

This Proof-Of-Payment is for obtaining E-SBTR from the selected branch	
e-SBTR-Cyber Receipt	
GRN NUMBER:	MH009103275202021S
GRN Received Date:	20201228111932
Bank CIN:	69103332020122850273
CIN Date :	28-12-2020 10:55:02
Payment Reference Number :	691154555
Stamp Duty Amount- 0030046401-75	600.00
Registration Fees Amount- 0030063301-70	0.00
Total :	600.00
Total Amount (In Words):	Rupees Six Hundred only
District :	1201-THANE
Office Name :	IGR131-BVD1_BHIWANDI NO 1 SUB REGISTRAR
Branch Name:	Lower Parel [West](187)
Financial Year :	2020-2021
Duty Payer Party Name :	Gomec Electricals Private Limited
Duty Payer ID :	PAN-AAFCG1520P
Article Code :	5(h)(A)(iv)--Agreement creating right and having monetary value
Consideration Amount :	8700000
Property Area :	0.00
Moveability :	NA
Other Payer Party Name :	ICICI Bank Limited
Other Payer Party Id :	PAN-AAACI1195H

Loan Amount : INR 87,00,000
 Borrower Name : Gomec Electricals Private Limited
 CAL Number : BLG/MUM/P/39331

FACILITY AGREEMENT

This **FACILITY AGREEMENT** made on the date on which ICICI Bank Limited executes it and place set out in Schedule I between:

ICICI BANK LIMITED, a company within the meaning of Companies Act, 2013 and a banking company within the meaning of section 5(c) of Banking Regulation Act, 1949, having its registered office at ICICI Bank Tower, Near Chakli Circle, Old Padra Road, Vadodara, Gujarat - 390 007 and its corporate office at ICICI Bank Towers, Bandra Kurla Complex, Mumbai, Maharashtra - 400 051 and amongst others, a branch/office at the place specified in Schedule I (hereinafter the “**Bank**”, which expression shall, unless it be repugnant to the subject or context, include its successors and assigns) of the **ONE PART**

AND

the **Borrower(s)**, i.e. the person(s) named in Schedule I 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 the Facility Agreement, unless there is anything repugnant to the subject or context thereof, the expressions listed below shall have the following meaning:

- (i) “**Borrower**” includes, as the context may permit or require, in the case of more than one borrower, each of the borrowers,
 - a. In case of a company, a company within the meaning of Companies Act, 2013.
 - b. in the case of a limited liability partnership or a society registered under the applicable laws relating to societies, the limited liability partnership firm/society, its successors and permitted assigns,
 - c. in the case of a partnership firm within the meaning of the Indian Partnership Act, 1932, any or each of the partners and their survivor(s) and the partners from time to time (both in their personal capacity and as partners of the firm) and their respective heirs, legal representatives, executors, administrators, permitted assigns and successors;
 - d. in the case of a proprietary concern, the proprietor(s)(both in his / her personal capacity and as proprietor(s) of the concern) and his / her / their respective heirs, legal representatives, executors, administrators, permitted assigns, and successors;
 - e. in the case of an individual, his / her / their respective heirs, legal representatives, executors, administrators and permitted assigns;
 - f. in the case of a Hindu Undivided Family (“HUF”), the Karta of the HUF and any or each of the adult members / coparceners of the HUF and the survivor(s) of them and their respective heirs, legal representatives, executors, administrators permitted assigns and successors and
 - g. in the case of a trust, the trustee(s) for the time being, its successors and permitted assigns.
- (ii) “**Credit Arrangement Letter**” or “**CAL**” means a letter, as of the date specified in the Schedule I, issued by the Bank to the Borrower(s), granting the Facility to the Borrower(s). The expression CAL shall include all amendments to the CAL.
- (iii) “**Facility Agreement**” means this Facility Agreement read along with its various Schedules and the CAL.
- (iv) “**General Conditions**” mean the general conditions applicable to the Facilities provided by the Bank and set out in Schedule 2 hereof.
- (v) “**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(s) 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.

Other terms may be defined elsewhere in the text of this Facility Agreement, and unless otherwise defined, shall have such meaning throughout the Facility Agreement.

2. TERMS OF FACILITY

- 2.1. Amount: The Borrower(s) agree to borrow from the Bank and the Bank, at the request of the Borrower, agrees to grant/extend to the Borrower(s), a rupee term loan not exceeding the amount as specified in the CAL (“**Facility**”), subject to the terms and conditions contained in the Transaction Documents, for the purpose specified in the CAL (“**Purpose**”).

