All sums necessary to effect the indemnity under this Clause 19 and all sums payable by the Obligor(s) under this Clause 19 shall be guaranteed by the Guarantee and secured by the Security created pursuant to the Facility Documents.
- 19.4** Each of the indemnities in the Facility Documents constitutes a separate and independent obligation from the other obligations of the Obligor(s) under the Facility Documents and shall give rise to a separate and independent cause of action, apply irrespective of any indulgence granted by the Lender and continue in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of any sum due hereunder or under any judgment or order.
- 19.5** This Clause 19 shall survive the termination of the Facility Documents.

## 20 TAX

- 20.1** Without in any way prejudicing or reducing the Lender's rights or the Obligor(s) obligations under the Facility Documents, the Obligor(s) hereby agrees that all payments to the Lender shall be made in full without any counter-claim, set-off, deduction or withholding whatsoever unless otherwise required under Applicable Law. If the Obligor(s) is/are required by Applicable Law to make any deduction or withholding from any such sum on account of Tax (except a Tax deduction at source under the Income Tax Act, 1961) the sum payable shall be increased by such amount as may be necessary so that after making such required deduction or withholding, the Lender receives, on the Due Date for payment of such sum, a net amount equal to the sum the Lender would have received had no such deduction or withholding been required to be made.
- 20.2** If Tax is required to be deducted at source pursuant to the Income Tax Act, 1961, the Obligor(s) shall deposit the Tax deducted at source with the relevant income-tax authority within 7 (Seven) Business Days (or any other timeline as may be prescribed under Applicable Law) from the Tax deduction at source payment date ("TDS Deposit Date") and provide to the Lender a copy of the challan or such certificate evidencing the deposit of such Tax within 7 (Seven) Business Days from the TDS Deposit Date.

- 20.3** The Obligor(s) shall provide to the Lender a certificate in Form No. 16A of the Income Tax Act, 1961 (or any other format which may be prescribed under the Income Tax Act, 1961 from time to time) regarding the Tax deducted at source within 30 (Thirty) Business Days from the last day of submission of the return submitted in relation to the Tax deducted at source with the relevant income tax authority.
- 20.4** The Obligor(s) shall pay to the Lender on demand any GST which is payable or deemed payable as a consequence of any supply made or deemed to be made or other matter or thing done under or in connection with the Facility Documents by the Lender, together with any fine, penalty or interest payable because of a default of the Borrower(s). The amount paid by the Obligor(s) to the Lender on account of GST must be sufficient to ensure that the economic benefit to the Lender of the Facility remains the same whether GST applies or not. The Obligor(s) shall pay any amount it is required to pay under this Clause 20.4 in full and without any deduction and/or withholding, notwithstanding any entitlement that the Obligor(s) may have to a credit or offset amount from the Lender.

## **21 STATEMENTS**

- 21.1** The Lender may issue to the Obligor(s), Statements in relation to the Facility at such intervals and in such form as the Lender may decide. Such Statements shall be sent in accordance with Clause 26.
- 21.2** Any Statement generated or furnished or displayed by the Lender shall be accepted by and be binding on the Obligor(s) and shall be conclusive proof of the correctness of the amount and value of the Guarantee and Security mentioned therein. If the Obligor(s) desires to question any Statement or any part thereof, the Borrower(s) shall furnish to the Lender full details of the same within 15 (Fifteen) days of (a) the receipt of the Statement by the Obligor(s), or (b) display of the Statement on the Online Account, and the Lender may consider the same. Notwithstanding the above, any objection to the Statement by the Obligor(s) shall not relieve the Obligor(s) of its/their obligation to make payments due and payable to the Lender and create any additional Security in accordance with terms of the Facility Documents.
- 21.3** The date which appears on the transaction record may vary from the date that appears on the Statement. This is because transaction completed on non-banking days and after cut-off time on banking days may be held over to be processed on the next banking day.
- 21.4** The Lender may cancel, reverse or debit any payment the Lender makes under the Facility Documents (including any Interest paid) and make any corresponding adjustments to an account (i) to correct a mistake; (ii) where the Lender has not received cleared and unconditional funds in full or promptly; (iii) where the Lender is required to return the funds to the relevant payer or drawer; or (iv) where the Lender has reasonable grounds for doing so.
- 21.5** The Obligor(s) acknowledges that the Lender may destroy, erase or otherwise cease to maintain any records (whether in paper, electronic data or other form) as the Lender may consider appropriate after such time as permitted by Applicable Law. However, the Obligor(s) acknowledges and agrees that, unless provided under Applicable Laws, the Obligor(s) shall have no right to require the Lender to delete or erase any such record.

