

Stamp Duty Payment Details

This is payment confirmation challan (not an eStamp Certificate)

Stamp Duty	₹150.00
Certificate No.	IN-DL58264039581750T
Account Ref. No.	SHCIL01 (CR)/ dlshcil10/ JANPATH/ DL-DLH
Issued Date	10-03-2021
Issued By	SHCIL
State	Delhi

Party Details

First Party	ICICI Bank Limited
Second Party	BHARAT EXPORTS
Stamp Duty Paid By	BHARAT EXPORTS
Purchased By	BHARAT EXPORTS
Document Type	Article 5 General Agreement
Description	Facility Agreement



Additional Details

Loan Amount	₹130000000.00
Borrower Name	BHARAT EXPORTS
CAL Number	CAL115365519492
Document Reference Number	FA-(CAL115365519492)

Note

Please be aware that this receipt titled Stamp Duty Payment Details is an acknowledgement of the Stamp Duty as paid by you and in no event be construed as or equivalent to a Stamp Paper.

The authenticity of the Stamp paper as purchased by you should be verified at www.shcilestamp.com Any discrepancy in the details in this certificate and as available on the website renders it invalid.

The onus of checking the legitimacy of the acknowledgement and the stamp papers vests on the users of the certificate.

FACILITY AGREEMENT

This "**Facility Agreement**" made on the day that ICICI Bank Limited executes this agreement, between:

ICICI Bank Limited, a company incorporated under the Companies Act, 1956 and a banking company within the meaning of the Banking Regulation Act, 1949 and having its registered office at ICICI Bank Tower, Near Chakli Circle, Old Padra Road, Vadodara, Gujarat - 390 007 and corporate office at ICICI Bank Towers, Bandra Kurla Complex, Mumbai 400051, and amongst others, a branch / office at the place specified in the Schedule 1 hereof (the "**Bank**", which expression shall, unless it be repugnant to the subject or context thereof, include its successors and assigns) of ONE PART.

AND

the "**Borrower**", i.e. the person(s) named in Schedule 1 hereof, which expression shall, unless it be repugnant to the subject or context, include its heirs, successors and permitted assigns of the OTHER PART

1. DEFINITIONS

In this **Facility Agreement**, unless there is anything repugnant to the subject or context thereof, the expressions listed below shall have the following meanings viz.:

- (i) "**Credit Arrangement Letter**" or "**CAL**" means a letter as of the date specified in the Schedule 1 issued by the Bank to the Borrower granting/extending the Facilities to the Borrower and annexed herewith. The expression "**CAL**" shall include all amendments to the CAL.
- (ii) "**General Conditions**" mean the general conditions applicable to the Facilities provided by the Bank and set out in Schedule 2 hereof.
- (iii) "**Transaction Documents**" include the Facility Agreement, and its various Schedules, the CAL, all other agreements, instruments, undertakings, indentures, deeds, writings and other documents whether financing, security in the course of trade or otherwise executed or entered into, or to be executed or entered into, by the Borrower or as the case may be, any other person, in relation, or pertaining, to the transactions contemplated by, or under the Transaction Documents, and each such Transaction Documents as amended from time to time.

2. TERMS OF THE FACILITIES

- 21 The Borrower agrees to avail from the Bank and the Bank agrees to grant / extend to the Borrower various working capital facilities up to overall limits (the "**Overall Limits**") in the aggregate not exceeding amounts specified in the CAL hereof, subject to the terms and conditions contained in the Transaction Documents. The aforesaid working capital facilities up to the amounts specified above are hereinafter referred to as the "**Facility/ies**", which expression shall, as the context may permit or require, mean any or each of such Facilities, or so much thereof as may be outstanding from time to time. The Bank shall have the right to review the Facilities at periodical intervals whereupon the Facilities may be continued/cancelled/ reduced based on conduct and utilization.
- 22 The amounts up to which the Borrower can draw under each of such Facilities shall not, at any one time, exceed sums / limits (the "**Limits**") specified against each of such respective Facilities. Provided, however, the aggregate amounts of all the Limits shall not at any point of time exceed the amount of the Overall Limits, utilization of which shall be within the maximum permissible bank finance limits as stipulated by the Bank from time to time. All outstanding amounts of interest, commission, discount, charges and other monies in respect of the respective Facilities, whether debited to the Account or not, shall also be included in determining the availability of the Overall Limits / respective Limits.
- 23 Each of the Borrowers shall be jointly and severally liable to the Bank for performance of all its obligations under this Facility Agreement and the Transaction Documents (including repayment of the Facility and interest thereon). The Transaction Documents shall be in force till all the monies due and payable under the Transaction Documents are fully paid off by the Borrower to the Bank. Unless otherwise specified in the CAL, the Borrower shall repay the Facilities on demand to the Bank.
- 24 The Borrower shall, as required, by the Bank open cash credit account(s) or other account(s) (the "**Account**", which expression shall mean any or each of such account(s), as the context may permit or require) at the branch(es) of the Bank as is specified by the Bank from time to time, for availing the Facilities up to the respective Limits. The Borrower shall, as required by the Bank, maintain such margin(s) (the "**Margin**") in respect of the Facilities as are specified in the CAL (or as may be modified by the Bank), during the subsistence of the Facilities. The Bank shall be entitled to, at its sole discretion, vary the Margin and the Borrower shall thereafter be bound to maintain such Margin notwithstanding any Margin earlier agreed.
- 25 The Borrower shall not, without the approval of the Bank, prepay the outstanding principal amounts of the Facilities in full or in part which are in the nature of loans, before the Due Dates. However, Bank may agree to any prepayment request by the Borrower subject to a prepayment premium as specified in the CAL on the facility amount pre-paid and such terms and conditions as maybe stipulated by the Bank. Provided a prior

notice of 30 days specifying the amounts to be pre-paid and the date of pre-payment is clearly given by the borrower.

26 The Bank may, upon its sole discretion levy a commitment fee in case the utilization of the limits in a quarter (except the quarter during which the limit has been set up) falls below a certain percentage of the sanctioned limits as specified in the CAL.

27 The Borrower unconditionally agrees that the Facility so availed shall be used for any purpose (the "Purpose") as specified in the CAL. Upon request by the Bank, Borrower shall deliver within such time and in a manner as may be acceptable to the Bank, a certificate from its Statutory Auditor or a practicing Chartered Accountant or any of its Key Managerial Personnel, duly authorised by requisite corporate authorisations, regarding the end use of the Facility and certifying that the Facility has been utilized for the Purpose and not diverted or applied for any other purpose.

3. TERMS OF DISBURSEMENT / DRAWAL

Subject to the compliance of the terms and conditions of the Transaction Documents, the Facilities may be drawn out of the Account from time to time / disbursed in installments. The Bank may, at the request of the Borrower, make / allow disbursements / drawals under the Facilities by cheques / pay orders / electronic means / authorizations and / or by issuance of BGs and / or LCs and / or co-acceptance / acceptance of Bills by the Bank.

4. INTEREST, COMMISSION, CHARGES AND PAYMENTS

The Borrower shall pay to the Bank interest, commission, discount, fees and all other charges on the amounts outstanding from time to time under the Facilities, at the rate(s), on the date(s) and in the manner specified in the CAL or as modified by the Bank from time to time at its discretion. The Borrower shall forthwith reimburse all sums paid and / or expenses (including that for preservation, protection or enforcement of the Borrower's assets) incurred by or on behalf of the Bank with interest at the rate applicable to the Facilities from the date of payment by the Bank till such reimbursement and the Bank shall be entitled to debit the relevant Account of the Borrower. The interest payable by the Borrower shall be subject to the changes based on guidelines / directive issued by RBI to banks from time to time and the consequent changes made by the Bank.

5. SECURITY & CONTRACTUAL COMFORT

5.1 The Facility together with all interest, liquidated damages, fees, premia on prepayment, costs, charges, expenses and other monies whatsoever stipulated in or payable under the Transaction Documents shall be secured by such security, if any, as stipulated in the CAL ("**Security**"), which shall be created and perfected in a form and manner satisfactory to the Bank, within the timeline as stipulated in the CAL.

5.2 The Borrower shall procure and deliver to the Bank guarantees or such other contractual comforts as stipulated in the CAL, in a form prescribed by the Bank. The Borrower shall ensure that the contractual comfort provider observes all the covenants, terms, conditions, restrictions and prohibitions of the contractual comfort and agrees that any violation of the same shall constitute an Event of Default.

6. REPRESENTATIONS, WARRANTIES, COVENANTS & UNDERTAKINGS

6.1 The Borrower hereby, makes the following representations, declarations and warranties and confirms that the same will continue to remain, true, correct, valid and subsisting in every respect till all the monies remain payable to the Bank under the Facilities:

- (i) The execution or entering into by the Borrower of the Transaction Documents constitute, and its exercise of its rights and performance of its obligations under the Transaction Documents will constitute, private and commercial acts done and performed for private and commercial purposes.
- (ii) The Borrower has the competence, power and authority to enter into the Transaction Documents, to avail the Facilities, to carry on its business and operations as it is being or is proposed to be conducted and to exercise its rights and perform its obligations thereunder and to perform all other actions required to authorize the execution of the Facility Agreement and the appropriate authorization of the performance of its obligations herein has been duly taken;
- (iii) The entry into, delivery and performance by the Borrower of, and the transactions contemplated by the Transaction Documents do not and will not conflict (i) with any law; (ii) with the constitutional documents, if any, of the Borrower; or (iii) with any document which is binding upon the Borrower or on any of its assets.
- (iv) Neither the Borrower nor any director, partner or trustee of the Borrower has been declared to be a willful defaulter. The Borrower shall not induct a person in the capacity of director / partner / member / trustee of a company / firm / association of persons / trust as the case may be, identified as willful defaulter. In the event the person so inducted is found to be a willful defaulter, the Borrower shall take expeditious and

effective steps for removal of such person.

6.2 The Borrower covenants and undertakes that the Borrower shall:

- (i) not create or permit to subsist without the prior consent of the Bank in writing any encumbrance, mortgage, hypothecation, pledge or charge over any of its present or future property, assets or revenues other than the already existing charges which have been disclosed in writing to the Bank.
- (ii) indemnify and keep the Bank indemnified against any cost, loss, liability or third party claims (including legal fees and any applicable indirect taxes) incurred by the Bank arising out of or in connection with each of the Facilities (including any instruments, documents under the Facilities) and /or the Transaction Documents and/or due to any breach by the Borrower of the Sanctions or any action taken by the Bank on account of breach of the Sanctions.

7. EVENTS OF DEFAULT

Without prejudice to any rights or remedies that may be available to the Bank under the Transaction Documents or otherwise, on the occurrence of an Event of Default or if the Overall Limits are not renewed beyond the validity period specified in the CAL or if the Borrower has not availed of or drawn from the Facilities by the aforesaid validity period, the Bank may, by a notice in writing to the Borrower, exercise any right, power or remedy permitted to it by law, including by suit, in equity, or by action at law, or both, or otherwise, whether for specific performance of any covenant, condition or term contained in this Facility Agreement or for an injunction against a violation of any of the terms and conditions of this Facility Agreement, or in aid of the exercise of any power or right granted in this Facility Agreement and/or as a creditor.

8. CANCELLATION

Notwithstanding anything contained in the Transaction Documents, the Bank reserves the unconditional right to cancel the unutilized portion of the Facility, either in whole or part, at any time during the subsistence of the Facility, without giving any prior notice to the Borrower, for any reason whatsoever, including but not limited to non-utilization (partial or in full) of Facilities, any regulatory requirement, Deterioration in the Creditworthiness of the Borrower in any manner whatsoever, or non-compliance of the terms and conditions of the Transaction Documents.

9. MISCELLANEOUS

- 9.1 The Borrower acknowledges and agrees that the Bank may, from time to time, communicate changes in terms and conditions applicable to the Facility to the Borrower and the continued use of the Facilities by the Borrower shall constitute legal, valid and binding acceptance of such revised terms and conditions. No delay in exercising or omission to exercise any right, power or remedy accruing to the Bank upon any default or otherwise under the Transaction Documents shall impair any such right, power or remedy or shall be construed to be a waiver thereof or any acquiescence in such default, nor shall the action or inaction of the Bank in respect of any default or any acquiescence by it in any default, affect or impair any right, power or remedy of the Bank in respect of any other default. The rights of the Bank under the Transaction Documents may be waived only in writing and at the Bank's sole discretion.
- 9.2 Unless otherwise defined, all capitalized terms shall have the same meaning as ascribed to them in the general conditions as mentioned in Schedule 2 of this Facility Agreement ("**General Conditions**")
- 9.3 The provisions of the CAL are in addition to and complement the terms of this Facility Agreement and the General Conditions. In the event of any inconsistency or repugnancy between the provisions of CAL, the Facility Agreement and General Conditions, the provisions of the CAL shall prevail to the extent of such inconsistency or repugnancy. For avoidance of doubt, in case of any inconsistency between the the Facility Agreement and General Conditions, the terms of the Facility Agreement shall prevail to all intents and purposes.
- 9.4 This Facility Agreement shall be effective from the date on which the authorized official of the Bank affixes his/her signature hereto.
- 9.5 The Borrower agrees that any suits or legal proceedings arising out of the Facility Agreement shall be brought before the forum specified in Schedule 1. The Transaction Documents (unless otherwise specified in any Transaction Document) shall be governed by and construed in accordance with the laws of India.

IN WITNESS WHERE OF, the Borrower and the Bank have caused this Facility Agreement to be executed on the day, month and year on which the authorized official of ICICI Bank executes this Agreement.

For the Bank:

SIGNED by Ms. PRIYANKA MITTAL (192330),

Designation: CMII,

on behalf of the within named Bank.

For the Borrower:

SIGNED by the below named authorized signatories

1. **Javinder Singh** _____
2. _____
3. _____

on behalf of the within named Borrower.

|

|

SCHEDULE 1**Document Reference Number. FA-CAL115365519492**

Sr · N o.	Headings	Details.
1.	Place of execution of Facility Agreement	Delhi
2.	A. Details of the Borrower	Name: BHARAT EXPORTS
		Constitution: Partnership Firm
		Address: D-14, SMA Co-operative Industrial Estate Ltd. G.T Karnal Road, Delhi, 110033,
3.	Details of ICICI Bank branch/ office	A 25 Mohan Cooperative Industrial area New Delhi 110044
4.	Details of the Facilities	Overall Amount: Rs 105.9 million
5.	Details of the CAL	Reference no. CAL115365519492 dated February 19, 2021 including all amendments, renewals thereto
6.	Jurisdiction	Any legal action, suit or proceedings arising out of or in connection with this Facility Agreement may be brought by the Bank, in its absolute discretion, in any competent court, tribunal or other appropriate forum having jurisdiction.

**Schedule 2
General Conditions**

Document Reference Number FA-CAL115365519492

**ARTICLE I
DEFINITIONS AND CONSTRUCTION**

1.1 DEFINITIONS

“Adjusted Tangible Net Worth” means the Share Capital plus the Reserves & Surplus (excluding revaluation reserves) added to the unsecured loans subordinated-intangible assets-advances/investments to/in sister concerns.

“Business Day” means a day on which the relevant office of the Bank specified in the Facility Agreement, or such other office as may be notified by the Bank to the Borrower, is open for normal business transactions.

“Credit Rating Agency” shall mean and refer to the domestic credit rating agencies such as CRISIL Limited, FITCH India and ICRA Limited and international credit rating agencies such as Fitch, Moodys and Standard & Poor’s and such other credit rating agencies identified and/or recognized by RBI from time to time.

“Deterioration in the Creditworthiness” means and includes without limitation, the following events:

- (i) Downgrade of the rating of the Borrower by a Credit Rating Agency;
- (ii) Inclusion of the Borrower and/or any of its Directors in the RBI’s willful defaulters list;
- (iii) Closure of a significant portion of the Borrower’s operating capacity;
- (iv) Decline in the profit after tax of the Borrower by more than fifteen percent;
- (v) Any adverse comment from the auditor; and
- (vi) Any other reason/ event which in the sole opinion of the Bank constitutes or which may constitute deterioration in the creditworthiness of the Borrower;

“Default” means a breach of any of the terms and conditions under the Facility Agreement and/or the Transaction Documents.