- 2.2. Drawdown Schedule: If specified by the Bank (in the CAL or otherwise), the Borrower(s) shall provide the Bank, on or before signing of the Facility Agreement, an irrevocable drawdown schedule in writing for the entire Facility. However, disbursements pursuant to such drawdown schedule shall be subject to the provisions of the Facility Agreement and shall not obligate the Bank to follow such drawdown schedule.
- 2.3. Drawdown Mechanism: For each drawal, the Borrower(s) shall furnish to the Bank, an irrevocable notice of drawal within the timelines specified in the CAL, wherein the proposed drawdown date should be a Business Day. Unless otherwise permitted by the Bank, the right to make drawals from the Facility shall cease on the date as specified in the CAL ("**Last Drawdown Date**"). The Bank shall be entitled to make disbursements under the Facility, in one or more instalments (each a "**Tranche**"), subject to the Borrower(s) complying with the provisions of the Facility Agreement, including but not limited to the conditions stipulated in Schedule II. Each Tranche of the Facility shall be considered a separate loan for the purpose of the Facility Agreement. The Borrower(s) shall not be entitled to submit a notice of drawal, if the Facility has been cancelled by the Bank or an Event of Default has occurred and is subsisting.
- 2.4. Liability under this Facility Agreement: Each of the Borrower(s) 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(s) to the Bank.

3. INTEREST PAYMENT

The Borrower(s) shall pay to the Bank interest on: (i) the outstanding principal amount of the Facility; and (ii) any and all monies payable to the Bank under the Transaction Documents, at the rate specified in the CAL ("**Applicable Interest Rate**"), in a form and manner specified in the CAL and Facility Agreement ("**Interest**").

4. REPAYMENT

The Borrower(s) undertakes to repay the principal amount of the Facility in accordance with the repayment schedule as set out in the CAL ("**Repayment Schedule**").

If, for any reason, the amount finally disbursed by ICICI Bank out of the Facility is less than the amount of the Facility, the instalments of repayment of the Facility shall stand reduced proportionately but shall be payable on the same dates as specified in the Repayment Schedule.

5. SECURITY

5.1. Security And Contractual Comfort

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 and other Transaction Documents ("**Security**"), which shall be created and perfected in a form and manner satisfactory to ICICI Bank.

- 5.2. All Security, except for which timeline for creation and/or perfection has been provided for in the Transaction Documents, shall be created and all formalities thereof completed in a form and manner satisfactory to ICICI Bank, as a condition precedent to disbursement under the Facility
- 5.3. The Borrower(s) shall procure and deliver to the Bank, guarantees, indemnities, undertakings and/or contractual comforts as may be stipulated in the CAL, in a form and manner acceptable to the Bank. The Borrower(s) shall ensure that the Obligors observe all the covenants, terms, conditions, restrictions and prohibitions of the guarantees, indemnities, undertakings and/or contractual comforts, and agrees that any violation of the same shall constitute an Event of Default.
- 5.4. If, at any time during the subsistence of the Facility, ICICI Bank is of the opinion that the Security provided for the Facility is or will become inadequate, then the Borrower shall procure, provide and furnish to ICICI Bank, such additional security as may be acceptable to ICICI Bank.

The Borrower shall immediately notify ICICI Bank of all its acquisitions of immovable assets, and if required by ICICI Bank, create security interest over such immovable assets, in a form and manner acceptable to ICICI Bank.

6. REPRESENTATIONS AND WARRANTIES

- 6.1. The Borrower(s) hereby makes the following representations, warranties and declarations as given below, and confirms that they are and will continue to remain, true, correct, valid and subsisting in every respect till all monies is repaid in full to the satisfaction of ICICI Bank:

- (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.

- 7.1. **UNCONDITIONAL RIGHT TO CANCEL** Notwithstanding anything contained in the Transaction Documents, ICICI Bank shall have the unconditional right to cancel the undrawn portion of the Facility, in whole or in part, at any time during the subsistence of the Facility, without giving any prior notice to the Borrower(s), for any reason whatsoever, including but not limited to, on the occurrence of Deterioration of Creditworthiness of the Borrower(s), or for non-compliance of any terms and conditions of the Transaction Documents.
- 7.2. For the purpose of this clause, the Borrower(s) unconditionally agrees and undertakes to get itself and the Facility, rated by Credit Rating Agency within a period of six months from the date of the first disbursement of the Facility and/or at such intervals as may be decided by ICICI Bank, failing which, ICICI Bank shall have the right to review the Applicable Interest Rate and/or costs, charges and expenses, which shall be payable by the Obligor(s), on such date(s) or within such period, as may be specified by ICICI Bank.