## **22 COMMUNICATION AND INSTRUCTIONS**

- 22.1** Unless agreed upon in writing or required otherwise by Applicable Law, the Lender is authorised (but is not obliged) to rely upon and act in accordance with any instructions from the Borrower(s) only and which may from time to time be:
- (i) purported to be given on the Online Account;
  - (ii) sent by way of an e-mail; or
  - (iii) issued in any other manner as may be agreed between the Borrower(s) and the Lender from time to time.

- 22.2** The Lender may ask the Borrower(s) to confirm any instruction in writing and the Borrower(s) should confirm the same as soon as possible in order for the Lender to avoid any delay. Without prejudice to the above, any instruction given or purported to be given or received from the Borrower(s) shall be deemed to be given with Obligor(s)' full authority and approval. The Borrower(s) is/are solely responsible for ensuring the accuracy and completeness of all instructions.
- 22.3** The Obligor(s) acknowledges that all instructions given in accordance with Clause 22.1 (and the records of the Lender of those instructions) have the same effect as original documents in writing. The Obligor(s) (i) agrees that any instructions, communications and documents digitally or electronically executed, accepted, signed or issued will have the same validity, admissibility and enforceability as if signed physically by the Obligor(s), and (ii) irrevocably and unconditionally waives the right to challenge their validity, admissibility or enforceability on the basis that they are in electronic form.
- 22.4** Without prejudice to the terms of this Clause 22, the Lender may refuse to act on any instruction from the Borrower(s) if: (i) it involves a breach of policy of the Lender; (ii) it may cause the Lender to violate any Applicable Law, regulation, code, requirement of any authority or other duty that applies to Lender; (iii) the Lender genuinely believes or suspects that the instruction is unauthorised; (iv) the instruction is not sufficiently clear; or (v) any other event or circumstance occurs or subsists that causes the Lender to consider that the Lender should not or cannot act on such instruction.

## **23 ASSIGNMENT**

- 23.1** The Obligor(s) is/are not entitled to and shall not assign or transfer any of the rights under the Facility Documents to any Person.
- 23.2** The Lender shall be entitled to grant, transfer, securitize, novate or assign any or all of its rights, benefits, obligations, duties and liabilities under the Facility Documents including the rights to receive the Outstanding amounts by way of sale, transfer, securitization or otherwise to any Person. The Obligor(s) unconditionally and irrevocably: (i) acknowledges and agrees to any such grant, transfer, securitization, novation or assignment and agrees that the Obligor(s) shall continue to perform his, her, its or their obligations under the Facility Documents to the relevant grantee, transferee, novate or assignee; and (ii) agrees that this clause constitutes notice to, and consent by, it in this regard.
- 23.3** The provisions of the Facility Documents shall remain binding on the Obligor(s) notwithstanding any amalgamation, merger or reverse merger of the Lender with any other company or companies and notwithstanding any reconstruction involving the formation of and transfer of, all or any of the Lender's assets to a new company or an existing company and notwithstanding the sale of all or any part of the Lender's undertaking and assets to another company with the intent that the undertakings and agreement herein contained shall remain valid and effectual in all respects, and the benefit hereof and all rights hereby conferred upon the Lender may be assigned to and enforced by any such company or companies as if such company or companies had been named herein instead of the Lender and the terms and conditions of the Facility Documents shall apply to all facilities and other accommodation extended to the Obligor(s) by any amalgamated company as aforesaid or the Lender as reconstructed or any company to which the Lender shall have sold all the Lender's undertaking and assets in like manner as if such amalgamated company or the Lender as reconstructed or such company were named herein instead of the Lender.
- 23.4** The Obligor(s) undertakes to execute all such instruments or documents and do all such acts or deeds (at the his/her/its/their own cost) as may be required by the Lender in connection with any assignment, transfer, novation, merger or change referred to in Clauses 23.2 and 23.3 above.