“Drawing Power” in connection with the relevant Facilities, means the extent to which the Borrower may make drawals from time to time under each of such Facilities up to the amount of respective Limits but not exceeding the value of the current assets, if any, provided as security to the Bank for such of the Facilities as drawn by the Borrower less the corresponding Margin.

“Due Date(s)” means the date(s) on which any amounts in respect of the Facilities including principal, interest or other monies, fall due in terms of the Transaction Documents.

“FEDAI” means Foreign Exchange Dealers Association of India.

“Financial Creditor” shall mean Financial Creditor(s) as may be defined under the Insolvency and Bankruptcy Code of India, 2016, as amended from time to time;

“Financial Information” shall mean Financial Information as may be defined under the Insolvency and Bankruptcy Code of India, 2016, as amended from time to time;

“Goods” means the goods described in the relevant Transaction Documents.

“Increased Costs” means:

- (i) A reduction in the rate of return from the Facilities or on the Bank’s overall capital (including as a result of any reduction in the rate of return on capital brought about by more capital being required to be allocated by the Bank);
- (ii) Any additional or increased cost including provisioning as may be required under or as may be set out in RBI regulations or any other such regulations from time to time; or
- (iii) A reduction of any amount due and payable under this Agreement which is suffered by the Bank to the extent that it is attributable to the undertaking, funding or performance by the Borrower of any of its obligations under this Agreement.

“Information Utility” shall mean an Information Utility as may be defined under the Insolvency and Bankruptcy Code of India, 2016, as amended from time to time;

"Insolvency and Bankruptcy Code" means the Insolvency and Bankruptcy Code of India, 2016, including all amendments and replacements made thereto and all rules and regulations framed thereunder.

"Irregularity" means and includes drawals by the Borrower exceeding the Drawing Power / Limits stipulated from time to time by the Bank against the Facilities and / or non-compliance or breach of the terms and conditions of any authorization and / or applicable law and / or the Transaction Documents.

"Indebtedness" means any indebtedness (whether actual or contingent) of the Borrower at any time for or in respect of monies borrowed, contracted or raised (whether or not for cash consideration) or liabilities (whether actual or contingent) contracted by whatever means (including under guarantees, assumption of financial obligations, indemnities, derivative transactions, acceptances, credits, deposits, hire-purchase and leasing).

"Insurance" refers to the Borrower having to ensure comprehensive insurance cover against all risks on the security as mentioned in the said CAL.

"Key Managerial Personnel" shall have the meaning assigned to it under the Companies Act, 2013.

"Material Adverse Effect" means the effect or consequence of any event or circumstance which is or is likely to be:

- (i) Adverse to the ability of the Borrower or any person to perform or comply with any of their respective obligations under the Transaction Documents in accordance with their respective terms; or
- (ii) Prejudicial to any of the businesses, operations or financial condition of the Borrower or its project(s) or of any person who is party to any Transaction Documents.

"Other financial information" refers to any other information that the Borrower needs to submit in the format approved by the bank on a quarterly basis within a stipulated period as specified in the CAL, other than Stock & Receivables statement.

"Permitted Indebtedness" shall mean the indebtedness permitted by the Bank as per the CAL

"Purpose" means the purpose(s) for which the Facilities have been availed of by the Borrower from the Bank and as more particularly specified in the CAL.

"RBI" means the Reserve Bank of India.

"Stock audit" refers to the audit that the Borrower at the demand of the Bank will arrange, for all its stock and receivables by an outside agency. The terms of reference will be finalized by the Bank at its sole discretion.

"Stock statement" refers to the details that the Borrower will furnish, of stock and book debts in the prescribed format. The borrower has to submit client wise outstanding for top 80% debtors on quarterly basis. Each such debtor is to have a) Gross Value (b) Age more than 90 days. The balance 20% debtors on consolidated basis. This statement to be certified by the borrower. The outstanding borrowings in Borrower's accounts at all times need to be fully covered by the value of hypothecated security less the stipulated margin after providing for outstanding credit if any under usance letters of credit.

"SWIFT" means Society for World Wide International Financial Telecommunications, which expression shall include its successors and assigns.

"Unit Inspection" – means the inspection that the Bank at its sole discretion may undertake of the Borrower's unit. The expenditure in connection with the inspection will be borne by the Borrower. Inspections, if required will also be conducted by the Bank's concurrent auditors or statutory auditors or officials of RBI or any other re-financing agency

1.2 INTERPRETATION

In the Facility Agreement, unless the contrary intention appears:

- (i) A reference to:
An agreement / document / undertaking / deed / instrument / indenture / writing includes all amendments made thereto from time to time as also all schedules, annexures and appendices thereto;
An **"amendment"** includes a supplement, modification, novation, replacement or re-enactment and "amended" is to be construed accordingly;

"assets" include all properties whatsoever both present and future, (whether tangible, intangible or otherwise), investments, cash-flows, revenues, rights, benefits, interests and title of every description;

"encumbrance" includes a mortgage, charge, lien, pledge, hypothecation, security interest or any right of any description whatsoever;

- (ii) The singular includes the plural (and vice versa);
- (iii) The headings in the Facility Agreement are inserted for convenience of reference only and are to be ignored in construing and interpreting the Facility Agreement;
- (iv) Reference to a gender shall include references to the female, male and neuter genders;
- (v) All approvals, permissions, consents or acceptance required from the Bank for any matter shall require the "prior", "written" approval, permission, consent or acceptance of the Bank;
- (vi) In the event of any disagreement or dispute between the Bank and the Borrower regarding the materiality or reasonableness of any matter arising out of the Transaction Documents the opinion of the Bank shall be final and binding on the Borrower;
- (vii) All capitalized terms used but not defined in the General Conditions shall have the respective meanings assigned to them under the Facility Agreement.
- (viii) The term "Facility Agreement", wherever used in the Facility Agreement or the General Conditions or the CAL, shall be deemed to refer to the Facility Agreement read together with and including the General Conditions and the CAL.

ARTICLE II FACILITIES

- 2.1 The Borrower shall at all times confine the drawals out of the relevant Facilities within the respective Drawing Power unless specifically permitted by the Bank, at its sole discretion. All the provisions of the Transaction Documents and all securities created, if any, pursuant to the Transaction Documents will extend to cover such excess drawings.

Provided, further, the grant of such excess drawings to the Borrower shall be liable to be suspended / discontinued / revoked by the Bank without any notice to the Borrower. The Borrower shall repay all such excess drawings on demand.

- 2.2 In the event any monies are remaining due and payable by the Borrower to the Bank, under the Transaction Documents, the Bank may, at its sole discretion, reduce the availability of the amounts of the Overall Limits and / or adjust such monies against the respective available Limits and all such adjustments shall be treated as drawals by the Borrower.
- 2.3 The Facility Agreement shall be operative for the balance due by the Borrower, from time to time, to the Bank in the Account relating to the relevant Facilities and such Account shall not be considered as closed by reason of such Account being brought to credit at any time or from time to time or of its being drawn upon to the full extent and afterwards brought to credit and the Facility Agreement will continue to be operative and unaffected until such relevant Facilities are terminated and all monies in respect thereof are repaid in full to the satisfaction of the Bank.
- 2.4 The Bank may at its sole discretion make disbursements out of the Facilities pending creation and/or perfection of full and final security, as specified in the CAL, in favour of the Bank. In such event the disbursements made by the Bank pending creation and/ or perfection of such full and final security shall carry further interest as indicated in the CAL and/or Schedule hereunder calculated from the date of disbursement of the Facilities or expiry of the timeline, if any, for creation and/ or perfection of such security specified in the CAL, till creation and/ or perfection of such security to the satisfaction of the Bank.
- 2.5 The Borrower unconditionally agrees and undertakes to get itself rated by a Credit Rating Agency within a period of 6 (six) months from the date of CAL / renewal of the Facilities or within such period and/or at such intervals as may be decided by the Bank, failing which the Bank shall have the right to review the applicable interest rate and/or costs, charges and expenses, which shall be payable by the Borrower to the Bank for

extending the Facilities.

- 2.6 The Bank may at its sole discretion block/zeroes the Drawing Power if Borrower fails to submit the Stock statements or fails to renew the Facility.

ARTICLE III INTEREST

- 3.1 In any event of default as specified under the Facility Agreement ("**Events of Default**") or an event of default in repayment of any amount or any amounts due remaining unpaid under any of the Facilities on the Due Date(s) or in respect of excess drawings as specified in Article II above, the Borrower shall pay additional interest on the overdue amount at rate specified in the CAL ("**Additional Interest**") from the Due Date up to the date of actual payment. The Borrower acknowledges and agrees that the Additional Interest is reasonable and that they represent genuine pre-estimates of the loss expected to be incurred by the Bank and is arrived at after factoring the risks that the Bank will be susceptible to in the event of non-payment of any monies by the Borrower.
- 3.2 The Borrower agrees, declares and confirms that where interest is charged by the Bank at a concessional rate(s) on any of the Facilities granted by the Bank to the Borrower under any "Interest subsidy scheme" or any other similar scheme(s) formulated by the Government and / or RBI and /or any other authority from time to time and in the event of the withdrawal, modification and /or variation of such scheme(s), the concessional rate(s) of interest shall stand withdrawn and the rate(s) of interest of the Bank applicable at such point of time to such Facilities shall become effective from the date (hereinafter referred to as the "**Said Date**") of such withdrawal, modification and / or variation of such scheme(s) and the Bank shall become entitled to charge and the Borrower shall be liable to pay interest at such usual rate(s) from the Said Date. In case the relevant Facilities are eligible for cover under any "guarantee scheme", the Borrower shall bear the guarantee fee paid / to be paid in connection with such Facilities; such guarantee fee may be debited to the relevant Account and shall be treated as part of the Facilities and shall carry interest at the rate specified in the CAL.
- 3.3 Interest on the outstanding amounts under the Facilities / discount or other charges shall be calculated on the daily debit balance of such Account on the footing of compound interest with such rest as may be decided by the Bank from time to time. The interest shall be computed on the basis of 365 days a year for Rupee Facilities and 360 days a year for Foreign Currency Facilities, and the actual number of days elapsed. Such interest shall be paid by the Borrower when debited to the Account. If the Due Date in respect of any amount payable under the Facilities falls on a day which is not a Business Day, the immediately preceding Business Day shall be the Due Date for such payment.
- 3.4 The Borrower shall bear all taxes, other imposts, costs, charges (including but not limited to legal fees, cost of investigation of title to the Borrower's/security provider's assets and protection of the Bank's interest), fees and duties including stamp duty and relevant registration and filing charges in connection with the Transaction Documents (including any differential or additional duties and taxes which may be required pursuant to the provisions of the applicable laws from time to time), as may be levied from time to time by the Government or other authority including those incurred by the Bank in connection with the Facilities. In the event of the Borrower failing to pay the monies referred to above, the Bank shall be at liberty, but shall not be obliged to pay the same. The Borrower shall reimburse promptly and without any demur all sums paid by the Bank in accordance with the provisions contained herein.
- 3.5 All payments by the Borrower under the Facility Agreement shall be made free and clear of and without any deduction / withholding, except to the extent that the Borrower is required by law to make payment subject to any deduction / withholding of taxes. Provided that, all taxes required by law to be deducted / withheld by the Borrower from any amounts paid or payable including but not limited to interest, commission, discount, service and other charges and any fees, under the Facility Agreement, shall be paid by the Borrower when due and the Borrower shall, within the statutory time frame prescribed under the law or 30 days of the payment being made, whichever is earlier, deliver to the Bank satisfactory evidence that the tax has been duly remitted

to the appropriate authority and the tax deduction certificates delivered to the Bank.

- 3.6 The Borrower shall, within three (3) Business Days of a demand by the Bank (in a form and manner as it may deem fit), pay the amount of any Increased Costs incurred by the Bank as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; (ii) compliance with any law or regulation made before or after the date of the Facility Agreement (including any law or regulation concerning capital adequacy, prudential norms, liquidity, reserve assets or tax) or (iii) in the event of the Bank being called upon to pay any additional amount by a foreign lending agency in terms of their respective financing agreements or on account of factors beyond the control of the Bank.
- 3.7 The Borrower agrees, declares and confirms that, notwithstanding any of the provisions of the Indian Contract Act, 1872 or any other applicable law, or any terms and conditions to the contrary contained in the Facility Agreement, the Bank may, at its absolute discretion, appropriate any payments made by the Borrower under the Facility Agreement / any amounts realized by the Bank by enforcement of security or otherwise, towards the dues payable by the Borrower to the Bank under the Facility Agreement and / or other agreements entered into between the Borrower and the Bank and in any manner whatsoever.

ARTICLE IV INSURANCE

INSURANCE

- (i) The Security Provider shall keep insured up to the reinstatement value thereof, as approved by the Bank (including surveyor's and architect's fees), the assets charged / to be charged to the Bank and such of its other assets as are of an insurable nature against all risks including under Public Liability Insurance Act 1991 if applicable.
- (ii) The value of insurance policy should be equal to the value of the stocks at any point of time. Any shortfall in the value of insurance cover shall be covered immediately by the Security Provider or by the Bank by debiting the former's operative account with the Bank. The policies should be either in the joint names of the Security Provider and the Bank or bank's lien should be noted on the policies as first loss payee.
- (iii) The insurance in respect of the assets charged/to be charged shall be taken in the joint names of the Security Provider and the Bank, or the Bank's name should be noted as first loss payee on such insurance policy/ies favour, or such an insurance policy should be endorsed in favour of the Bank or Security Trustee by an Agreed Bank Clause ("**Insurance Policy**"). The Security Provider shall upfront provide a copy of such an Insurance Policy to the Bank. This Insurance Policy shall subsist in favor of the Bank or Security Trustee for as long as the Facility is in effect.
- (iv) The Borrower agrees that, in the event of failure on the part of the Borrower / the Security Provider to insure the assets or to pay the insurance premia, or provide the insurance policy within fifteen days prior to expiry of such policy, the Bank shall be at liberty (without any obligation) to get the assets insured or pay the insurance premia and get such amounts reimbursed by the Borrower together with interest as applicable to the Facilities and the Bank shall be entitled to debit the Borrower's Account with such amount.
- (v) Until all the dues in respect of the Facilities are paid in full, the Borrower shall forthwith pay/cause to be paid to the Bank all monies if received by the Borrower or the Security Provider under any policy (ies) of insurance and until payment to the Bank of monies received by the Borrower or the Security Provider under any policy (ies) of insurance, the Borrower shall hold / caused to be held the same in trust for the Bank.