8. MISCELLANEOUS

- 8.1. The Borrower acknowledges and agrees that the Bank may, from time to time, communicate changes in the terms and conditions applicable to the Facility to the Borrower(s) and the continued use of the Facility by the Borrower(s) shall constitute legal, valid and binding acceptance of such revised terms and conditions.
- 8.2. 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 exercised as often as necessary, are cumulative and not exclusive of their rights under the general law and may be waived only in writing and at the Bank's sole discretion.

- 8.3. Unless otherwise defined, all capitalized terms shall have the same meaning as ascribed to them in the general conditions as mentioned in Schedule 2 - General Conditions of this Facility Agreement
- 8.4. 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 Facility Agreement and General Conditions, the terms of the Facility Agreement shall prevail to all intents and purposes.
- 8.5. This Facility Agreement shall be effective from the date on which the authorized official of the Bank affixes his/her signature hereto.
- 8.6. 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 Bank executes it.

For the Bank:

SIGNED by Ms. Karishma Bahadurali Jivani,

Designation: MII,

on behalf of the within named Bank.

For the Borrower:

SIGNED by the below named authorized signatories

1. Mr. Mahipal Jain

on behalf of the within named Borrower.

SCHEDULE - I

Document Reference Number: FA- BLG/MUM/P/39331

PART A

Sr.No.	Headings	Details
1.	Place of Execution of the Facility Agreement	Place: Mumbai/Maharashtra
2.	Borrower(s)'s Details	Name: GOMECE ELECTRICALS PRIVATE LIMITED
		Constitution: Private Limited Company
		Registered office/Registered Address: House No.1700, Buliding No.1, JVC Complex Bhiwandi Vasai Highway, Karivali Village, Bhiwandi Bhiwandi Thane MH 421302.
3.	Details Of Branch Or Office Address	<p>Attention: Mr. Mahipal Jain</p> <p>Address: House No.1700, Buliding No.1, JVC Complex Bhiwandi Vasai Highway, Karivali Village, Bhiwandi Bhiwandi Thane MH 421302.</p> <p>Email id: gomecele@gmail.com</p>
4.	Notice to the Bank	<p>Attention: Ms. Karishma Bahadurali Jivani</p> <p>Address: ICICI BANK LTD., ICICI Bank Towers, Bandra Kurla Complex, Bandra East-400 051</p> <p>Email id: karishma.jivani@icicibank.com</p>
5.	Details of the Facilities	Overall Amount: Rupee Term Loan not exceeding Rs 8.70 Mn
6.	Notice to Borrower(s)	<p>Attention: Mr. Mahipal Jain</p> <p>Address: House No.1700, Buliding No.1, JVC Complex Bhiwandi Vasai Highway, Karivali Village, Bhiwandi Bhiwandi Thane MH 421302.</p> <p>Email id: gomecele@gmail.com</p>
7.	CAL Details:	Reference no. BLG/MUM/P/39331 and dated 22-December-2020 issued by the Bank to the Borrower(s) (including all its schedules and amendments made thereto).

8.	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.
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PART B**Observer:**

1. In case the borrower is a limited liability partnership, the Bank shall have the right to appoint and remove from time to time by a notice in writing to the Borrower, Observer(s) to attend all meetings of the Borrower (hereinafter referred to as the "Observer(s)").
2. The Observer shall be entitled to receive all notices, agenda and other related communications and to attend all such meetings.
3. If, at any time, the Observer is not able to attend a meeting, the Bank may depute any other person to attend the meeting. The expenses incurred by the Bank in this connection shall be borne and payable by the Borrower.

SCHEDULE - 2

2.1. CONDITIONS PRECEDENT TO FIRST DISBURSEMENT

Unless otherwise permitted by the Bank, the first disbursement shall be subject to prior fulfilment of (or wavier by the Bank) the following conditions, in a manner satisfactory to the Bank:

- (i) all conditions precedent to first disbursement mentioned in the CAL; and
- (ii) such other conditions stipulated by the Bank at the time of execution of the Facility Agreement.

2.2. CONDITIONS PRECEDENT TO SUBSEQUENT DISBURSEMENT

Unless otherwise specified in the CAL, all subsequent disbursements to first disbursement shall be subject to the Borrower(s) fulfilling the following conditions to the satisfaction of the Bank (unless waived by the Bank):

- (i) The Borrower(s) shall provide, within the timelines stipulated in the CAL, a certificate from its statutory auditor or any of its Key Managerial Personnel, duly authorized by requisite corporate authorisation, that the end use of the proceeds of the previous disbursement have been utilised only for the purpose as permitted under the Facility Agreement.
- (ii) The Borrower(s) shall furnish to the Bank, such information and documents, financial or otherwise, as may be required by the Bank, from time to time, in relation to the Facility and its business and operations, prior to any disbursement.