## **24 CONFIDENTIALITY**

- 24.1** The Obligor(s) shall, except to the extent required under Applicable Law, maintain complete confidentiality about the matters concerning the Facility Documents.

- 24.2** The Obligor(s) acknowledges that, pursuant to the Facility Documents or any transactions contemplated herein, the Lender will be in receipt of Obligor(s) sensitive personal information from time to time. For the protection of such sensitive personal information from unauthorised access, use, modification, damage, disclosure or impairment, the Lender has implemented information security practices and standards and has in place comprehensively documented information security programmes and policies containing managerial, technical, operational and physical security measures that are in compliance with the IT Data Privacy Regulations.
- 24.3** The Obligor(s) also acknowledges that the Lender shall have the right to change or replace the security practices and procedures from time to time at its sole discretion.
- 24.4** The Facility Documents does not, and shall not be deemed to constitute, an express or implied agreement by the Lender with the Obligor(s) for a higher degree of confidentiality than that prescribed under the Applicable Laws. The rights conferred on the Lender in this Clause 24 shall be in addition to and shall not be in any way prejudiced or affected by any other agreement, expressed or implied, between the Lender and the Obligor(s) in relation to any personal information and sensitive personal information nor shall any such other agreement be in any way prejudiced and/or affected by this Clause 24.

## 25 DISCLOSURE AND USE OF OBLIGOR(S) INFORMATION

- 25.1** The Obligor(s) authorizes and expressly provides its consent to the Lender and any of its officers, directors or representatives to collect, process and/or disclose any information and documents with respect to the Obligor(s) (or, if applicable, its/their partners'/designated partners'/directors'/officers') (including sensitive personal data or information and any information that requires a consent under the Information Technology Act, 2008 and/or any other statute) and/or the Obligor's financial condition, the Facility, the Security, Guarantee, and/or the Facility Documents and/or any other agreement(s) between the Lender and the Obligor(s) and/or any data obtained by the Lender about the Obligor(s) (or, if applicable, its/their partners'/designated partners'/directors'/officers') from any Service Platform or through any of the Lender's Affiliates or group companies, credit information agencies, any third party or from available sources (all Obligor(s) information and such other information, collectively, the "**Obligor(s) Information**") as the Lender shall consider appropriate for any such purposes as the Lender may think fit to:
- (i) the head office and any branches, Subsidiaries or associated companies of the Lender including its Affiliates, whether located in India or abroad;
  - (ii) employees, consultants, auditors and advisors of the Lender or the head office or any branches, Subsidiaries or associated companies of the Lender including its Affiliates, whether located in India or abroad, provided that such persons are bound by confidentiality obligations;
  - (iii) any other person (whether in India or elsewhere) (a) with which the Lender may enter into any transfer, securitization, assignment, participation or other agreement in connection with the Facility, Guarantee and/or the Security; (b) with (or through) whom the Lender enters into (or may potentially enter into) any transaction in connection with the purchase or sale of any credit insurance or any other contractual protection or hedging with respect to the Obligor(s) respective obligations under the Facility, the Guarantee and/or the Security; (c) with whom the Lender enters into (or may potentially enter into) any contractual or other arrangement in relation to the Facility, the Guarantee and/or the Security (including, without limitation, any third party service providers, the sub-contractors of such third party service providers and merchants); (d) who acts as the authorized financial institutions and banking partners for the Lender; (e) to whom the Lender out-sources the performance of operational functions of the Lender; (f) which the Lender appoints as its agent or to whom Lender delegates any of its duties, functions or obligations under the Facility Documents; (g) pursuant to the procuring or management of data relating to the Facility, the Guarantee and/or the Security; (h) to whom (including, without limitation, all Governmental Authorities) such disclosure is required by Applicable Law; (i) to any information utility under the Insolvency and Bankruptcy Code, 2016; (j) as necessary in order for the Lender to fully and validly effect, manage, administer and/or enforce the Facility requested or authorized by