ARTICLE V SECURITY

CREATION OF SECURITY

The Borrower and / or any other person (the "**Security Provider**") who has provided security for the Facilities:

- (i) Shall make out a good and marketable title to its properties, present and future, to the satisfaction of the Bank and comply with all such formalities as may be necessary or required for the said purpose;
- (ii) Shall notify the Bank in writing of all its acquisitions of immoveable properties and secure the same in favour

of the Bank, in such form and manner as may be decided by the Bank;

- (iii) If at any time during the subsistence of the Facilities, the Bank is of the opinion that the security provided by the Security Provider has become inadequate to cover the Facilities then outstanding including the relevant Margin, the Security Provider shall, upon request of the Bank, provide such additional security and/or Margin including cash margin to the satisfaction of the Bank.
- (iv) Shall assist and bear all costs incurred in the process to get assets valued by an appraiser appointed by the Bank in accordance with the prevalent market practice.
- (v) The Security Provider declares and assures the Bank that the Security Provider shall maintain regular turnover in the goods, movables and other assets hypothecated and / or pledged to the Bank.
- (vi) All security, other than those in respect of which the Bank has provided a timeline for creation and/or perfection, shall be created and perfected and all formalities thereof completed in a form and manner satisfactory to the Bank as a condition precedent to any disbursement under the Facilities, unless otherwise agreed by the Bank.
- (vii) The Security Provider shall execute a Power of Attorney in favor of the Bank for creation and perfection of Security in a form and manner satisfactory to the Bank, an original of which shall be supplied to the Bank as a condition precedent to disbursement.
- (viii) The assets provided to the Bank as security shall not be used by any persons other than promoter/relatives or sister concern/group companies of the Borrower during the currency of this Facility Agreement.
- (ix) Security, if any, created in terms of the Facility Agreement shall continue to secure the Facilities until such Security is specifically released by the Bank.
- (x) The Bank shall have the sole discretion to decide whether or not to accept any particular asset as security for the Facility. The Bank shall be entitled to have all the assets offered as security for the Facility, valued by an appraiser appointed by the Bank in accordance with the prevalent market practice, at the cost of the Borrower and the Security Provider agrees and confirms to give all the required assistance / co-operation to such appraiser for such valuation and the said valuation shall be binding on the Security Provider. The Borrower agrees and confirms that:
 - a) the indigenous raw materials, consumable stores and spares shall be valued at cost, current market rates, government controlled rates or invoice rates, whichever is the lowest;
 - b) imported raw materials may be valued at landed cost (including invoice value plus customs duty and other applicable duties but excluding sales-tax and demurrage) or market price whichever is lower;
 - c) work in progress shall be valued at raw materials at cost plus factory overheads;
 - d) finished goods shall be valued at cost, current market rates, government controlled rates or Borrower's/Security Provider's selling price, whichever is the lowest

ARTICLE VI

GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS

- 6.1 The Borrower makes the following representations, declarations, warranties, covenants and confirms that they are and will continue to remain, true, correct, valid and subsisting in every respect as of the date of the Facility Agreement, the date(s) of drawals under the Facilities, the date(s) of execution of each amendment to the Facility Agreement and each Due Date, which representations, declarations, warranties and covenants shall survive the execution and delivery of the Transaction Documents, provision of the Facilities and repayment / payment in full of the Facilities and all monies in respect thereof:
- (i) All the information provided by the Borrower to the Bank is true and accurate in all material respects, is not misleading and does not omit any material fact, the omission of which would make any fact or statement therein misleading.
 - (ii) All the licenses, permits and authorizations required for carrying on its business or industry have been obtained and are in full force and effect and it is in compliance in all respects with all applicable laws, and has good title to, or is otherwise entitled to use its assets.

- (iii) The Borrower shall, promptly obtain, maintain and comply with the terms of all authorisations necessary for entering into or performing its obligations under the Transaction Documents or for conducting its business and operations.
- (iv) The Borrower has complied in all material respects with all taxation laws in all jurisdictions in which it is subject to taxation and has filed all tax returns and paid all taxes and statutory dues due and payable by it and, to the extent any taxes are not due or disputed, has established reserves that are adequate for the payment of those taxes and statutory dues.
- (v) The financial statements provided by the Borrower were prepared in accordance with the generally accepted accounting principles and give a fair and true view of the financial condition as on the date on which they were prepared and there are no undisclosed liabilities, contingent or otherwise and the accounts have been duly audited AND there has been no Material Adverse Effect since the date on which those accounts were drawn up.
- (vi) Except to the extent disclosed to the Bank and without prejudice to provisions of this Facility Agreement (a) the Borrower has no subsisting Indebtedness; (b) there are no encumbrances subsisting or in existence on any of the Borrower's assets; (c) the Borrower has no subsidiaries and holds no equity interest in any other person; and (d) the Borrower has not engaged in any business or activities, either alone or in partnership or joint venture.
- (vii) No litigation or other proceedings against the Borrower or of any or all of its assets before any court, tribunal, authority or agency has been initiated or is pending for its insolvency, bankruptcy, winding up, dissolution, or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer.
- (viii) Except to the extent disclosed to the Bank, no litigation, arbitration, administrative or other proceedings for its insolvency, bankruptcy, winding up, dissolution, or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of against the Borrower or of any or all of its assets before any court, tribunal, authority or agency, has been initiated or are pending, which, if adversely determined, might have a Material Adverse Effect.
- (ix) Except to the extent disclosed to the Bank all the Borrower's contracts or agreements with, or any commitments to, any affiliates or group companies (if applicable) are on arms' length basis;
- (x) All assets of the Borrower which are of insurable nature are and shall, at all times, be kept insured upto the reinstatement value thereof, to the satisfaction of the Bank.
- (xi) The Borrower acknowledges that the Facility provided is a commercial transaction and waives any defense available under usury or other laws relating to charging of interest.
- (xii) All loans, advances and other monies advanced, in any form, including by way of compulsory convertible debentures, quasi-equity or any other similar instrument, by the directors, promoters, and / or their friends and relatives or any of them ("**the Promoter Group**") and any other unsecured creditors shall stand and be regarded as subordinate debt in relation to the Facility. The Borrower shall not repay the said loans and advances of the Promoter Group or unsecured creditors in whole or in part or pay any interest thereon until such time as the entire outstanding Facility is repaid in full.
- (xiii) Neither the Borrower nor any other person benefiting in any capacity in connection with or from the Facility Agreement and/or any instruments and/or payments thereunder is a Specially Designated National (SDN) and/or otherwise sanctioned, under the sanctions promulgated by the United States (including its Office of Foreign Assets Control's (OFAC)), India, United Nations, European Union, the jurisdiction of the Bank and/or any other country (collectively, the "Sanctions"). The Borrower shall ensure that the transactions do not violate any Sanctions or any sanctioned persons or entities are involved in the transactions. The Borrower agrees that it shall not avail of the Facilities or use the proceeds of the Facilities in any transaction with, or for the purpose of financing the activities of, any person currently subject to any Sanctions as aforesaid.
- (xiv) The Sanctions may become applicable with respect to the Facilities and/or transactions thereunder, including documentary credits, guarantees issued, disbursements, payments, purpose and/or end use of the Facilities, origin or shipment of goods manufactured through certain countries, ports, vessels, liners, certain persons and entities (including correspondent banks and the Facility office). Consequently, disbursement, issuance, payment and/or processing under the Facilities by the Bank may become subjected to the Sanctions and the Bank shall have the unconditional right to refuse to process any transactions that violate/may violate any Sanctions.
- (xv) No Event of Default has occurred or is subsisting or might result from the execution of, or the availing of the Facilities by the Borrower.

- (xvi) The board of directors of the Borrower has approved a risk management policy, in line with relevant RBI circulars, which includes, among other things, the risk limits for various risk exposures and mechanisms to address the impact of forex rate volatility on the Borrower's ability to conduct its business and service its debt and shall keep such policy updated from time to time, to address changes in law and changing market conditions, till such time as all monies due and payable under the Transaction Documents are paid in full to the satisfaction of the Bank. Under this policy:
 - a. The board of directors closely monitor(s) changing market conditions and regulatory changes being announced, including those relating to cross border transactions whether with group companies or otherwise; and
 - b. Clear guidelines for concluding derivative transactions have been laid down and arrangements have been institutionalized to facilitate periodic review and audit of the operation, impact and consequences of such transactions, including verifying compliance with extant laws and regulations.
- (xvii) The Borrower shall ensure that its aggregate business with banks, including deferred payment facilities, foreign exchange, deposits and bill business will be shared with the Bank in such manner as may be decided by the Bank.
- (xviii) The Borrower is not or will not be entitled to and will not claim immunity for itself or any of its assets from suit, execution, attachment or other legal process in any proceedings in relation of the Transaction Documents.
- (xix) The Borrower shall maintain exclusive banking relation with the Bank and shall not initiate any relationship with any other bank/s without the prior consent of the Bank.
- (xx) The Borrower shall, if required, not recognize or register any transfer of shares in the Borrower's capital made or to be made by any person as may be specified by the Bank. The Borrower shall procure and furnish undertakings from such persons, in a form and manner required by the Bank, whereby such person shall agree, inter alia, not to dispose off their shareholdings in the Borrower to any person in any manner whatsoever. The Borrower shall join in such undertaking as a confirming party. The Borrower shall ensure that such person providing the undertaking referred to above, deposits with the Bank, all original certificates and /or instructions to their depository participant pertaining to their shareholding in the Borrower.
- (xxi) The Borrower shall not delist its' shares/securities from the stock exchanges, without the prior approval of the Bank, where such shares and securities are listed.
- (xxii) The Borrower shall, if required, undertake and /or procure undertaking(s) from such persons as may be specified by the Bank in the form required by the Bank, whereby it /he/she/ they shall take the responsibility for making arrangements satisfactory to the Bank for meeting the shortfall, if any, in the resources of the Borrower for working capital requirement and /or any of its project. The Borrower shall join in such undertakings procured from such other persons as a confirming party. The funds brought in to meet the shortfall in the resources of the Borrower for working capital and /or for any of its project, shall be in such form and manner and on such terms as may be required by the Bank.
- (xxiii) The Borrower shall not pay any commission to its promoters, directors, managers or other persons for furnishing guarantees, counter guarantees or indemnities or for undertaking any other liability in connection with any indebtedness incurred by the Borrower or in connection with any other obligation undertaken for or by the Borrower.
- (xxiv) The Borrower shall not pay any compensation to its promoters or directors in the event of loss of office for any reason whatsoever, if there is any default in payment of any monies due and payable under the Facility.
- (xxv) If the Bank has expressly or impliedly allowed the Borrower to continue to use the Facilities beyond the validity as specified in the CAL, then (i) all the terms and conditions contained in the Facility Agreement and other Transaction Documents, shall continue to apply for the Facilities so utilised; (ii) all the existing security and/or contractual comfort, if any, in respect of the Facilities, shall remain in full force and effect and continue to secure the Facilities so utilised.
- (xxvi) The Borrower shall maintain its existence, corporate or otherwise, and right to carry on its business and operations and comply with applicable laws including taxation and environmental laws and shall carry out such modifications to its constitutional documents / other relevant agreements as may be deemed necessary in the opinion of the Bank to safeguard the interests of the Bank under the Transaction Documents.
- (xxvii) In the event that the existing auditors cease to act as the auditors of the Borrower for any reason, the Borrower shall promptly inform the Bank of the reasons for such cessation and shall appoint another firm of

independent chartered accountants, acceptable to the Bank, in accordance with applicable laws.

- (xxviii) The Borrower shall keep and maintain in accordance with good business practice and applicable laws, all statutory books, books of accounts, bank statements and other records of the Borrower and in particular, maintain records showing the operations and financial conditions of the Borrower and such records shall be open to examination by the Bank and / or its authorized representatives.
- (xxix) The Borrower and the Security Provider shall permit or cause to be permitted, the Bank, its officers, employees, agents, regulators, security trustee to carry out technical, financial and legal inspections of its premises, units, projects, assets, accounts and other books or materials and documents and provide free access at all reasonable times to its premises, assets and records and shall provide full cooperation and assistance to the Bank or other persons as aforesaid for the purpose of carrying out such inspection and render such explanation or elucidation as may be required by the Bank and/or its nominees(s) and allow the taking of any copies of or extracts of any accounts/records.
- (xxx) The Borrower shall without any protest, delay or objection allow ICICI Bank to appoint, whenever it considers necessary, upon the occurrence of an Event of Default, chartered accountants, cost accountants, forensic experts or other consultants for carrying out concurrent or special audit or examination of the Borrower. The cost and expenses of any such audit or examination shall be borne by the Borrower;
- (xxxi) The Borrower shall ensure that its foreign currency exposures, if any, are suitably hedged to the satisfaction of the Bank (including without limitation, pursuant to a suitably authorized risk management policy as may be required by applicable law) and such hedging policy remains in full force and effect and updated from time to time, till all the monies due and payable under the Transaction Documents are fully paid to the satisfaction of the Bank;
- (xxxii) Save as otherwise provided in the Facility Agreement or the CAL, the Borrower hereby further covenants and agrees that without the prior written approval of the Bank, the Borrower shall not:
- (a) Undertake or permit any merger, de-merger, consolidation, reorganization, scheme of arrangement or compromise with its creditors or shareholders or effect any scheme of amalgamation or reconstruction including creation of any subsidiary or permit any company to become its subsidiary;
 - (b) Enter into any management contract or similar arrangement whereby its business or operations are managed by any other person.
 - (c) Declare or pay any dividend or make any distribution to its shareholders / members / partners or permit withdrawal of amounts brought in unless it has paid all the dues in respect of the Facilities.
 - (d) Redeem, purchase, buyback, retire or repay any of its share capital, de-list its shares from stock exchanges, if applicable, or resolve to do so for so long as any sums of money are due and payable to the Bank under this Facility Agreement;
 - (e) Establish a relationship with any other bank, in case the Borrower has a sole banking arrangement, in terms of the RBI guidelines, with the Bank.
 - (f) Make any investments whether by way of deposits, loans, or investments in share capital or otherwise, in any concern or provide any credit or give any guarantee, indemnity or similar assurance or in any manner become directly, indirectly or contingently liable for or in connection with the obligation of any person other than itself except as otherwise permitted under the Facility Agreement. This provision shall not apply to loans and advances granted to staff or contractors or suppliers in the ordinary course of business.
 - (g) Effect any change in its capital structure or constitutional documents in any manner whatsoever.
 - (h) Change its financial year-end from the date it has currently adopted or change the accounting method or policies currently followed by the Borrower unless expressly required by applicable law;
 - (i) Avail of any credit facilities or accommodation from any bank(s) or financial institution(s) or any person, firm or company in any manner other than the bank(s) at present providing working capital facilities to the Borrower and as disclosed to the Bank nor shall it deal with or through any other bank(s) or financial institution(s).
 - (j) Undertake any new business or operations or project or diversification, modernisation or substantial expansion of any of its existing business or operations or of any project that it may

undertake during the currency of the Facility;

- (k) Create or permit to subsist any encumbrance or any type of preferential arrangement (including retention arrangements or escrow arrangements having the effect of granting security), in any form whatsoever on any of its assets;
- (l) Whether voluntarily or involuntarily, sell, transfer, grant lease or otherwise dispose off or deal with (or agree to do any of the foregoing at any future time), all or any of its assets;
- (m) Incur or cause to incur, any Indebtedness in any manner whatsoever, other than Permitted Indebtedness;

(xxxiii) Except to the extent disclosed to the Bank:

- (a) No director of the Bank is: a director, manager, managing agent, employee or guarantor of the Borrower, or of a subsidiary of the Borrower, or of the holding company of the Borrower, or holds substantial interest, in the Borrower or a subsidiary or the holding company of the Borrower and no director of any other bank (including scheduled co-operative banks), or directors of subsidiaries/trustees of mutual funds/venture capital funds set up by the Bank or any other bank holds substantial interest or is interested as director or as a guarantor of the Borrower and the Borrower is in compliance with all Applicable Laws including RBI's 'Master Circular on Loans and Advances', as amended and replaced from time to time.
- (b) No relative (as specified by RBI) of a Chairman / Managing Director or director of banking company (including the Bank) or their subsidiaries or trustees of mutual funds/venture capital funds set up by a banking company (including the Bank) or a relative of senior officer (as specified by RBI) of the Bank, holds substantial interest or is interested as a director or as guarantor of the Borrower.

(xxxiv) The Borrower acknowledges, agrees and confirms that:

- (a) The Bank and its group companies shall have the paramount right of set-off and lien, irrespective of any other lien or charge, present as well as future on the deposits of any kind and nature held / balances lying in any accounts of the Borrower, whether in single name or joint name(s) (for which, the Borrower hereby confirms that the requisite consent has already been procured by the Borrower from the relevant third party) and on any monies, securities, bonds and all other assets, documents and properties held by / under the control of the Bank and / or its group companies whether by way of security or otherwise pursuant to any contract entered / to be entered into by the Borrower in any capacity to the extent of all outstanding dues, whatsoever, arising as a result of any of the Bank's or group companies' services extended to and / or used by the Borrower and / or as a result of any other facilities that may be granted by the Bank/group companies to the Borrower.
- (b) The Bank is entitled to settle any Indebtedness whatsoever owed by the Borrower(s) to the Bank by adjusting, setting-off any deposit(s) and / or transferring monies lying to the balance of any account(s) held by the Borrower with the Bank to combine or consolidate at any time all or any of the accounts and liabilities of the Borrower including accounts not related to the facilities, to sell any of the Borrower's assets or properties held by the Bank or its group companies. The Bank's rights hereunder shall not be affected by the Borrower's bankruptcy, death or winding-up. It shall be the Borrower's sole responsibility and liability to settle all disputes / objections with joint account holders, if any.
- (c) The Bank shall have the right to declare the Borrower and guarantor(s), if any, a wilful defaulter, in accordance with the guidelines laid down by RBI.
- (d) Wherever applicable, the Borrower shall, at all times, ensure compliance with the Reserve Bank of India guidelines on Loan System for Delivery of Bank Credit issued on December 05, 2018 ("Guideline") during the tenure of the Facility. The Borrower further agrees that, wherever the Guideline is applicable, the Bank shall be entitled to revise the Facilities, including the loan component, other component and their thresholds, without prior consent of the Borrower, if any such revision is required to ensure compliance with the Guideline; and
- (e) To comply with such other conditions/covenants as may be mentioned in the CAL, this Facility Agreement, Schedules hereof and other Transaction Documents.
- (f) save as otherwise provided in the Facility Agreement or the CAL, the Borrower shall, ensure that its

obligations under the Transaction Documents, do and will rank at least pari passu with all its other present and future obligations, except otherwise permitted by ICICI Bank. It is clarified that this is without prejudice to the ranking and priority expressed in the documents executed in relation to any security created for the Facility.