SCHEDULE - 3

General Conditions

ARTICLE I

DEFINITIONS AND CONSTRUCTIONS

1.1. DEFINITIONS

- (i) **“Additional Interest”** means interest paid or payable, pursuant to clause _NA_ of the General Conditions. “Additional Interest Rate” in relation to a particular event, means the rate of interest, as specified in the CAL, payable pursuant to clause _NA_ of the General Conditions.
- (ii) **“Business Day”** means a day on which the relevant office of ICICI Bank, as specified in Schedule I or such other office as may be notified by ICICI Bank to the Borrower(s), is open for normal business transactions.
- (iii) **“Credit Rating Agency”** means and refers to domestic credit rating agencies, such as, Credit Analysis and Research Limited, CRISIL Limited, FITCH India and ICRA Limited, and international credit rating agencies such as FITCH, Moody’s, Standard & Poor’s, and such other credit rating agencies identified and/or recognised by RBI, from time to time.
- (iv) **“Deterioration in the Creditworthiness”** means and includes without limitation, the following events:
 - a. downgrade of the rating of the Borrower(s) by a Credit Rating Agency;
 - b. inclusion of the Borrower(s) and/or any of its directors, partners, member or trustee of the Borrower in the RBI’s willful defaulters list;
 - c. closure of a significant portion of the Borrower(s)’s operating capacity;
 - d. decline in the profit after tax of the Borrower(s) by more than fifteen percent;
 - e. any adverse comment from an auditor; and
 - f. any other reason/event in the opinion of the Bank, constituting or which may constitute, deterioration in the creditworthiness.
- (v) **“Due Date(s)”** means, in respect of:
 - a. an instalment of principal amount of the Facility - the date on which the instalment falls due as per the Repayment Schedule; and/or
 - b. interest - the date on which interest falls due as per the terms of the Transaction Documents; and/or
 - c. any other amounts, including principal, interest or other monies, payable under the Transaction Documents - the date on which such amount falls due, as per the terms of the Transaction Documents.
- (vi) **“Event of Default”** shall mean the events or circumstances as specified in Article-VI of the General Conditions.
- (vii) **“Financial Creditor”** shall have the meaning assigned to it under IBC.
- (viii) **“Financial Information”** shall have the meaning assigned to it under IBC
- (ix) **“IBC”** means the Insolvency and Bankruptcy Code, 2016, including all amendments and replacements made thereto and all rules and regulations framed thereunder.
- (x) **“Increased Costs”** means:
 - a. a reduction in the rate of return from the Facility 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);
 - b. 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
 - c. a reduction of any amount due and payable under Facility Agreement; which is incurred or suffered by the Bank to the extent that it is attributable to the undertaking, funding or performance by the Bank of any of its obligations under Facility Agreement.
- (xi) **“Indebtedness”** means any indebtedness whatsoever, at any time (whether actual or contingent), whether present or future, for or in respect of, monies borrowed, contracted or raised (whether or not for cash consideration) or liabilities contracted by whatever means (including under guarantees, assumption of financial obligations, indemnities, acceptance, debentures, credits, deposits, hire-purchase and leasing).
- (xii) **“Intellectual Property”** means all patents, trademarks, permits, service marks, brands, trade names, trade secrets, proprietary information and knowledge, technology, computer programs, databases, copyrights, licences, franchises, formulae, designs, rights of confidential information and all other intellectual property.

- (xiii) **“Intellectual Property Rights”** mean all rights, benefits, title or interest, in or in relation to, any Intellectual Property, anywhere in the world (whether registered or not and including all applications for the same).
- (xiv) **“Key Managerial Personnel”** shall have the meaning assigned to it under the Companies Act, 2013.
- (xv) **“Material Adverse Effect”** means the effect or consequence of any event or circumstance, which is or is likely to be:
 - a. adverse to the ability of the Borrower(s) or any person, to perform or comply with any of their respective obligations under the Transaction Documents, in accordance with their respective terms; or
 - b. prejudicial to any of the businesses, operations or financial condition of the Borrower(s) or its projects or of any person who is party to any of the Transaction Documents.
- (xvi) **“Obligor(s)”** shall mean any or each of the Borrower(s) and any other person providing Security, guarantee or any contractual comfort in respect of the Facility.
- (xvii) **“RBI”** means the Reserve Bank of India.
- (xviii) **“Security Cover”** means the ratio of:
 - a. the aggregate value (as per its most recent audited accounts) of the gross fixed assets and capital work in progress, forming part of the Security, as reduced by accumulated depreciation (including un- provided depreciation, if any); to
 - b. all Indebtedness (as per its most recent audited accounts) having equivalent or superior charge over such gross fixed assets and capital work in progress, to that of the Bank.
 Revaluation of assets would not be taken into account for determining the Security Cover.
- (xix) **“FCNR(B) Loan Scheme”** shall mean the regulatory framework (established by the RBI) in relation to ‘authorized dealer’ banks in India extending foreign currency loans to Indian residents against the deposits held in FCNR (B) accounts amended, modified or replaced from time to time.
- (xx) **“FCNR(B) RBI Guidelines”** means all notifications, circulars and regulations on the subject of FCNR (B) issued by the RBI including the Master Circular on Loans and Advances - Statutory and Other Restrictions issued by the RBI as amended, modified or replaced from time to time.