the Borrower(s), the Guarantee and/or the Security; (k) who provide introducing services to the Lender or to whom the Lender provides introductions or referrals; (l) with (or through) whom the Lender enters into any transaction as counter party, or who is the issuer, vendor, purchaser or any agent thereof; (m) to whom such disclosure is considered by the Lender to be in Lender's interests; (n) in connection with any legal, arbitration or regulatory proceedings or procedure; (o) with which the Lender proposes to merge with or acquire or be acquired by; (p) where such Obligor(s) Information is or becomes generally available to the public other than as a result of disclosure by or at the direction of the Lender or any of its representatives in violation of any agreement entered into between the Lender and the Obligor(s) and provided that the Lender does not know that such source is bound by a confidentiality agreement with, or obligation of secrecy to the Obligor(s); and/or (q) where such Obligor(s) Information was already in the lawful possession of the Lender or independently generated by the Lender, and was not acquired, directly or indirectly, from the Obligor(s) or any other source obligated to the Obligor(s), to keep such information confidential provided that Lender does not know that such source is bound by a confidentiality agreement with, or obligation of secrecy to the Obligor(s).

- 25.2** Without prejudice to the foregoing, the Obligor(s) consents to the Lender making disclosure to any Person to whom any fees, commissions or other amounts may be payable, for the purpose of determining the quantum of such fees, commissions or other amounts.
- 25.3** The Lender may also collect, process and/or disclose Obligor(s) Information to CIC and/or any other agency authorized in this behalf by RBI or any other authority.
- 25.4** In this regard, the Obligor(s) hereby agrees and gives his, her, its or their consent to the collection, processing and/or disclosure by the Lender of all or any such: (a) information and data relating to the Obligor(s) (or, if applicable, its/their partners'/designated partners'/directors'/officers') including Obligor(s) Information, (b) the information or data relating to the Obligor(s)' obligations under the Facility granted/to be granted by the Lender, including the Guarantee and Security, the Facility amount and repayment history, (c) default, if any, committed by the Obligor(s), as the Lender may deem appropriate and necessary, to disclose and furnish to agents/contractors/service providers/Referral Partner, Lender's Affiliates, group companies, CIC and/ or any other agency authorized in this behalf by RBI or any other authority, in any manner, without any notice to the relevant Obligor(s) (or, if applicable, to its/their partners'/designated partners'/directors'/officers'). The Obligor(s) declares that all information furnished by him/her, it or them to the Lender is true and correct.
- 25.5** Any CIC and/or any other agency so authorised may also use and process such information and data disclosed by the Lender, in any manner that it may deem fit. If the Obligor(s) defaults in his, her, its or their obligations under the Facility Documents, then the Lender and/or the RBI will have an unqualified right to disclose or publish the details of such default and the name of the Obligor(s) as the case may be, as defaulters, in such manner and through such medium as the Lender or the RBI thinks fit. Any CIC and any other agency so authorized may furnish for consideration, the processed information and data or products thereof prepared by them, to banks/financial institutions and other credit grantors or registered users, as may be specified by the RBI in this behalf.
- 25.6** The Obligor(s) hereby provide consent to the Lender to carry out the KYC and other requisite checks by such processes as may be permissible under Applicable Law including authentication / verification of documents or details submitted for KYC purpose, accessing and procuring data from databases maintained by statutory or other Governmental Authority. The Obligor(s) hereby authorise the Lender to carry out their electronic KYC authentication and to fetch electronic KYC data from Aadhaar database and/or from any other sources as permitted by Applicable Law.
- 25.7** The Obligor(s) understands that in accordance with the KYC Master Directions, the Prevention of Money Laundering Act, 2002, the Insolvency and Bankruptcy Code, 2016 and rules notified thereunder and any other Applicable Law, the Lender may be required to upload information and data relating to the Obligor(s) on the system of KYC Registration Agency, Central KYC Registry, information utilities and/or such other agencies/bodies ("**Verification Authorities**") as may be notified by Governmental Authorities from time to time (including but not limited to the Securities and Exchange Board of India, the RBI, Financial Intelligence

Unit of India). Accordingly, the Obligor(s) agrees and gives consent to (i) the Lender to disclose and provide such information to the Verification Authorities; (ii) the Lender to disclose and provide such information to any third party engaged by the Lender for the purpose of disclosing and providing these information to the Verification Authorities.