6.2 Information Covenants

The Borrower shall promptly notify and/or deliver to the Bank:

- (a) Of the occurrence of any event or the existence of any circumstances which constitutes or results in any declaration, representation, warranty, covenant or condition under the Transaction Documents being or becoming untrue or incorrect in any respect.
- (b) Of any circumstances and conditions (including any material loss or legal proceedings) which is likely to have a Material Adverse Effect or are prejudicial to or affects or is likely to affect any of the businesses, operations or financial condition of the Borrower or its project(s) and / or of any person who is party to any Transaction Document.
- (c) Of the occurrence of an Event of Default, and the steps, if any, taken to rectify the same.
- (d) Of any action or steps taken or legal proceedings started by or against it in any court of law for its winding-up, dissolution, administration or re-organisation or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of the Borrower or of any or all of its assets.
- (e) Of any change in the directors or management set-up of the Borrower.
- (f) Of any loss or damage which the Borrower may suffer due to any event or circumstance or act of God.
- (g) Copies of all documents issued by the Borrower to all its creditors or any general class of them at the same time as they are issued.
- (h) Of any litigation, arbitration, investigation, administrative or other proceedings initiated or threatened against the Borrower or any of its assets, which if adversely determined, might have a Material Adverse Effect and submit copies of any reports in relation thereto.
- (i) Such information or documents, financial or otherwise, as are specified in the CAL, or as may be required by the Bank from time to time in relation to the Facilities, the Borrower's business and operations, assets etc., including those in relation to its foreign currency exposures and hedging policy, within the period specified in the CAL or by the Bank.
- (j) Information regarding foreign currency exposure (including the details of hedging thereof), (i) duly certified by its directors or authorized signatories or company secretary, within 60 days of expiry of each fiscal quarter; (ii) audited and certified by its statutory auditor once in a year for any one quarter (iii) any such information as may be required by ICICI Bank from time to time. Information regarding the unhedged foreign currency exposure of the Borrower will be obtained on quarterly basis.
- (k) All notices, agenda, minutes and other communication of the general meetings, board meetings and/or meetings of any committees of the board of directors of the Borrower, as may be demanded by the Bank, upon the occurrence of an Event of Default. For avoidance of doubt, it is clarified that such right of the Bank shall be in addition to any other rights available to it under the Transaction Documents.

ARTICLE VII EVENT OF DEFAULT AND CONSEQUENCES

7.1 The occurrence of any one or more of the following events shall constitute an Event of Default under the Facility Agreement:

- (i) **Payment Default** - Default has occurred in the payment of any monies in respect of the Facilities on the Due Dates, whether at stated maturity, by acceleration or otherwise.
- (ii) **Non-payment Default** - Default other than a Payment Default has occurred in the performance of any covenant or condition on the part of the Borrower or any other person under the Transaction Documents and

such default has continued for a period of 15 days after notice in writing thereof has been given to the Borrower or as the case may be, to such other person, by the Bank (except where the Bank is of the opinion that such default is incapable of remedy, in which event, no notice shall be required).

- (iii) **Breach of Terms** - Borrower or any other person is in breach of performance of any covenant, condition or agreement under the Transaction Documents (other than those events specifically provided under Article VII of this Facility Agreement) and such default has continued for a period of 30 (thirty) days from the date of the default (except where ICICI Bank is of the opinion that such default is incapable of remedy, in which event, no cure period shall be applicable).

(iv) **Bankruptcy, Insolvency, Dissolution etc.**

- (a) If the Borrower and/or the Security Provider has voluntarily taken any action for its insolvency, winding-up or dissolution
- (b) If any step or action has been taken for reorganisation, winding up or dissolution of the Borrower and/or any Security Provider, or a receiver or liquidator (including provisional liquidator) has been appointed or allowed to be appointed over all or any part of the assets of the Borrower and/or any Security Provider, or if any attachment or distraint has been levied on the Borrower's and/or any Security Provider's assets or any part thereof, or certificate proceedings have been taken or commenced for recovery of any dues from the Borrower and/or the Security Provider, or if one or more judgments or decrees have been rendered or entered against the Borrower and/or the Security Provider and such judgments or decrees are not vacated, discharged or stayed within a period of 60 (sixty) days and such judgments or decrees involve in the aggregate, a liability which could have a Material Adverse Effect. The Borrower is unable or has admitted in writing its inability to pay any of its Indebtedness as they mature or when due.
- (c) If any petition or application in relation to insolvency or bankruptcy resolution of the Borrower and/or the Security Provider (including without limitation, corporate insolvency resolution process and bankruptcy process under the Insolvency and Bankruptcy Code) is filed before any court, tribunal or authority of competent jurisdiction, or the Borrower has become bankrupt or insolvent or is dissolved.

- (v) **Material Adverse Effect** – Occurrence or existence of one or more events, conditions or circumstances (including any change in law), which in the opinion of the Bank, could have a Material Adverse Effect.

- (vi) **Security in Jeopardy** – If in the opinion of the Bank any security, for the Facilities is in jeopardy or ceases to have effect or if any Transaction Documents executed or furnished by or on behalf of the Borrower becomes illegal, invalid, unenforceable or otherwise fails or ceases to be in effect or fails or ceases to provide the benefit of the liens, rights, powers, privileges or security interests purported or sought to be created thereby or if any such Transaction Documents shall be assigned or otherwise transferred, amended or terminated, repudiated or revoked without the approval of the Bank.

- (vii) **Change in Control** - Any person acting singularly or with any other person either directly or indirectly acquires control of the Borrower or of any other person who controls the Borrower, without the approval of the Bank.

- (viii) **Misleading Information and Representation** – Any information given by the Borrower or on its behalf, including but not limited to, information given at the time of appraisal of the loan, representation and warranty, or statement made or repeated, or deemed to be made or repeated, in or in connection with any of the Transaction Documents, is incorrect or misleading in any material respect.

- (ix) **Illegality** - Any obligation under the Facility Agreement or any of the Transaction Documents, is not or ceases to be a valid, legal and/or binding obligation of any person party to it or becomes void, illegal, unenforceable or is repudiated by such person.

(x) **Cross Default**

- (a) Borrower is unable or has admitted its inability to pay any of its Indebtedness to a Financial Creditor

- or any bank or financial institution, whether at stated maturity, by acceleration or otherwise.
- (b) Any Financial Creditor or bank or financial institution or any other lender cancels and/or recalls any Indebtedness of the Borrower, as a result of an event of default (however described).
 - (c) Any Indebtedness to a Financial Creditor or a bank or financial institution secured by an encumbrance over the assets of the Borrower, is not paid, whether at stated maturity, acceleration or otherwise.
 - (d) Provided, however, that the above shall apply only if the Indebtedness is more than 2% of the total Indebtedness of the Borrower, whichever is lower, and (b) is not cured within 30 days from the date of default.
 - (e) Any Group Company or Associate Company of the Borrower has defaulted in payment of any of its Indebtedness to the Bank, whether at stated maturity, by acceleration or otherwise.

For the purpose of this clause:

"Group Company" shall mean and include:

- (i) any company which is the holding company or the subsidiary company of the Borrower, or
- (ii) any company under the control of or under common control with the Borrower

"Associate Company" shall have the meaning assigned to it under the Companies Act, 2013.

(xii) Inadequate Insurance and Depreciation in value of assets

- (a) If the Borrower's assets have not been kept insured by the Borrower and the same is not remedied within 30 (thirty) days from the date of such default.
- (b) If the Borrower's assets depreciate in value to such an extent that such depreciation could, in the opinion of ICICI Bank, have a Material Adverse Effect and the same is not remedied within 30 (thirty) days from the date of notice by ICICI Bank.
- (c) Any insurance contracted or taken by the Borrower is not, or ceases to be, in full force and effect at any time when it is required to be in effect or any insurance is avoided, or any insurer or re-insurer avoids or suspends or becomes entitled to avoid or suspend, any insurance or any claim under it or otherwise reduces its liability under any insurance or any insurer of any insurance is not bound, or ceases to be bound, to meet its obligations in full or in part under any insurance, and the same is not remedied within 30 (thirty) days from the date of any such default.

(xiii) Other Events – Any other event or circumstance including but not limited to death and incapacity and shall also include any event or circumstance specified as an Event of Default under the CAL.

7.2 Consequences of Event of Default

- (i) On the happening of any of the Events of Default or if the Overall Limits / Limits are not renewed beyond the validity period specified in the CAL or if the Borrower has not availed of or drawn from the Facilities by the aforesaid validity period, the Bank may, by a notice in writing to the Borrower and without prejudice to the rights and remedies available to the Bank under the Transaction Documents or otherwise, exercise the following rights, each of which shall be an independent right:
 - (a) Terminate the Facilities and/or declare all the amounts under the Facilities as immediately due and payable, to the Bank, whereupon the same shall become due and payable by the Borrower forthwith, in accordance with the terms of the notice; and / or
 - (b) Suspend further access / drawals by the Borrower to the use of the Facilities. Notwithstanding any suspension or termination pursuant to the Facility Agreement, all provisions of the Transaction Documents for the benefit or protection of the Bank and its interests shall continue to be in full force and effect as provided in the Transaction Documents;
 - (c) Upon the occurrence of a Payment Default which is continuing for a period of 60 days or more, ICICI Bank shall have the right to convert, at its option, the whole or part of, the outstanding amount of the Facility into fully paid-up equity shares of the Borrower, at a rate specified by ICICI Bank, as

permitted by applicable laws, and as specified in a notice given by ICICI Bank to the Borrower ("Conversion Notice"). The Borrower shall procure all the necessary approvals/ authorisations as may be required for ICICI Bank to exercise the conversion right and on receipt of the Conversion Notice, take all such steps as may be required for ICICI Bank to receive the resultant equity shares by issuing and allotting the resultant equity shares to ICICI Bank, ranking pari passu with its existing equity shares, and where applicable, duly listing such equity shares. Alternatively, the Borrower can forthwith, on receipt of the Conversion Notice, repay/pay the outstanding amount of the Facility and foreclose ICICI Bank's conversion right

- (d) Declare the security created, if any, in terms of the Transaction Documents to be enforceable, and notwithstanding anything to the contrary contained in the Transaction Documents the Bank or such other person in favour of whom such security or any part thereof is created shall have, inter alia, the following rights namely:
- (1) To enter upon and take possession of the assets comprised within the security, if any; and / or to transfer the assets comprised within the security created, if any by way of lease, leave and license, sale or otherwise.
 - (2) Stipulate such other additional terms and conditions, as the Bank may deem fit.

ARTICLE VIII MISCELLANEOUS

8.1 SERVICE OF NOTICE

All notices or other communications under or in connection with the Facilities shall be given in writing and shall be deemed to be effective:

- (i) If sent by letter, when delivered personally or if dispatched by post, when recall of the letter is outside the control of the sender;
- (ii) If sent by e-mail or any other electronic or telecommunication mode, when sent by the sender; and
- (iii) If sent by facsimile, on receipt of a confirmation from the correct facsimile number. Provided, however, that no notice or communication to the Bank shall be effective unless actually received by the Bank. Notices or communication may be made to:
 - (a) The Borrower's address, e-mail address, or facsimile number, and;
 - (b) The Bank's address or facsimile number of its zonal / regional office specified in CAL, or to such other address or, facsimile number as may be designated by the Borrower and the Bank in writing to each other.
- (iv) The Borrower acknowledges and confirms that any notice provided by the Bank shall be treated by the Borrower as sufficient and reasonable notice to the Borrower and agrees to assume the liability for any non-delivery of a notice as aforesaid, by any reason of any error, electronic or otherwise.

8.2 EVIDENCE OF DEBT

The Bank shall maintain, in accordance with its usual practice, accounts evidencing the amounts, from time to time, lent by and/or owing to it under the Facilities which shall be prima facie and conclusive evidence of the existence and amount of obligations of the Borrower including for the purpose of the Insolvency and Bankruptcy Code, 2016.

8.3 ACKNOWLEDGMENT OF DEBT

Upon receipt, from the Bank, of statement(s) giving details of:

- (i) The aggregate debit balance in the Account as on the date(s) stated in such statement(s);
 - (ii) The further applicable accrued interest from the aforesaid date(s) mentioned in the aforesaid statement(s);
 - (iii) Securities, if any, created for securing the Facilities / the amounts stated in the aforesaid Account;
- the Borrower shall within 10 days thereof inform the Bank of any inaccuracies thereon failing which Borrower shall be deemed to have confirmed the correctness of the entries in such statement(s) and acknowledged the indebtedness for the balance mentioned in the aforesaid statement(s).

8.4 ASSIGNMENT

- (i) The Borrower shall not assign or transfer all or any of its rights, benefits or obligations under the Transaction

Documents without the approval of the Bank. Notwithstanding anything contained in the Transaction Documents the Bank may, at any time, assign or transfer all or any of its rights, benefits and obligations under the Transaction Documents without notice to the Borrower. Notwithstanding any such assignment or transfer, the Borrower shall, unless otherwise notified by the Bank, continue to make all payments under the Facility Agreement to the Bank and all such payments when made to the Bank shall constitute a full discharge to the Borrower from all its liabilities in respect of such payments. The Borrower acknowledges and confirms that in case of an assignment or transfer of a part of the Facility by the Bank, each of the Bank, transferee and/or assignee shall be deemed to have provided independent facilities under the Facility Agreement. Each of the Bank, transferee and/or assignee shall have an independent cause of action, notwithstanding that the default arises on the same date or is in respect of the same Transaction Documents.

- (ii) Without prejudice to the aforesaid provision, the Bank may (at its sole discretion), without notice to the Borrower, share the credit risk of the whole or a part of the Facilities with any other person by way of participation. Notwithstanding such participation, the terms of the Transaction Documents shall continue to remain valid, effective and enforceable until the repayment/payment in full of the Facilities and all monies in respect thereof and the Borrower shall not claim any privity of contract with such person on account of any reason whatsoever.

8.5 SEVERABILITY

Any provision of the Transaction Documents which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of prohibition or unenforceability but that shall not invalidate the remaining provisions of the Transaction Documents or affect such provision in any other jurisdiction.

8.6 DISCLOSURE

- (i) The Borrower agrees, accepts and affords his/her/its specific consent for disclosure and sharing by the Bank of all or any information and/or data relating to the Borrower or any credit facilities, including but not limited to Financial Information, information relating to default, if any, committed by the Borrower, in the discharge of the Borrower's obligations, as the Bank may deem appropriate and necessary to disclose and furnish, to the RBI and/ or any agency/credit bureau authorized in this behalf by RBI, to any Information Utility, to its professional advisers, consultants, service providers, group companies and any third party, through written or oral communication, including paper publication and/or as required under any applicable law, order of a court or any statutory, regulatory or supervisory authority with whom it customarily complies. The Borrower agrees, accepts and consents to promptly authenticate the Financial Information submitted by the Bank, as and when requested by the Information Utility. Provided that in the event the Borrower fails to authenticate the Financial Information within the timeline prescribed under applicable law/regulations, the Borrower agrees and confirms that he/she/it shall be deemed to have authenticated the said Financial Information.
- (ii) The Borrower accepts that RBI or any other agency so authorized, any statutory, regulatory or supervisory authority, may use, process, disseminate the said information and data disclosed by the Bank in such manner as deemed fit by them in any particular circumstance, and shall not hold the Bank at all responsible or liable in this regard.
- (iii) The Bank, its group companies, agents / representatives would be entitled to provide the Borrower, its promoters, directors and employees, information on various products, offers and services through any mode (including through telephone calls / SMS / emails).
- (iv) The Borrower further gives consent to the Bank, to recover/set off any fees required to be paid by the Bank to the information utilities for availing their services in relation to the Facility from the disbursements made to the Borrower by the Bank, from time to time.