- 25.8** The Obligor(s) hereby consent to the Lender updating/furnishing the Obligor(s) KYC data on the Central KYC Registry (CKYCR) or such other database or repository as may be prescribed from time to time as also access, download and procure data there from and rely upon the same for the purpose of KYC checks and it shall be the Obligor(s) responsibility to ensure that the data is correct and updated and to immediately intimate in writing in case of any changes to the data. The Lender may also verify the data in such manner as it deems fit and seek additional information or perform enhanced due diligence. The Obligors consent to receive information/intimation from the Lender/ Central KYC Registry through SMS/Email on the registered number/email address notwithstanding the names and / or numbers of the Obligors appearing in the Do Not Call or Do Not Disturb registry.
- 25.9** The Obligor(s) acknowledges that he, she, it or they has/ have the option of not providing the Obligor(s) Information, or withdrawing the consents provided hereinabove, or restrict disclosures to third parties other than Governmental Authorities or Verification Authorities and other banks, financial institution and regulated entities. However, in these circumstances, the Obligor(s) acknowledges that the Lender shall have the right not to provide, or discontinue providing, the Facility to the Obligor(s). The Obligor(s) also agrees that any withdrawal of the consents as provided by the Obligor(s) above shall not be effective and operational unless communicated by the Obligor(s) to the Lender in writing in accordance with the terms of the Facility Documents and with at least 15 (Fifteen) Business Days' prior notice.
- 25.10** The Obligor(s) accepts and acknowledges that the Lender may disclose the Obligor(s) Information to any Governmental Authorities notwithstanding that the recipient's place of business is outside India or that such information following disclosure will be collected, held, processed or used by such recipient in whole or in part outside India where there may not be in place data protection and confidentiality laws which are substantially similar to, or serve the same purpose as, the data laws and banking confidentiality in India. This means that, to the extent permitted by Applicable Laws, the information may not be protected to the same or similar level as in India.
- 25.11** The Lender confirms that the Obligor(s) Information shall be used or disclosed for the purposes set out in the Facility Documents and as set out in the privacy policy of the Lender.
- 25.12** This Clause 25 is in addition to any previous or future confidentiality undertaking given or that may be given by the Obligor(s) in connection with the Facility Documents or otherwise prior to the Obligor(s) becoming or after the Obligor(s) becomes a Party, as the case may be. The Obligor(s) acknowledges that the consent provided by the Obligor(s) in relation to the Obligor(s) Information under this Clause 25 shall be in addition to, and not in derogation of, the provisions of the KFS and any other Facility Documents and privacy policies of the Lender and the Referral Partner.
- 25.13** The Obligor(s) expressly authorise/consent to the Lender, its various service providers or agents, including for marketing, collections and recovery agents to contact the Obligor(s) telephonically, through e-mails, telephones, messages, SMS, WhatsApp or other applications or otherwise even if the names of the Obligor(s) appear in the Do Not Call or Do Not Disturb Register to inform the Obligor(s) about the marketing schemes, various financial and/or investment products and/or offerings of other services, Outstandings under the Facility Documents or any other aspect pertaining to any facilities availed or to be availed by the Obligor(s). The Obligor(s) also expressly declare that such emails, telephonic calls, messages, SMS, WhatsApp messages etc. from the tele-callers, agents and/or service provider of the Lender and its associates, affiliates and/or group companies will not cause any inconvenience to them and/or their family members. The Obligor(s) expressly and irrevocably consent that for any claim against the service providers, the Lender shall not be liable and the claim of the Obligor(s) (or any of them) on this account shall be against the service providers and/or tele-callers. The Obligor(s) agree to the use of e-mails, messages, SMS, WhatsApp and/or other

applications for communication or sharing of information or documents, agree to abide by the terms and conditions of such applications and agree to the risks associated with such applications or sharing of information through them.

## **26 NOTICE**

### **26.1 Communications**

Any communication to be made under or in connection with the Facility (which, for the avoidance of doubt, includes communication for instructions, Statements, drawdown request, Drawdown Advice, Security, Guarantee) shall be made in writing and, unless otherwise stated, shall be made by way of an email or on the Online Account. The Lender may also choose to make communications under or in connection with the Facility by way of text messages or WhatsApp messages.

The Facility Documents shall be delivered by way of an email or as otherwise agreed by the Lender.

### **26.2 Communication Details – Obligor(s)**

Notices and communications to be given to the Obligor(s) shall be sent to the details of the Obligor(s) as set out in the MITC. The Borrower(s) shall notify the Lender before making any change in the address for communication and other notice details and provide relevant documents for KYC purpose.

### **26.3 Communication Details – Lender**

Notices and communications to be given to the Lender shall be sent to the contact details available on the Lender's website (being [www.dspfin.com](http://www.dspfin.com)).

**26.4** Any notice, approvals, instructions and other communications for the purposes of the Facility Documents shall be deemed to have been validly given to all the Obligor(s) if served on the Obligor(s) by way of text messages or WhatsApp messages or an email or in person or sent by registered post or courier to or left at the address of the Obligor(s) existing or last known to the Lender or displayed on the Online Account.

**26.5** The Borrower(s) shall ensure that any notice, approvals, instructions and other communications for the purposes of the Facility Documents that is served in accordance with this Clause 26 shall be forthwith communicated to all other Obligor(s).

**26.6** Any notice sent by (i) text messages or WhatsApp messages or Email, shall be deemed to have been received by the Obligor(s) when transmitted by the Lender; (ii) registered post or courier shall be deemed to have been received by the Obligor(s) within 7 (Seven) days from the time of its posting; (iii) personal delivery, shall be deemed to have been received by the Obligor(s) when delivered on the address in accordance with Clause 26.2; or (iv) Online Account, shall be deemed to have been received by the Obligor(s) when posted on the Online Account by the Lender.

**26.7** The Obligor(s) understands and acknowledges that there are risks involved in sending electronic instructions to the Parties and hereby agrees that all such risks shall be fully borne by the Obligor(s) and it assumes full responsibility for the same, and the Lender will not be liable for any losses or damages arising upon the Lender acting or the Lender's failure to act, wholly or in part, in accordance with such electronic form instructions.

## **27 GOVERNING LAW AND JURISDICTION**

### **27.1 Governing Law**

The Facility Documents shall be governed by the laws of India.

### **27.2 Jurisdiction**

The Facility Documents shall be governed by and construed and enforced in accordance with the laws of India.

- 27.3** The Parties agree that, if any dispute(s) or difference(s) shall arise between the Parties in connection with or arising out of or relating to the Facility Documents, the Parties shall attempt, for a period of 30 (Thirty) days from the receipt of a notice ("Disputes Notice") from any Party of the existence of a dispute(s), to settle such dispute(s) by mutual discussions. If the said dispute(s) cannot be settled by mutual discussions within the 30 (Thirty) day period specified above, such dispute(s) shall be referred to arbitration for final resolution in the manner provided herein.
- 27.4** The Parties shall mutually appoint a sole arbitrator within 60 (Sixty) days from the date of the Disputes Notice who shall resolve such dispute(s) in accordance with the provisions of the Arbitration Act.
- 27.5** In the event the Parties fail to appoint a sole arbitrator in accordance with the procedure aforesaid and within the time period as specified above, such sole arbitrator shall be appointed in accordance with the provisions of the Arbitration Act. The arbitration proceedings shall be held in English language with the seat of the arbitration being Delhi. The decision of the arbitrator shall be final and binding on the Parties to the Facility Documents. Subject to the arbitration agreement as mentioned above, the courts at Delhi shall have the exclusive jurisdiction over any dispute(s) as described above.
- 27.6** Each Obligor irrevocably and generally consents in respect of any proceedings anywhere in connection with the Facility Documents to the giving of any relief or the issue of any process in connection with those proceedings including, without limitation, the making, enforcement or execution against any assets whatsoever (irrespective of their use or intended use) of any order or judgment which may be made or given in those proceedings.