8.7 PROVISIONS RELATING TO FACILITIES DENOMINATED IN CURRENCIES OTHER THAN INDIAN RUPEES

Subject to specific provisions incorporated in Article IX hereof in relation to the relevant product(s), in case any of the Facilities are denominated in any currency other than Indian rupees, the following conditions shall apply:

- (i) The foreign currency amount would be the limiting factor and the Borrower's liability would accordingly be

reckoned in the foreign currency in which the relevant Facilities are denominated.

- (ii) The Borrower is liable to pay interest and repay principal in the currency in which the relevant Facilities have been denominated. In the event of any default in the payment of principal and / or interest on the Due Date of such Facilities, the Bank may, at its discretion, convert the amount into Indian rupees, on the Due Date(s) for such payment(s) or on any subsequent date, at the Bank's telegraphic transfer (TT) selling rate prevailing on the date of such conversion. The amount due thereafter, would be reckoned as denominated in Indian rupees.
- (iii) The Indian rupee equivalent of the relevant Facilities denominated in currencies other than Indian rupees have been reckoned for the purpose of the Facility Agreement at the exchange rates as mentioned in the CAL.
- (iv) In the event, the Indian rupees value depreciates vis-à-vis the currency in which the relevant Facilities are denominated resulting in increased liability in terms of Indian rupees vis-à-vis the currency of the relevant Facilities, the Borrower hereby agrees and confirms that:
 - (a) Such increased value in terms of Indian rupees shall also be covered by the security, if any, stipulated in the Transaction Documents;
 - (b) The Borrower shall further execute, sign and furnish all such documents, deeds and writings required by the Bank for the aforesaid purpose.

ARTICLE IX
TERMS AND CONDITIONS APPLICABLE FOR SPECIFIC FACILITIES
PART A
(LETTER OF CREDIT(S) / LC)

1. LC FACILITIES

The Bank has, at the request of the Borrower, agreed to open Letters of Credit in foreign currencies and / or in rupees in favour of the Suppliers for amounts to the maximum extent of the respective Limits specified in the Facility Agreement (the "**LC Facilities**", which expression shall, as the context may permit or require, mean any or each of such LC Facilities) from time to time. Provided, however, the total of LC Outstanding and Amounts Devolved under the LC Facilities shall not at any point of time exceed the amount of the respective Limits.

2. PAYMENT AND INTEREST

- (i) The Borrower shall accept and / or pay all Bills drawn in terms of the:
 - (a) Sight LCs, on presentation of Documents,
 - (b) Usance LCs, on the date of its maturity,
- (ii) If, on default by the Borrower in paying the Bills / amounts paid / payable by the Bank in respect of the LCs on the Date of Crystallization, the Bank is called upon / required / expected to pay or has paid, all or any of the monies in pursuance of the LCs, the Borrower shall forthwith pay / reimburse to the Bank, all amounts payable or as the case may be, paid by the Bank under the LCs together with all interest, costs, charges, expenses and monies whatsoever stipulated in or payable under the Transaction Documents. The Bank shall be entitled, at its sole discretion, without any further consent from the Borrower, to debit the Account or any of the accounts of the Borrower with the Bank, with the aforesaid amounts.
- (iii) (a) Notwithstanding the above and without prejudice to the Bank's other rights and remedies under the Facility Agreement, the Bank shall be at liberty to crystallise on the Date of Crystallisation, the Borrower's outstanding liability in respect of the LCs denominated in foreign currencies, by converting the foreign currency amount into Rupees, whereupon the Borrower shall forthwith pay / reimburse to the Bank the Indian rupee equivalent of such foreign currency amount as calculated at the Applicable Rate of Exchange in respect of such LCs (the "**Defaulted Amounts – FC LC**") and until such payment by the Borrower, the same shall unless otherwise agreed to by the Bank in writing be deemed to be on demand loan to the Borrower and shall, without prejudice to any other rights and remedies available to the Bank, carry interest at the rate specified in the CAL. Any difference on account of exchange fluctuations in the rates of foreign currencies involved between the payment made by the Borrower to the Bank and the actual amounts incurred by the Bank shall be borne by or be given credit to the

Borrower. All payments made by the Bank in foreign currencies may be, at the option of the Bank, converted into rupees with reference to the actual cost to the Bank (including all commission or other bank charges and out-of-pocket expenses) in remitting the foreign currencies.

- (b) Notwithstanding the above and without prejudice to the Bank's other rights and remedies under the Facility Agreement, the Bank shall be at liberty to crystallise on the Date of Crystallisation, the Borrower's outstanding liability in respect of the LCs denominated in rupees (the **"Defaulted Amounts – RLC"**) and until such payment by the Borrower, the same shall unless otherwise agreed to by the Bank in writing be deemed to be on demand loan to the Borrower and shall, without prejudice to any other rights and remedies available to the Bank, carry interest at the rate at the rate specified in the CAL. Defaulted Amounts - LC FC and Defaulted Amounts – RLC are hereinafter referred to as the **"Defaulted Amounts"**.
- (c) Notwithstanding anything contained herein, the interest payable by the Borrower with respect to the Facility shall be subject to the changes in interest rates made by the RBI from time to time.

3. BORROWER'S CONFIRMATIONS

- (i) The Bank may in its sole and absolute discretion and without reference to the Borrower and without the Bank being required to ascertain whether or not there was any breach on the part of the Borrower of the agreements / contracts underlying the LCs and without the Bank being required to go into the validity thereof or otherwise and notwithstanding any directions to the contrary given by the Borrower or any other person on the ground of a dispute as to the liability of the Borrower or otherwise, admit or compromise and pay or submit to arbitration or dispute or resist any claim or demand made against the Bank under or in respect of such LCs and the benefit of the Facility Agreement shall continue to be available to the Bank in respect of any action or repayment which the Bank may take or make in respect of such LCs / LC Facilities.
- (ii) The Borrower shall not amend or agree to amend or grant waiver of any of the provisions of the Documents.
- (iii) The LCs will be opened by the Bank only as per the provisions of applicable laws and regulations including exchange control norms laid down by RBI and import trade regulations.
- (iv) Import LCs will be opened by the Bank against valid import licenses, wherever applicable.
- (v) In respect of Usance LCs, the goods received under the unpaid LCs will be excluded from the value of stocks for arriving at Drawing Power for availing fund based financial assistance.
- (vi) In case of high value LCs, the Borrower shall, if so required by the Bank, furnish projected cash flow statements, opinion reports from reputed information exchange bureaus acceptable to the Bank or from other banks / institutions in India or overseas at the costs and expenses of the Borrower.
- (vii) The Bank shall issue LCs only in a form acceptable to the Bank.
- (viii) The Borrower shall make adequate arrangement for retiring the Documents under the LC Facilities and does not contemplate to seek any financial assistance from the Bank for such purpose, unless otherwise previously arranged with the Bank.
- (ix) The Borrower shall have furnished to the Bank at the time of submitting the Documentary Credit Application, the following, duly completed: (a) Order together with the order confirmation of Supplier, or (b) Proforma invoice of Supplier duly countersigned by the Borrower; or (c) Indent / offer from Supplier or his authorized agent together with the exchange control copy of the relative Import license; or d) Any other documents as may be specified by the Bank from time to time.
- (x) The Borrower shall submit to the Bank the exchange control copy of the relative Customs Bills of Entry within the time limit stipulated by RBI.
- (xi) In the event the Borrower requests the Bank to issue delivery order (**"DO"**) pending receipt of Documents to enable the Borrower to clear the goods covered under the LCs, the Borrower shall accept and retire the Documents irrespective of any discrepancy on receipt or on due date without any demur whatsoever;
- (xii) In the event agency commission is payable in India or abroad, the Borrower shall deduct the same and request the Bank to open the LCs for the net amount of the contract value. If the invoice(s) presented for negotiation by the foreign Suppliers indicate agency commission amount(s) payable to the local agents of

such Suppliers, the Borrower shall promptly effect the payment of such commission in equivalent rupees out of its own resources and submit to the Bank the receipt(s) from the local agents of such Suppliers.

- (xiii) The LCs may be amended and / or modified by the Bank in its absolute discretion, including for an increased limit on the Borrower giving the Bank written instruction for the same and in such an event, such amendment / modification will be deemed to form part of the relevant Documentary Credit Application and will be governed by the terms hereof and the Borrower agrees, covenants, records and confirms that it shall be bound by the same as if such amendment / modification including the increased limit had originally constituted the term of the LCs;
- (xiv) The LC Facilities shall be utilised only for the purpose as has been disclosed to the Bank in Documentary Credit Application, unless otherwise previously permitted by the Bank in writing;
- (xv) The Bank shall be entitled, at its sole discretion and without any reference to and / or consent of the Borrower, to make payment of the Bills under the LCs on presentment thereof or on the due date thereof;
- (xvi) Notwithstanding the possibility or existence of any dispute or differences or of any arbitration or legal proceedings whatsoever between the Borrower and the beneficiary of the LCs and / or between the Borrower(s) inter-se, which may directly or indirectly arise out of or under or in connection with the subject matter(s) of the LCs or which may affect the legality or validity of the LCs and / or any transaction(s) relating thereto, the reasonableness or propriety or validity of any payment shall be conclusive and binding on the Borrower, in terms of its liability to the Bank under the Facility Agreement.
- (xvii) In respect of Goods, their documents of title, or other related Documents in favour of the Bank / held by the Bank or released by the Bank, in its sole discretion, at the request of the Borrower, the Borrower agrees, confirms and undertakes that:
 - (a) The Documentary Credit Application shall be deemed to have been accepted when advice thereof has been sent to the beneficiary through SWIFT / tested telex / airmail;
 - (b) The date of receipt of Documents by the Bank under the LC Facilities as registered in the records of the Bank shall be conclusive and binding on the Borrower;
 - (c) The import of Goods is / are not in contravention of Trade Policy / Exim Policy guidelines and / or any other laws, policy and guidelines prescribed by the Government of India from time to time; It has a valid Import Export Code assigned by the Director General of Foreign Trade;
 - (d) It is authorised to undertake imports of the Goods, wherever applicable;
 - (e) The transaction covered under the LC Facilities does not involve and is not designed for the purpose of any contravention or evasion of the provisions of Foreign Exchange Management Act, 1999 or of any rule, regulations, notifications direction or order made thereunder or of any other law, rule, regulation or direction;
 - (f) The Borrower shall receive, hold and store, in trust for the Bank, the underlying Goods and / or their documents of title and/or the Documents delivered by the Bank to the Borrower, until sale of the underlying Goods. If so required by the Bank, the Borrower shall, acting in the capacity of the Bank's trust agents, sell the Goods, at such price as the Bank may approve and immediately upon receipt thereof, pay the said proceeds to the Bank without any deduction as well as advise the Bank of the account and the transaction in respect of which such payment is made;
 - (g) The Bank shall have full authority to demand and receive from the purchaser, the purchase money of the Goods sold or any part thereof;
 - (h) The Borrower shall at its own cost insure and keep the Goods insured to their full value against such risks and with such insurers, as acceptable to the Bank, and hold the policies in trust on behalf of the Bank and in the name of the Bank, and if required assign, and deliver the policies to the Bank and ensure payment to the Bank of all sums payable by the insurers under or in respect of such policies;
 - (i) The Borrower shall store / keep the Goods separate and shall not raise any finance against the same without the approval of the Bank and the Goods shall be excluded from the value of stocks for arriving at the Drawing Power for availing fund based financial assistance;

- (j) The Bank, its officers, servants and agents shall be at liberty at all times without notice to the Borrower, to inspect the Goods and retake possession or demand redelivery thereof to the Bank (which the Borrower undertakes to give on demand) and remove and sell the same, at such price, in such manner and upon such terms and conditions as the Bank may in its absolute discretion think fit and otherwise take whatever steps the Bank considers expedient for the protection of their interest therein and enforcement and realization of Security;
 - (k) The Goods shall be a Security to the Bank for the payment of all monies payable to the Bank from the Borrower under the LC Facilities and all monies in respect thereof under the Transaction Documents;
 - (l) The Goods shall in all respects be treated by the Borrower, in its books as belonging to and held on behalf of the Bank.
- (xviii) If for any reason whatsoever the liability of the Bank extends beyond the validity period specified in the LCs or if the Bank is prevented by any action initiated by the Borrower or otherwise from making payment of part or whole of the amounts under the LCs, the Borrower shall be liable to pay commission for such extended period, until the Bank is discharged of its obligations under the LCs;
- (xix) The Borrower shall provide / deposit immediately on demand and without demur, additional acceptable security to the Bank and / or sufficient amounts by way of 100% cash margin on the amounts of the LCs in respect of which the Bank is restrained from making payment.

4. NO LIABILITY

The Borrower agrees that the transmission of all instructions and communications under the LCs and the shipping of Documents and the Goods thereunder is entirely at the Borrower's risk. The Bank or its correspondents or agents or confirming banks shall not be responsible for any error or delay in such transmission or loss or delay in delivery of the Documents or the Goods.

5. INDEMNITY

In addition to the indemnity provisions contained elsewhere in the General Conditions, the Borrower shall indemnify and keep the Bank indemnified against any liability, loss, damages, costs, which the bank may incur or suffer in connection with the LC as a result of:

- (i) Bank issuing any DO and or the Borrower refusing to accept any discrepancy in the Documents on receipt or on due date.
- (ii) Any payments made to the Suppliers, under the LCs, inclusive of payments made outside India, regardless of the consignment of the Goods, irrespective of receipt of the relevant Documents and notwithstanding any discrepancy between the quantity or quality of the Goods received from the Suppliers and the contracted quantity and quality.
- (iii) Release to the Borrower, on trust, of the Goods, movables and other assets pledged to the Bank notwithstanding any discrepancy between the price, quantity and quality of the Goods and the price, quantity and quality specified in the contract
- (iv) Borrower's act, default or omission or of the Borrower's servants or employees or other person acting on behalf of the Borrower in respect of goods, movables and other assets pledged to the Bank and released to the Borrower on trust.
- (v) The Bank complying with the Borrower's instructions to deliver to the Borrower or to the Borrower's clearing agents the documents covering the goods, movables and other assets; whether or not the said documents are in order; notwithstanding any discrepancy between the price / value, quantity and quality of the goods, movables and other assets covered by the documents and price, quantity and quality specified in the contract.
- (vi) The Bank's complying with the Borrower's request to effect advance payments from time to time to the suppliers, whether or not the suppliers consign the goods, movables and other assets, whether or not the documents in respect thereof are received by the Bank; and notwithstanding any discrepancy between the quantity or quality of the goods, movables and other assets received from the suppliers and the contracted quantity and quality.

- (vii) Any cost , charges and expenses incurred in connection with the Goods and / or the documents of title to Goods covered by the LCs including for re-shipment thereof for any reason whatsoever, or in the exercise or enforcement of any right or power hereby conferred or otherwise howsoever.
- (viii) Any claim, whatsoever which may be brought or made against or sustained or incurred by the Bank and which the Bank may become liable under or in respect of the LCs
- (ix) Action or proceedings made or brought against the Bank, its correspondents or confirming banks or agents in connection with the LCs
- (x) The Bank, its correspondents or confirming banks or agents having established the LCs;
- (xi) Every payment made, obligation, liability, loss and damage, penalties, taxes, etc. whatsoever undertaken or incurred or suffered by the Bank (whether directly or indirectly) under or in connection with and / or arising from all or any or some of such LCs;
- (xii) The Bank making payment to the Suppliers, under the LCs, without deducting tax in India whether or not such payment attracts withholding tax in India or requires due certification by a qualified accountant.

6. SALE OF GOODS

- (i) On the happening of any of the Event of Default, the Bank shall be entitled without prejudice to any of its other rights contained in the Transaction Documents or under the law and without notice to the Borrower (which the Borrower hereby expressly waives), to sell the Goods whether before or after their arrival, either by public auction or tender or by private contract and subject to such conditions as the Bank may deem fit to impose, or otherwise dispose of or deal with the Goods or any part thereof and / or with the relative documents of title to the Goods in any manner whatsoever, without being bound to exercise any of these powers or liable for any loss in the exercise or non-exercise thereof. The proceeds realised from sale of the Goods or transfer of any document of title, remaining after deducting therefrom the costs and expense of and incidental to such sale or transfer, shall be applied in or towards payment or satisfaction of the amount(s) due to the Bank in respect of any payment made by the Bank under the LC Facilities for the account of the Borrower, and interest thereon and all costs charges and expenses as hereinabove mentioned. The Borrower shall accept the Bank's account of sale or realisation as conclusive evidence both in and out of court as to the amount(s) realised and expenses incurred, and shall pay forthwith any shortfall or deficiency remaining after such application. The Bank shall not be liable to the Borrower for any loss which may occur pending sale or disposal of the Goods and / or document of title of Goods, whether by reason of theft, damage, deterioration or decay of the Goods or depreciation in the value thereof or otherwise whatsoever be the cause.
- (ii) The Borrower agrees and undertakes to sign, execute and deliver to the Bank from time to time on demand made by the Bank, such further or other deeds, documents and writings and do all such acts, matters and things as may be required by the Bank for better perfecting the title of the Bank to the Goods so as to render the same readily saleable or transferable by the Bank to any purchaser(s) at all time.

7. DEFINITIONS

In this Part, unless there is anything repugnant to the subject or context thereof, the expressions listed below shall have the following meanings viz.

"Amounts Devolved" means the sum of the payments due from the Borrower under all the LCs for which the Documents have been presented to and paid by the Bank but reimbursement thereof has not yet been made by the Borrower to the Bank.

"Applicable Rate of Exchange" means

- (i) In case a forward exchange contract / swap has not been booked by the Borrower with the Bank, the applicable foreign currency bill selling rate of the Bank prevailing on the Date of Crystallization. Provided however, that if the relevant rate of exchange is not quoted or not available for any reason on such days, then the rate prevailing on the immediately next Business Day when such rate shall be quoted or be available shall be the Applicable Rate of Exchange;
- (ii) The forward exchange contract / swap rate in case a forward exchange contract / swap has been booked by the Borrower with the Bank.

"Bills" means, as the context may permit or require, any or each of the bills of exchange drawn under the LCs.

"Date of Crystallisation" means the 10th day after the date of receipt of Documents by the Bank under the LCs in the case of a Sight LCs, or the date of maturity in the case of a Usance LC or as per applicable rules from time to time.

"Documents" means the documents as specified under the LCs (including all bills) and drawn up in accordance with the terms of the LCs opened under the LC Facilities and / or the documents as specified under / or in connection with co-accepted bills.

"Documentary Credit Application" means, as the context may permit or require, any or each of the Borrower's application(s) to the Bank for opening LCs and all supporting documents furnished by the Borrower in respect thereof to the Bank.

"Goods" means the relevant goods described in the Documentary Credit Application.

"LC Outstanding" means the sum of the value of all the LCs opened by the Bank on behalf of the Borrower for which the Documents have not been presented to the Bank as well as the LCs where documents are received but are not due for payment / outstanding for payment.

"Letters of Credit" or "LCs" means, as the context may permit or require, any or each of:

- (i) Usance LCs and / or Sight LCs, both inland and foreign,
- (ii) Usance LCs and / or Sight LCs, only foreign,
- (iii) Usance LCs and / or Sight LCs, only inland,

Issued / opened by the Bank as per the Documentary Credit Application to the Bank for opening LCs and all supporting documents furnished by the Borrower in respect thereof to the Bank.

"Sight LCs" means the LCs which provides for payment by the Bank to the negotiating bank on presentation of relevant Documents drawn under the LCs.

"Suppliers" means the suppliers of Goods as per the terms of the LCs.

"SWIFT" means Society for World Wide International Financial Telecommunications, which expression shall include its successors and assigns.

"Usance LCs" means the LCs which provides for payment by the Bank on maturity as per the terms of the LCs.

PART B

(BANK GUARANTEE [BG] / STAND BY LETTER OF CREDIT [SBLC])

1. BG / SBLC FACILITIES

The Bank has, at the request of the Borrower, agreed to grant to the Borrower working capital facilities by way of issue of bank guarantees / counter guarantees / standby letter(s) of credit (the **"BGs"**, which expression shall, as the context may permit or require, mean any or each of such BGs and all renewals made thereto from time to time) in favour of entities / persons acceptable to the Bank guaranteeing / undertaking payment obligations in terms of various contracts / agreements entered into between the Borrower and the respective beneficiaries, up to the maximum extent of the amounts of respective Limits specified in the CAL (the **"BG Facilities"**). Provided, however, the total of amounts outstanding under the BG Facilities shall not at any point of time exceed the amount of the respective Limits.

2. PAYMENT AND INTEREST

- (i) If the Bank is called upon to pay, or pays, all or any of the monies under or in respect of the BGs, the Borrower shall, without questioning the reasonableness or validity or otherwise of any payment made or required to be made by the Bank under the BGs, forthwith pay to the Bank, all amounts payable or as the case may be, paid by the Bank, including without limitation, all costs, charges and expenses whatsoever payable or paid, suffered or incurred by the Bank in respect of or in relation to or arising out of the obligations undertaken under the BGs (collectively, the **"Defaulted Amounts - BGs"**) and until such payment by the Borrower, the same shall unless otherwise agreed to by the Bank, be deemed to be on demand loans to the Borrower carrying interest at the rate specified in the CAL. The Bank shall be entitled, at its sole discretion, without any further consent from the Borrower, to debit the Account with the amount of any payments the Bank is required to make / makes under or in respect of the BGs, as aforesaid. For avoidance of doubt, in the event of invocation of the BGs by the beneficiaries before and/ or after the expiry date of the BGs, irrespective of the claim period mentioned in the BGs where such claim period may be beyond the expiry date of the BGs, the Borrower

specifically authorizes the Bank to pay to the respective beneficiaries until the beneficiary discharges the Bank under the respective BGs by delivery of the original BG or discharge letter to the Bank in this regard. The Borrower undertakes to repay the said amounts paid by the Bank, along with interest as applicable, in the event of invocation of the BGs by the beneficiary before and/or after the expiry date of the BGs, irrespective of the claim period mentioned in the BGs and further undertakes to deliver or cause the beneficiary to deliver the original BG or the discharge letter issued by the beneficiary to the Bank.

- (ii) All payments made by the Bank in foreign currencies may be, at the option of the Bank, converted into rupees with reference to the actual cost to the Bank (including all commission or other bank charges and out-of-pocket expenses) in remitting the foreign currencies.

3. ADDITIONAL PROVISIONS

The Borrower further agrees, confirms and undertakes as follows:

- (i) The Bank may in its sole and absolute discretion and without reference to the Borrower and without the Bank being required to ascertain any breach of the agreements / contracts underlying the BGs, or the validity thereof or otherwise and notwithstanding any directions to the contrary given by the Borrower or any other person on the ground of a dispute as to the liability of the Borrower / the Bank or otherwise, admit or compromise and pay or submit to arbitration or dispute or resist any claim or demand made against the Bank under or in respect of such BGs. Notwithstanding the aforesaid, the Borrower shall, in accordance with the Facility Agreement, continue to be liable to indemnify the Bank, in respect of any action or payment which the Bank may take or make;
- (ii) The Borrower shall (unless otherwise agreed to by the Bank):
 - (a) Duly and punctually observe, perform and comply with all the covenants, obligations and conditions of all the agreements underlying the BGs;
 - (b) Not create or permit to subsist, any encumbrance of any nature whatsoever over all or any part of the underlying agreements;
 - (c) Not amend or agree to amend or grant waiver of any of the provisions of the underlying agreements;
- (iii) The BGs will be issued by the Bank only as per the provisions of applicable laws and regulations including those laid down by RBI;
- (iv) BGs shall be issued by the Bank only in a format acceptable to the Bank;
- (v) In case of bid bond / earnest money deposits / advance payment / retention money BGs, stipulated under project exports or if the BGs are issued under any Export Promotion Capital Goods Scheme (**EPCGS**), the Bank shall be entitled to obtain counter guarantees from Export Credit Guarantee Corporation ("**ECGC**") or similar authority, at the costs and expenses of the Borrower;
- (vi) If for any reason whatsoever the liability of the Bank extends beyond the validity period specified in the BGs or if the Bank is prevented by any action initiated by the Borrower or otherwise from making payment of part or whole of the guaranteed amounts to the beneficiary of the BGs, the Borrower shall be liable to pay commission also for the period for which the Bank remains liable under the BGs and / or the period for which the payment of the guaranteed amount / discharge from the guaranteed obligations has been delayed;
- (vii) The Borrower shall provide / deposit immediately on demand and without demur, additional acceptable security to the Bank and / or sufficient amounts by way of 100% cash margin on the outstanding amounts of the BGs, which in the Bank's opinion are likely to be invoked due to non / inadequate fulfillment of obligation, in particular of performance undertaken under the BGs. The Borrower shall accept the Bank's judgment on the likelihood of guarantee obligation being unfulfilled, as final and binding;
- (viii) In the event of the interest rate on the principal amount of the financial assistances guaranteed by the Bank increasing for any reason whatsoever beyond the percentage specified in the underlying agreements / contracts and consequentially the liability and obligation of the Bank under the BGs increasing, the Borrower shall indemnify and keep indemnified the Bank to the extent of additional interest liability paid in such form as

may be determined by the Bank.

PART C (BILLS FACILITIES)

1. FACILITIES IN THE NATURE OF PURCHASE / DISCOUNTING / NEGOTIATION OF BILLS

The Bank has, at the request of the Borrower, agreed to grant to the Borrower facilities (the **"Bills Facilities"**) by way of discounting / purchasing / negotiation, from time to time, of cheques / bills of exchange / hundies, sight drafts and or other negotiable instruments, whether inland and / or foreign and whether clean, documentary, usance and / or demand (all of which are hereinafter referred to as the **"Bills"**, which expression shall, as the context may permit or require, mean any or each of such Bills), with or without documents of title such as railway receipts, bills of lading, airway bills, motor transport receipts / lorry receipts, multimodal transport receipts, combined transport documents or any other documents of title (all of which are hereinafter referred to as the **"Documents of Title"**, which expression shall, as the context may permit or require, mean any or each of such Documents of Title) up to the Limits specified in the CAL at any one time. All amounts paid by the Bank under the Bills Facilities shall be treated as advances made to the Borrower by the Bank and may be debited to a specific account with the Bank in the name of the Borrower.

2. PURCHASE / DISCOUNTING / NEGOTIATION OF BILLS

- (i) Unless the Bank has agreed in writing to purchase or discount without recourse, the Bank shall have full recourse against the Borrower for the Bills amount, plus all charges, costs, losses (including foreign exchange losses) and expenses in the event of nonpayment of any amounts under the Bills for any reason whatsoever.
- (ii) The Bank, at its sole and absolute discretion, reserves the right to refuse to purchase or discount the Bills presented to the Bank by the Borrower without assigning any reason thereof despite availability of credit limits and the Bank shall not be liable to the Borrower in any manner for any loss or delay caused by such refusal.
- (iii) The amount that would be credited to the Borrower's account with the Bank upon purchasing, discounting or negotiation of any Bills shall, in the case of Rupee Bill, be the rupee value thereof, and in the case of Foreign Currency Bill, be the rupee equivalent of the amount of such Bill calculated at the applicable rate of exchange prevailing on the date of purchasing, discounting or negotiation after deducting therefrom the interest, fee and commission, if any. All amounts paid by the Bank under the Bills Facilities shall be treated as advance made to the Borrower by the Bank and shall be debited to the Account.
- (iv) (a) Foreign Bills shall be purchased / negotiated / discounted at the rate quoted by the Bank at the time of purchase / negotiation / discounting. Interest on the amount of the Bill or on the said rupee equivalent of the amount of Foreign Bill shall be payable upfront / simultaneously with the Bank paying the amount of the Bill for the notional / normal transit period in the case of sight / demand Bill and for the period comprising of the notional transit period, usance and grace period (where applicable in the case of usance Bill). If the Bills are for any reason not realized on or before the notional due date, (calculated on the basis of usance and transit period as aforesaid), then the recovery of the amount of such Bills from the Borrower shall be kept pending for a further grace period of 30 days from the notional due date (**"Grace Period"**). If the Bills are realized within the Grace Period, interest at the current maximum interest rate, permitted by FEDAI / RBI for the overdue period shall be recovered from and paid by the Borrower.
 (b) If for any reason the foreign Bills are not realized on or before the expiry of the Grace Period, then the purchase transaction of such Bills shall be treated as cancelled vis-à-vis the Borrower, without affecting the Bank's rights as holders in due course of the Bills against the drawees and drawer and the rupee value of such Bills on the 30th day of the Grace Period, at the prevailing TT selling rate, shall be calculated and recovered from the Borrower together with interest at the rates mentioned in aforesaid sub clause or the credit arrangement letter (**"CAL"**). The difference, if any, between the earlier amount on the date of purchase / negotiation and as calculated above shall be added or deducted as the case may be while recovering the amount from the Borrower
- (v) Where any foreign Bill drawn under a Letter of Credit (**"LC"**) are negotiated by the Bank at the request of the

Borrower, the Borrower obligations and liabilities to the Bank shall not in any circumstances be reduced, terminated or affected in any way by reason of any discrepancies, irregularities, defect in, invalidity or insufficiency of the documents of whatsoever nature claimed by the LC issuing Bank. All payments made by the Bank to the Borrower shall be treated as payment made under reserve and the Bank shall be entitled to reverse the entries, and claim payment from the Borrower of all such sums paid together with interest, if such Bills are returned / dishonored unpaid from the LC issuing bank and the Borrower agrees to pay all such sums to the Bank forthwith on demand together with Additional Interest at the rate mentioned in the Credit Arrangement Letter for the Bills Facilities.

- (vi) The Borrower hereby agree and acknowledge that the Bank shall not be held liable or responsible to the Borrower for:
 - (a) Any act omission, default, suspension insolvency, or bankruptcy of any of the Bank's correspondent (s), agent(s), sub agent(s) or representative(s);
 - (b) Any delays, errors losses or non-delivery of the shipping documents/ Documents of title and / or bills to, from or between the Banks correspondent(s) agent(s), sub-agent(s) or representative(s).
 - (c) Any delay in remittance or loss in exchange of the proceeds during the transmission or in the course of collection;
- (vii) Any nonpayment by or any delays in receiving payment from importer/ buyer / relevant parties; Any loss or damage sustained by the Borrower as result of the goods which the shipping documents relate to were (a) not delivered to the Importer/ Buyer; (b) lost in transmission, (c) damaged or (d) perished.
- (viii) The liability of the Borrower to the Bank under the Bill Facility shall be independent of the liability of the drawee or acceptor of the Bills and the Bank's rights against the Borrower shall not be prejudiced or affected by (a) inaction on the part of the Bank in initiating proceeding for recovery of the monies from the drawee / acceptor/ endorser thereof;(b) failure of the foreign correspondent banks or agents appointed by the Bank in prompt presentment or in noting and protesting the Bills on dishonor thereof; (c) any other act which may prejudice the Borrower's rights against the drawee or acceptor or endorser and in the event of the aforesaid, the Bank shall not be obliged to give any notice of dishonor by the drawee / acceptor to the Borrower. The Borrower hereby agrees that the liability of the Borrower in respect of any Bills will cease only upon the receipt of the amounts thereof in the Bank's account
- (ix) The Borrower hereby represents that:
 - (a) All Bills and documents tendered / submitted by the Borrower to the Bank represent (i) genuine sales transactions for supply of goods/ services and have been validly issued by the relevant parties; (ii) the amounts of such Bills truly represent the value of the goods / services so transported / shipped / provided;
 - (b) The goods referred to in the shipping / transport documents are of proper character, quality, quantity, legal and conditions;
 - (c) every such Bill tendered by the Borrower to the Bank correspond to execution of definite orders received by Borrower;
 - (d) The Bank is entitled to treat every Documents of Title handed over by the Borrower as genuine without any further inquiry; and
 - (e) Bills has not been drawn on any of Borrower's branches nor on any firm or other person in which we have any proprietary, partnership or other interest.
- (x) The Bank shall not be responsible for any damage caused to goods covered by the Bills, accepted by the Bank, in course of transit or for its loss, delayed delivery, short delivery or wrong delivery or for delayed or non-presentation or wrong presentation of the Bills to paying authorities or drawees for any reason whatsoever, and in case, the Bills are sent for collection to other bank(s) or drawee(s) / customer(s), the Bank shall not be responsible for the non-receipt by it of the remittance representing the proceeds of the Bills and the relative Bills will be collected entirely at the Borrower's risk, cost and responsibility and the Borrower shall

pay the Bank such costs, charges and expenses, if incurred by the Bank.