## 28 SIGNATURES

- 28.1** The Parties agree that the Facility Documents will be entered into and executed by way of any of the following methods: (i) clicking the accept/agree/confirm button, (ii) electronic signature, (iii) Aadhaar signature, (iv) one-time-password verification, (v) exchange of email or messages (including short-messaging service, text messages and WhatsApp), (vi) physical signature, or (vii) any other mode of execution acceptable to the Lender as communicated to the Obligor(s), from time to time.
- 28.2** The Lender does not and will not accept any liability in any case where it fails to notice a falsification, forgery or other defect in any instruction, authentication or legal capacity.

## 29 MISCELLANEOUS

### 29.1 Rights of the Lender

- (i) All the rights, powers and remedies under the Facility Documents shall apply to all the Obligor(s)' past, present, future and contingent obligations and liabilities owed to the Lender, including those arising under successive transactions which shall either continue the existing obligations and liabilities, increase or decrease them at any time or from time to time or create new obligations or liabilities after any or all prior obligations and liabilities have been satisfied, and notwithstanding the incapacity, bankruptcy or any other event or proceeding affecting the Obligor(s).
- (ii) Each of the rights, powers and remedies of the Lender under the Facility Documents (i) are in addition to, and not in derogation of, other rights and remedies given by contract or by Applicable Law, common law, custom, trade, or usage independent of the Facility Documents; (ii) may be exercised successively or concurrently or even if this involves a conflict of duty or the Lender has a personal interest in its exercise; and (iii) is not affected by any payment, settlement or anything which might otherwise affect them at law.
- (iii) No failure or delay in exercising, on the part of the Lender, any right or remedy under the Facility Documents will operate as a waiver, nor will any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy.

- (iv) In the event of breach of the Facility Documents by the Obligor(s), the Lender will to the fullest extent permitted by Applicable Law, and in addition to the right to be indemnified under Clause 19, be entitled to an order of specific performance as well as damages at its sole discretion.

#### **29.2 Agents of the Lender**

The Lender, in its sole discretion, may appoint agents, Affiliates or third parties for administration, document collection, and disbursement of the Facility and/or collection and/or recovery purposes. In this case, the Lender will assign in favour of such agents such rights and duties as may be decided by the Lender including issuing notices, collection of payment amount, etc. The Obligor(s) agrees and shall cooperate with such agents in the same manner as the Obligor(s) would with the Lender in terms of the Facility Documents.

#### **29.3 Partial Invalidity**

If, at any time, any provision of any Facility Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, the legality, validity or enforceability of the remaining provisions will not be affected or impaired in any manner. In such event, the Lender shall have the right to amend the terms of the Facility Documents such that the commercial intent of the Facility Documents and the interests of the Lender are protected in the same manner as originally contemplated under the Facility Documents.

#### **29.4 English Language**

These GTCs and the other Facility Documents are supplied in the English language and all communication between the Lender and the Borrower(s) will be in English unless otherwise agreed or notified by the Lender.

#### **29.5 Avoidance of payment and reinstatement of obligations**

If as a result of bankruptcy, insolvency, winding up, liquidation or any similar event, any payment by the Obligor(s) is/are avoided, reduced or must be restored, or any discharge or arrangement is made in whole or in part on the basis of any payment or other thing which is avoided, reduced or must be restored, then the liability of the Obligor(s) shall continue or be reinstated as if the payment, discharge or arrangement had not occurred and the Lender shall be entitled to recover the value or amount of that payment from the Obligor(s), as if the payment, discharge or arrangement had not occurred.

#### **29.6 Relationship between the Parties**

Each Party is acting in its capacity as principal. Nothing contained in the Facility Documents constitute a partnership or joint venture between the Parties in respect of the matters concerning the Facility Documents.