- (xi) The Borrower agrees to effect insurance of the Goods / consignment covered by the Documents of title against such risk including risk from sea perils and hazards, fire, earthquake, theft riot etc. as may be required by the Bank.
- (xii) The Bank may, at its option but at the cost, risk and responsibility of the Borrower, appoint an agent (including bank) for collection. The Bank or the agent may, at its option but at the cost, risk and responsibility of the Borrower:
 - (a) Send for collection by post or otherwise to another agent or to the drawee thereof any Bills with or without Documents of Title and such other agent or the drawee shall be deemed to be the agent for collection;
 - (b) Receive in exchange for Bills, other mandates or Bills, for payment in lieu of cash.
- (xiii) The Borrower hereby agrees that the delivery of the Documents of Title to goods by the Bank, to the drawees or acceptors, shall not prejudice the rights of the Bank on any of such Bills in case of dishonor nor shall any recourse taken thereon, affect the Bank's title to such Documents of Title, to the extent of the Borrower's liability to the Bank hereunder and that notwithstanding any change by death, retirement, insolvency, dissolution or bankruptcy of the Borrower, the powers and authorities hereby given to the Bank, shall continue to hold good as against the Borrower till all the amounts due under the Transaction Documents are repaid / paid in full. It is also agreed that the Bank shall not be responsible for the default of any agent, broker or auctioneer employed by it for any purpose.
- (xiv) The Borrower shall furnish to the Bank, in advance, a list of local parties on whom the Borrower intends to draw usance Bills for the Bank's prior approval; such Bills shall be accompanied by copies of invoices bearing acknowledgments of the purchasers in token of their having received the goods and shall be offered for discount only after acceptance of Bills by the drawees and the Bills will not be collected by the Borrower through other banks.

3. CERTAIN ADDITIONAL PROVISIONS RELATING TO BILLS DRAWN BY THE BORROWER

- (i) In respect of advances granted by the Bank to the Borrower under the Bills Facilities for Bills drawn by the Borrower on its various customers expressed in any currency and whether under LC or otherwise, the Borrower agrees, confirms and undertakes as follows:
 - (a) The Bills shall bear adequate stamp duty (if applicable) before purchase / negotiation / discounting.
 - (b) The Bills pertaining to supplies shall be drawn up in a proforma acceptable to the Bank, and where such Bills are accepted by the Bank for purchase / negotiation / discounting, the same shall be accompanied by either railway receipts, bills of lading or other documents of title.
 - (c) In case of demand / usance documentary Bills, the documents will be delivered to the drawees only after the Bills are paid / accepted; The Bank shall, in its sole discretion, be entitled to accept payment of Bills before maturity from the drawees thereof by allowing such discount / deduction in consideration of such premature payment. The Borrower shall ensure that such Bills are accepted by the drawees on presentation and retired on due dates; In the event of the Bills remaining unaccepted on presentation or unpaid on due dates thereof, the Bank shall be entitled to recover the amount of such Bills along with additional interest at the rate specified in the CAL and other incidental charges by debit to the Borrower's Account or otherwise.
 - (d) Where at the request of the Borrower, the Bank has agreed to purchase / negotiate / discount Bills in respect of sales made by the Borrower to its customers, whereby finished goods are directly sent to the customers at customers' requests and copies of the relative invoices with or without receipted challans or accepted delivery notes, receipt notes, inspection notes are tendered by the Borrower to the Bank as evidencing dispatch of finished goods along with the accepted Bills and where under such circumstances or any other circumstances the Borrower receive(s) payment of the Bills directly from the drawees of such Bills, the Borrower shall immediately deposit the

proceeds of the Bills and the sale proceeds of the goods covered by such Bills, directly received by the Borrower or the agent(s) of the Borrower, whether in cash or by cheques or by any other mode of payment, towards repayment / payment of all outstanding in respect of the advances granted by the Bank

- (e) In case of Bills Facilities, if any payment is received by the Borrower or its agents, from the drawee/ customers, the same shall be immediately deposited with the Bank , towards repayment / payment of all outstanding's in respect of the advances granted by the Bank.
 - (f) The Borrower declare(s) and confirm(s) that on the Bank discounting the Usance Bills, the Bank will have good title thereto and will be entitled to have the Bills rediscounted with RBI, Discount and Finance House of India Limited, and any scheduled commercial bank or any other approved financial institution or otherwise deal with the Usance Bills as the holder thereof.
 - (g) The Borrower further confirms that notwithstanding anything to the contrary contained in the Transaction Documents or any documents or letters written by the Borrower to the Suppliers or by the Suppliers to the Borrower, the Borrower shall be irrevocably, absolutely and unconditionally liable to pay to the Bank the amounts of the Usance Bills discounted with the Bank, at the maturity of such Usance Bills and that the Borrower shall continue to be so liable notwithstanding any claim, right, dispute or litigation arising or which may arise between the Borrower and the Suppliers .
 - (h) The Borrower agrees and confirms that on the acceptance of the Usance Bills by the Borrower and the same being discounted by the Bank, the proceeds thereof shall be paid by the Bank to the Suppliers by means of banker's cheque or by any other means as may be deemed fit by the Bank
 - (i) In case the Bills are honored for payment for a reduced amount, the Borrower authorises the Bank to accept such reduced payment and undertakes to make good the shortage or any loss arising therefrom and further acknowledges that the Bank shall not be responsible in any manner whatsoever.
 - (j) Where the drawees return unpaid Bills to the Borrower directly, the Borrower shall immediately, on receipt thereof, return the Bills together with Documents of Title to the Bank and the Bank's receipt thereof shall be without prejudice to its right of recovery from the Borrower of the amounts covered by the Bills together with all interest (including any additional interest), costs, charges, expenses and monies whatsoever stipulated in or payable under the Transaction Documents.
 - (k) Notwithstanding any of the provisions of the Indian Contract Act, 1872 or any other law in respect of advances against accepted usance Bills, where the Bills are drawn by the Borrower and accepted by the drawees, the Borrower agrees that the subsequent credit to the concerned Account under the Bills Facilities, unless specifically apportioned by the Borrower or the Bank to the discharge of particular Bill, will not discharge the debt represented by such Bills.
- (ii) The Bank shall have first and paramount right of lien on the Bills and the monies received thereunder. All goods represented by or related to the said Bills(the **"Goods"**) purchased or discounted by the Bank shall be held and charged as continuing collateral for all moneys due and payable by Borrower to the Bank. The Borrower hereby absolutely and unconditionally assign all its rights, title, benefits and interest in the Goods in relation to the Bills / shipping documents / Documents of Title and the proceeds of the sale and / or insurance relating to the Goods to the Bank. Such assignment shall be and remain intact until payment of the Bills and all sums that may be due thereunder by the Borrower to the satisfaction of the Bank. The Borrower hereby irrevocably authorizes the Bank at Borrower's cost and expense , to deal with the Goods, including but not limited to taking such steps for warehousing, insuring, protecting, taking possession or realizing the value of the goods in any manner at such price and at such time as the Bank deems fit and expedient. The Bank shall not be liable for the neglect of any person employed by the Bank (whether as Agent or principal) in connection with or any of the forgoing reasons. For the purpose of this clause, the Borrower hereby appoint the Bank or any person authorized by the Bank as Borrower's attorney, in Borrower's name and on behalf of the Borrower to do all acts and things as fully and effectually as Borrower could do themselves in connection with the Goods including but not limited to registering the power of attorney serving the relevant notice of

assignment to effect the assignment created herein.

- (iii) In the event of non-payment of the Bills, the Bank may without prejudice to any of its other rights contained in the Facility Agreement or under the law, at any time, without being bound to exercise any of these powers, sell / dispose the aforementioned Goods by public auction or private sale and at such price and at such terms, as the Bank determines at its sole discretion without notice to the Borrower. The Borrower acknowledge and agree that the Bank may exercise such rights concurrently or otherwise with other rights and remedies that the Bank may have against the Borrower. The receipts of proceeds of the sale shall be first utilized by the Bank to settle any expenses, cost, charges, fees and losses (including foreign exchange losses) incurred by the Bank and the remaining balance, if any, be retained /applied by the Bank towards payment or satisfaction of the amount(s) due to the Bank in respect of any amounts advanced by the Bank under the Bills Facilities to the Borrower, and interest thereon and all costs charges and expenses and to recover any loss, damage or liability that may be sustained by the Bank as a result of nonpayment of the Bills. The Borrower shall accept the Bank's account of sale or realisation as conclusive evidence both in and out of court as to the amount(s) realised and expenses incurred, and shall pay forthwith any shortfall or deficiency remaining after such application.
- (iv) The Borrower agrees and undertakes to sign, execute and deliver to the Bank from time to time, on demand made by the Bank, such further or other deeds, documents and writings and do all such acts, matters and things as may be required by the Bank for better perfecting the title of the Bank to the Goods and the Documents of Title so as to render the same readily saleable or transferable by the Bank to any purchaser(s) at all time.
- (v) **Indemnity** - In addition to the indemnity provisions contained elsewhere in the Facility Agreement or General Conditions, the Borrower shall indemnify and keep the Bank indemnified from and against any suit, proceedings, consequences , payment, liabilities , loss(including foreign exchange losses), damages, costs, fees (including legal fees) third party claims (including any applicable indirect taxes) , of whatsoever nature and description that may be incurred or sustained by the Bank as a result of or in connection with (including but not limited to):
 - (a) any representation and warranties are found to be untrue and false the Bank having agreed to purchase/ negotiate / discount the Bills; and
 - (b) any defect, irregularity or discrepancy/ies in any Bill or Documents of Title of any nature what so ever or for any departure from the terms of the LC;
 - (c) Any loss caused by delay in delivery or missed delivery or loss of any Bills, Documents of Title or the Goods/ consignment covered by the Documents of Title in the course of transit or otherwise howsoever.

4. CERTAIN ADDITIONAL PROVISIONS RELATING TO BILLS DRAWN ON THE BORROWER

- (i) At the request of the Borrower, the Bank has agreed in its sole and absolute discretion to discount of the usance Bills ("**the Usance Bills**") with usance ordinarily not exceeding 90 days drawn on the Borrower by the suppliers (the "**Suppliers**") of goods and accepted by the Borrower for an amount, at any time, not exceeding the Limits under the Bills Facilities.
- (ii) Whenever the Borrower requires the Bank to discount the Usance Bills, the Borrower shall lodge with the Bank such Usance Bills together with the original and / or copies of invoices and the receipted delivery challans evidencing the supply to the Borrower of the goods drawn by the Suppliers.
- (iii) The Borrower hereby confirm(s) and declare(s) that the amounts represented by the Usance Bills drawn on the Borrower by the Suppliers will be due and owing by the Borrower to the Suppliers and that the goods represented by the invoices accompanying the Usance Bills will have been duly ordered and received by the Borrower and that the amounts of such Usance Bills will be paid by the Borrower to the Bank at maturity.
- (iv) The Borrower declare(s) and confirm(s) that on the Bank discounting the Usance Bills, the Bank will have good title thereto and will be entitled to have the Bills rediscounted with RBI, Discount and Finance House of India Limited, and any scheduled commercial bank or any other approved financial institution or otherwise deal with the Usance Bills as the holder thereof.

- (v) The Borrower further confirms that notwithstanding anything to the contrary contained in the Facility Agreement and / or any documents or letters written by the Borrower to the Suppliers or by the Suppliers to the Borrower, the Borrower shall be irrevocably, absolutely and unconditionally liable to pay to the Bank the amounts of the Usance Bills discounted with the Bank at the maturity of such Usance Bills and that the Borrower shall continue to be so liable notwithstanding any claim, right, dispute or litigation arising or which may arise between the Borrower and the Suppliers / drawers.
- (vi) The Borrower agrees and confirms that on the acceptance of the Usance Bills by the Borrower and the same being discounted by the Bank, the proceeds thereof shall be paid by the Bank to the Suppliers by means of banker's cheque or by any other means as may be deemed fit by the Bank.

PART D

(EXPORT PACKING CREDIT FACILITIES - EPC)

1. EXPORT PACKING CREDIT FACILITIES

- (i) The Bank has, at the request of the Borrower, agreed to grant working capital facilities in the nature of Export Packing Credit Facilities, in foreign currencies and / or in rupees for amounts not exceeding the Limits (the "EPC Facilities", which expression shall, as the context may permit or require, mean any or each of such EPC Facilities) from time to time.
- (ii) The EPC Facilities may be on running account basis or on order basis by way of packing credit loans.
- (iii) All amounts paid by the Bank against the EPC Facilities shall be treated as advances made to the Borrower by the Bank and may be debited to the Account.
- (iv) The amounts against the EPC Facilities may be disbursed by the Bank in a phased manner, depending on the export needs of the Borrower.

2. BORROWER'S UNDERTAKINGS

- (i) The Borrower shall keep a separate account and stock book in respect of the goods underlying the EPC Facilities and shall send weekly statements of the purchases made and goods utilized for the purpose of manufacturing finished goods.
- (ii) The outstanding amounts under the EPC Facilities shall not, at any point of time exceed the respective Limits and the Bank shall have an absolute discretion to determine what amount within the respective Limits it will advance and / or allow to be outstanding from time to time in the relevant Account.
- (iii) The Borrower shall procure cover from Export Credit Guarantee Corporation ("ECGC") and / or take a packing credit whole turnover pre-shipment policy of ECGC, for the EPC Facilities and shall pay the premia time to time for keeping the aforesaid policies alive and in case of default, the Bank may pay the same and debit the amount to any of the relevant Account.
- (iv) The Borrower shall procure the valid shipping and other documents including insurance policies from ECGC for packing credit or such policies as may be required by the Bank, jointly or severally, in respect of the goods to be shipped to the foreign buyers and shall hand over the same to the Bank for negotiating and / or realizing the price from the bankers of or from the foreign buyers or in such other way as the agreement for sale provides for the payment of the price thereof. The Borrower shall take every care and caution to see that the said shipping and other documents of sale are drawn strictly in conformity with the letter(s) of credit and / or usual trade practices and shall get the same corrected and / or altered, if found defective in any manner whatsoever. In case of default by the Borrower to procure the aforesaid documents, the Bank shall, at the cost and expense of the Borrower, be entitled to procure the same and to insure the goods against marine, fire, export risks and such other risks as may be deemed necessary by the Bank as also represent the Borrower in the office(s) of the Export Controller, ECGC and such other authorities as may be necessary in that behalf.
- (v) The Bank shall not be responsible if the price payable or receivable, by or from the foreign buyers, is reduced on account of the changes in the rate(s) of exchange and such loss, if any, shall be borne by the Borrower alone. The Borrower further undertakes to obtain forward cover for the foreign currency payments to be

received by it under the aforesaid bills to cover exchange fluctuation risks.

- (vi) The Borrower shall regulate its drawings out of and payments into each of the relevant Account in such manner that the amount due from time to time for principal on such Account shall be kept within the respective Limits.

PART E
(SHORT TERM LOAN - STL)
SPECIFIC PROVISIONS FOR SHORT TERM FOREIGN CURRENCY (FC) LOAN FACILITIES AND SHORT TERM RUPEE LOAN FACILITIES

A. SHORT TERM FOREIGN CURRENCY (FC) LOAN FACILITIES

1. AMOUNT OF THE SHORT TERM FC LOAN FACILITIES

The Borrower agrees to borrow from the Bank and the Bank agrees to extend / grant to the Borrower from time to time the sums to the maximum extent in various foreign currencies set out below in this Section or their equivalents in other foreign currencies, equivalent in the aggregate to the particular Limits specified in the CAL.