#### **29.7 Amendments**

- (i) The Obligor(s) agrees and acknowledges that the Lender shall be entitled at its sole discretion to add to, alter, vary, supplement or modify all or any of the terms and conditions of the GTCs and the other Facility Documents at any time on and from the date specified by the Lender and the Lender shall thereafter provide a copy of the revised GTCs and other relevant Facility Documents to the Obligor(s) within a reasonable time.
- (ii) Without prejudice to the foregoing, availing or continuing to avail the Facility after such additions, alterations, variations, supplements or modifications shall also be deemed as the Obligor(s)' acceptance and agreement to the same. Provided however, if the rights and obligations of the Parties are altered by virtue of change in Applicable Law, such changes shall be deemed to have been incorporated in the Facility Documents in modification of the rights and obligations of the Parties.

### **30 GRIEVANCE REDRESSAL**

The Lender has appointed a grievance redressal officer to deal with and/or address the complaints/ issues raised by the Obligor(s) pertaining to the Facility and the Facility Documents in accordance with the grievance redressal

policy of the Lender. The details of the grievance redressal officer (provided below) will also be displayed on the website of Lender available at: <https://dspfin.com/assets/policies/customer-grievance-redressal-policy.pdf>

### **31 RECOVERY AGENT**

The Lender may utilize the services of recovery/ collection agents for collection of amounts in relation to the Facility.

### **32 ACKNOWLEDGMENT**

- 32.1** The Obligor(s) acknowledges and confirms that (i) the Obligor(s) understand/s English and has/have carefully read and understood the terms and conditions of each Facility Document before executing and accepting it, (ii) the Obligor(s) has/have taken independent advice in respect of the Facility Documents so as to fully understand the consequences and implications of the terms of the Facility Documents, and (iii) disbursement of the Facility pursuant to the Facility Documents shall constitute its/their irrevocable and unconditional acceptance of each Facility Document.
- 32.2** The Obligor(s) expressly agrees and acknowledges that the Facility Documents are entered into in respect of one or more financing transaction giving rise to a relationship of debtor and creditor as between the Obligor(s) and the Lender, and not in respect of any service rendered/to be rendered by the Lender to the Obligor(s). Accordingly, the provisions of the Consumer Protection Act, 2019, as amended from time to time, shall not apply to the transaction forming the subject matter of the Facility Documents.

### **33 MISCELLANEOUS**

- 33.1** The Lender reserves the right to appoint an auditor, whether external or internal, at its discretion, to conduct audits of the Obligors in the event of suspected wrongdoing or fraudulent activity in the Facility. The Obligors agree to fully cooperate and provide necessary assistance to the auditors including providing such details, documents, as may be required. In cases where the audit report submitted is inconclusive or delayed due to non-cooperation by the Obligors, the Lender reserves the right to determine the status of the account as fraudulent or otherwise based on the material available with it and its own internal investigation/assessment and exercise such right and remedies as may be available under the Facility Documents or otherwise under law.
- 33.2** The Lender reserves the right to issue mandate to the auditors of the Borrower(s) to furnish specific certification regarding diversion / siphoning by the Borrowers or any of them of the funds from the Facility. The Borrower(s) shall ensure that the auditors comply with any such mandate.
- 33.3** The Borrower(s) further agree that with a view to preventing diversion/ siphoning of funds from the Facility by the Borrowers, the Lender reserves the right to engage their own auditors for such specific certifications without relying on the certifications given by the auditors of the Borrowers. The Lender further reserves the right to commission a forensic audit of the affairs of the Borrower(s) and their books of accounts.
- 33.4** The Obligor(s) agree to fully cooperate and provide necessary assistance to the auditors including providing such details, documents, as may be required and the same shall be at the sole costs and expenses of the Obligor(s). The costs, charges and expenses including professional fees and travelling and other expenses for such examination shall be payable by the Obligor(s). In the event, the Obligor(s) fail to make such payment, the Lender can pay such expenses, and the Obligor(s) shall be liable to reimburse the said expenses to the Lender, together with interest thereon at the same rate as on defaulted amounts from the date of such payment by the Lender.