The amount of sums agreed to be extended / granted as mentioned above or so much thereof as may be outstanding from time to time is hereinafter referred to as the **"Short Term FC Facilities"**. The Borrower shall make drawals of the Short Term FC Facilities only through the Account.

2. FORWARD CONTRACTS

The Borrower shall not without the prior approval of and subject to such terms and conditions as may be specified by the Bank in that regard, enter into forward contracts, swaps, options or other liability management contracts in respect of the Short Term FC Facilities or in respect of payment of interest or other payments under the Facility Agreement. If the Bank agrees to the Borrower entering into any such contracts, etc. the same shall be carried out exclusively through the Bank only.

3. PROVISIONS RELATING TO ALTERATION IN THE CURRENCY / SHORT TERM FC FACILITIES / CURRENCY OR INTEREST SWAPS

The Bank may at any time, at its absolute discretion, substitute the original currency or its equivalent currency as the case may be of the Short Term FC Facilities or any part thereof, with a new foreign currency or its equivalent currency. In such an event, the liability of the Borrower in respect of the Short Term FC Facilities or such part thereof, as regards rate of interest, repayment of principal, date and mode of such payment / repayment shall be as applicable to such new currency or its equivalent currency as intimated by the Bank to the Borrower, which shall be final and binding on the Borrower.

The Bank may, at any time, at its absolute discretion, effect currency and / or interest rate swap for the Short Term FC Facilities or any part thereof provided / agreed to be provided under the Facility Agreement. In such an event, the liability of the Borrower in respect of the Short Term FC Facilities or such part thereof, as regards the currency or currencies of repayment, payment of principal, interest and all other monies payable under the Facility Agreement / rate of interest on principal of the Short Term FC Facilities or such part thereof, shall be as intimated by the Bank to the Borrower, which shall be final and binding on the Borrower.

4. PLACE AND MODE OF PAYMENTS AND CREDIT THEREFOR

Notwithstanding anything contrary contained in the Facility Agreement, but subject to Sub-clause (vii) below, the Borrower shall make payments to the Bank, whether of principal amount of the Short Term FC Facilities, interest, and premium on prepayment, if any, in equivalent rupees in lieu of foreign currencies subject to the following conditions:

- (i) The rupee sum shall be the rupee equivalent of the foreign currencies to be remitted on the Due Dates inclusive of all commissions or other bank charges and out of pocket expenses as determined by the Bank.
- (ii) The rupee sum shall be paid by the Borrower to the Bank 10 Business Days in advance of the Due Dates to enable the Bank to remit the foreign currencies on the Due Dates.

- (iii) The rupee sum shall be paid by the Borrower to the Bank in the relevant Account and shall be so paid as to enable the Bank to realise the amounts at par.
- (iv) Credit for all payments by local cheque / bank draft will be given on the immediate next Business Day after the date of receipt of the instrument or the relative Due Date, whichever is later. Credit for all payments by outstation cheque / bank draft will be given only on realisation or on the relative Due Date, whichever is later.
- (v) For the purpose of Sub-clause (i) above a statement signed by a designated officer of the Bank shall be sufficient evidence of the Rupee equivalent of the foreign currencies, costs, commission, charges and expenses.
- (vi) Any difference on account of exchange fluctuations, in the rates of foreign currencies involved between the payment made by the Borrower to the Bank and the actual amounts incurred by the Bank, shall be borne by or be given credit to the Borrower.
- (vii) If the Bank decides not to call for payment in equivalent Rupees in the manner provided above, the Bank shall have the right to notify the Borrower the place or places where and the person or persons to whom the payments in foreign currencies falling due thereafter shall be made and all expenses involved in making payments in the manner so notified shall be borne by the Borrower.

5. RUPEE TYING OF DEFAULTED AMOUNTS

Without prejudice to any of the obligations of the Borrower in terms of the Transaction Documents, in the event of default by the Borrower in making payment in discharge of any of its obligations under the Transaction Documents on the Due Dates, notwithstanding anything to the contrary contained in the Transaction Documents, the liability of the Borrower thereafter in respect of such amounts may be converted to Rupees, which sums shall be determined and notified by the Bank to the Borrower in accordance with the provisions of this Part (the **"Rupee Tied Defaulted Amounts"**).

Notwithstanding anything to the contrary contained in the Facility Agreement, the Rupee Tied Defaulted Amounts will, during the period of default, carry interest from the respective Due Dates at the rate specified in the CAL and shall be payable on the Due Dates for payment of interest under the Facility Agreement.

B. SHORT TERM RUPEE FACILITIES

The Bank may extend / grant to the Borrower Facilities not exceeding the Limits specified in the CAL (hereinafter referred to as the **"Short Term Rupee Facilities"**).

The Borrower shall make drawals of the Short Term Rupee Facilities only through the relevant Account.

C. REVOLVING FACILITIES

The Short Term FC Facilities and the Short Term Rupee Facilities are hereinafter referred to as the **"Short Term Loan Facilities"**, which expression shall mean any or each of them as the context may permit or require. It is hereby agreed between the parties that the Short Term Loan Facilities are in the nature of revolving finance.

PART F (CO-ACCEPTANCE BILLS FACILITIES)

1. CO-ACCEPTANCE FACILITIES

The Bank has, at the request of the Borrower, agreed to co-accept Bills for amounts to the maximum extent of the respective Limits specified in the CAL (the **"Co-acceptance Facilities"**, which expression shall, as the context may permit or require, mean any or each of such Co-acceptance Facilities) from time to time. Provided that the sum total of Bills Outstanding under the Co-acceptance Facilities, shall not at any point of time exceed the amount of the relevant Limits. All amounts paid by the Bank against the Co-acceptance Facilities will be treated as advances made to the Borrower by the Bank and shall be debited to the concerned Account. All such sums shall also be repayable on demand.

2. PAYMENT AND INTEREST

- (i) The Borrower shall reimburse / pay to the Bank, on or prior to the Date of Crystallization of the Bill, all amounts paid or liabilities incurred by the Bank under the Co-acceptance Facilities on behalf of the Borrower, together

with all interest, costs, charges and expenses due to the Bank in respect thereof under the Transaction Documents.

- (ii) If, on default by the Borrower in paying / reimbursing amounts paid / payable by the Bank in respect of the Borrower's liability under any co-accepted Bills on the Date of Crystallisation, the Bank is called upon / required to pay or has paid, all or any of the monies in pursuance of such co-accepted Bill, the Borrower shall forthwith pay to the Bank, all amounts payable or as the case may be, paid by the Bank under such coaccepted Bill together with all interest, costs, charges and expenses due to the Bank in respect thereof under the Transaction Documents.
- (iii) Notwithstanding the above and without prejudice to the Bank's rights under the Transaction Documents, the Bank shall be at liberty to crystallise on the Date of Crystallisation, the Borrower's outstanding liability in respect of any co-accepted Bills (the **"Defaulted Amounts – Co-Acceptance Facilities"**) and until such payment by the Borrower, the same shall unless otherwise agreed to by the Bank in writing be deemed to be an on demand loan to the Borrower and shall, without prejudice to any other rights and remedies available to the Bank, carry interest at the rate specified in the CAL.

3. **ADDITIONAL PROVISIONS IN RELATION TO CO-ACCEPTANCE FACILITIES**

(i) **BORROWER'S UNDERTAKINGS**

The Borrower further agrees, confirms and undertakes as follows:

- (a) The Bank may in its sole and absolute discretion and without reference to the Borrower and without the Bank being required to ascertain any breach of the covenants of any of the Documents or the validity thereof or otherwise of the demand for payment made against the Bank and notwithstanding any directions to the contrary given by the Borrower or any other person on the ground of a dispute as to the liability of the Borrower or otherwise, admit or compromise and pay or submit to arbitration or dispute or resist any claim or demand made against the Bank under or in respect of such guarantees and indemnities and the counter-indemnity of the Borrower contained herein shall continue to be available to the Bank in respect of any action or repayment which the Bank may take or make.
- (b) The Borrower shall duly and punctually observe, perform and comply with all the covenants, obligations and conditions of the Documents including due payment and discharge of all its payment obligations under such contracts / agreements on the due dates.
- (c) The Borrower shall not create or permit to subsist, any encumbrance of any nature whatsoever over all or any part of the Documents or its rights thereunder.
- (d) The Borrower shall not amend or agree to amend or grant waiver of any of the provisions of the Documents.
- (e) The Bills will be co-accepted by the Bank only as per the provisions of applicable laws.
- (f) In case of high value / machinery Bills, the Borrower shall, if so required by the Bank, furnish projected cash flow statements; In addition, the Bank shall be entitled to also call for opinion reports from reputed information exchange bureaus or from other banks / institutions at the costs and expenses of the Borrower;
- (g) The Borrower shall make adequate arrangement for retiring the Bills under the Co-acceptance Facilities and does not contemplate to seek any financial assistance from the Bank for such purpose.
- (h) The Borrower shall have furnished to the Bank at the time of submitting the Co-acceptance Request Letter, the following, duly completed:
 - (1) Order together with the order confirmation of Supplier; or
 - (2) Proforma Invoice of Supplier duly countersigned by the Borrower; or

- (3) Indent / Offer from Supplier or his authorised agent together with the exchange control copy of the relative import license;
- (4) Exchange control copy of the relative customs bills of entry within the time limit stipulated by RBI.

(ii) CONFIRMATION BY BORROWER

The Borrower further agrees, confirms and declares that:

- (a) The Co-acceptance Request Letter shall be deemed to have been accepted when advice thereof has been sent to the beneficiary through SWIFT / tested telex / airmail;
- (b) The date of receipt of Documents by the Bank under the Co-acceptance Facilities as registered in the records of the Bank shall be conclusive and binding on the Borrower;
- (c) The import of Goods is / are not in contravention of trade policy / EXIM policy guidelines and / or any other laws, policy and guidelines prescribed by the Government of India from time to time;
- (d) It has a valid import export code number assigned by the Director General of Foreign Trade and is authorised to undertake imports of the Goods;
- (e) The Bank shall be entitled, at its sole discretion and without any reference to and / or consent of the Borrower, to make payment of all or any part of the sum or sums under or by virtue of the co-accepted Bills on a request or demand being made on the Bank for this purpose thereunder. Any request or demand made to or upon the Bank by the beneficiary or beneficiaries of co-accepted Bills for payment(s) of any sum or sums of money shall be sufficient authority from the Borrower to the Bank for making such payment(s);
- (f) Notwithstanding the possibility, existence of any dispute or differences or of any arbitration or legal proceedings whatsoever between the Borrower and the beneficiary of co-accepted Bills and / or between the Borrower(s) inter-se which may directly or indirectly arise out of or under or in connection with the subject matter(s) of the Documents / Co-acceptance Request Letter or which may affect the legality or validity of the co-accepted Bills and / or any transaction(s) relating thereto, the reasonableness or propriety or validity of any such payment shall be conclusive and binding on the Borrower in terms of its liability to the Bank under the Facility Agreement;
- (g) The Bank shall be entitled, without any further consent from the Borrower, to debit any Account, with the amount of any payments that it may make under or in respect of the co-accepted Bills.

(iii) NO LIABILITY

The Borrower agrees that the transmission of all instructions and communications with the Supplier and the shipping of documents and the Goods thereunder is entirely at its risk. The Bank or its correspondents or agents shall not be responsible for any error or delay in such transmission or loss or delay in delivery of the documents or the Goods.

(iv) INDEMNITY

The Borrower shall indemnify and keep the Bank indemnified against any liability, loss, damages, costs, third party claims (including legal fees and any applicable indirect taxes) incurred by the Bank as a result of or in connection with (including but not limited to):

- (a) The co-accepted Bills or any payments made thereunder or in relation thereto, including to any Suppliers outside India, without deducting tax in India, whether or not such payment attracts withholding tax in India or requires due certification by a qualified accountant;
- (b) the goods and / or the documents of title to the goods, covered by the co-accepted Bills including for re-shipment thereof, for any reason whatsoever, or in the exercise or enforcement of any right or power hereby conferred or otherwise howsoever;
- (c) any liability or loss incurred or suffered by and/or any action or proceedings made or brought against the Bank, its correspondents or agents by reason of it having co-accepted the Bills; and
- (d) every payment made, obligation, liability, loss and damage, penalties, taxes, etc. whatsoever

undertaken or incurred or suffered by the Bank (whether directly or indirectly) under or in connection with and / or arising from all or any or some of such co-accepted Bills;

(v) **SALE OF PLEDGED GOODS**

- (a) On the happening of any of the Event of Default, the Bank shall be entitled without prejudice to any of its other rights contained in the Transaction Documents or under the law and without notice to the Borrower which the Borrower hereby expressly waives, to sell the Goods whether before or after their arrival either by public auction or tender or by private contract and subject to such conditions as the Bank may deem fit to impose, or otherwise dispose of or deal with the Goods or any part thereof and / or with the relative documents of title to Goods in any manner whatsoever, without being bound to exercise any of these powers or liable for any loss in the exercise or non-exercise thereof. The proceeds realised from sale of the Goods or transfer or any document of title, remaining after deducting therefrom the costs and expense of and incidental to such sale or transfer, shall be applied in or towards payment or satisfaction of the amount(s) due to the Bank in respect of any payment made by the Bank under the Co-acceptance Facilities for the account of the Borrower, and interest thereon and all costs charges and expenses as hereinabove mentioned. The Borrower shall accept the Bank's account of sale or realisation as conclusive evidence both in and out of court as to the amount(s) realised and expenses incurred, and shall pay forthwith any shortfall or deficiency remaining after such application. The Bank shall not be liable to the Borrower for any loss which may occur pending sale or disposal of the Goods and / or document of title of goods, whether by reason of theft, damage, deterioration or decay of the Goods or depreciation in the value thereof or otherwise whatsoever be the cause.
- (b) The Borrower agrees and undertakes to sign, execute and deliver to the Bank from time to time on demand made by the Bank, such further or other deeds, documents and writings and do all such acts, matters and things as may be required by the Bank for better perfecting the title of the Bank to the Goods and the Documents covered under the Co-acceptance Facilities and / or to render the same readily saleable or transferable by the Bank to any purchaser(s) at all time.

4. DEFINITIONS

In this Part, unless there is anything repugnant to the subject or context thereof, the expressions listed below shall have the following meanings viz:

"Applicable Rate of Exchange" means

- (a) In case a forward exchange contract / swap has not been booked by the Borrower with the Bank, the applicable foreign currency bill selling rate of the Bank prevailing on the Date of Crystallisation. Provided however, that if the relevant rate of exchange is not quoted or not available for any reason on such days, then the rate prevailing on the immediately next Business Day when such rate shall be quoted or be available shall be the Applicable Rate of Exchange;
- (b) The forward exchange contract / swap rate in case a forward exchange contract / swap has been booked by the Borrower with the Bank.

"Bills" means, as the context may permit or require, any or each of the bills of exchange denominated in foreign exchange that raised on the Borrower by the Suppliers.

"Bills Outstanding" means, as the context may permit or require, any or each of the sum of the payments due from the Borrower under the LCs for which the Documents have been presented to the Bank but reimbursement / payment has not yet been made by the Borrower to the Bank.

"Co-acceptance Request Letter" means, as the context may permit or require, any or each of the Borrower's request(s) to the Bank for adding co-acceptance to a Bill (as per the format specified by the Bank).

"Co-acceptance Confirmation" means, as the context may permit or require, any or each of the

confirmation issued by the Bank, at its sole discretion (as per the format specified by the Bank confirming its co-acceptance of the Bill, pursuant to a request of the Borrower made vide a Co-acceptance Request Letter.

“Date of Crystallisation” means, as the context may permit or require, any or each of the last date(s) of usance period under the co-accepted Bill.

“Documents” means the documents as specified under / or in connection with co-accepted Bill.

“Suppliers” means, as the context may permit or require, any or each of the suppliers of Goods to the Borrower to whom the Borrower is obliged to make payment as per the terms of the respective contracts entered into between them and the Borrower.