1.2. INTERPRETATION

- (i) In the Facility Agreement, unless a contrary intention appears, a reference to:
 - a. an agreement / document / undertaking / deed / instrument / indenture / writing includes all amendments made thereto, from time to time, and also includes all schedules, annexures, addendums and appendices thereto;
 - b. an **“authorisation”** includes an authorisation, consent, clearance, approval, permission, resolution, license, exemption, filing and registration;
 - c. an **“amendment”** includes a supplement, modification, novation, replacement or re-enactment and
 - d. **“amended”** is to be construed accordingly;
 - e. **“assets”** include all properties whatsoever, both present and future, (whether tangible, intangible or otherwise), including but not limited to, Intellectual Property Rights, investments (held either directly or indirectly), cash-flows, revenues, receivables rights, benefits, interests and title of every description;
 - f. **“Borrower(s)”** includes, as the context may permit or require, in the case of more than one Borrower(s), each of the Borrower(s);
 - g. **“control”** shall have the meaning assigned to it in the Companies Act, 2013;
 - h. **“encumbrance”** includes a mortgage, charge, lien, pledge, hypothecation, assignment, easement, license, security interest or any right of any description whatsoever;
 - i. **“law”** shall mean, applicable, constitution, statute, law, rule, regulation, ordinance, judgement, order, decree, authorisation, or any published directive, guideline, notice, requirement or governmental restriction, having the force of law in any jurisdiction; and
 - j. **“person”** includes an individual, corporation, partnership, joint venture, association of persons, trust, unincorporated organisation, government (central, state or otherwise), sovereign state, or any agency, department, authority or political subdivision thereof, international organisation, agency or authority (in each case, whether or not having separate legal personality) and shall include their respective successors and assigns and in case of an individual shall include his legal representatives, administrators, executors and heirs and in case of a trust shall include the trustee or the trustees for the time being.
- (ii) reference to a gender shall include references to the female, male and neuter gender;
- (iii) the singular includes the plural (and vice versa);

- (iv) 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;
- (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) reference to the words "include" or "including" shall be construed without limitation;
- (vii) words and abbreviations which have well known technical, trade or commercial meaning, are used in this Facility Agreement in accordance with such meaning;
- (viii) in the event of any disagreement or dispute between the Bank and the Borrower(s) regarding the materiality, adversity, likelihood or reasonableness of any matter arising out of the Transaction Documents, the opinion of the Bank shall be final and binding on the Borrower(s);

ARTICLE II

Interest, charges and other payments

2.1. INTEREST AND PAYMENTS

- (i) Interest on the Facility shall be calculated on the daily debit balance of the Borrower(s)'s loan account, on the footing of compound interest with monthly or such other rests as may be specified in the CAL or decided by the Bank, from time to time.
- (ii) In case of facility amount denominated in Rupee, the Interest and any other charges shall be computed on the basis of 365 (three hundred and sixty-five) days a year, and the actual number of days elapsed. In case of facility amount denominated in foreign currency, Interest and any other charges shall accrue from day-to-day and shall be computed on the basis of 360 (three sixty) days a year, and the actual number of days elapsed.
- (iii) All payments made by the Borrower(s) under the Transaction Documents, shall be credited directly to the Bank's account, in a form and manner notified to the Borrower(s) from time to time. If any payment to be made by the Borrower(s) under the Transaction Documents is due on a day that is not a Business Day, the Due Date for such payment shall instead be the immediately preceding Business Day.

2.2. VOLUNTARY PREPAYMENT

Unless otherwise provided in the CAL, the Borrower(s) shall not, without the approval of the Bank (which approval may be given subject to terms and conditions stipulated by the Bank, including payment of Prepayment Premium), prepay the outstanding principal amounts of the Facility in full or in part, before the respective Due Dates.

2.3. ADJUSTMENT OF OVERDUES

The Bank shall be entitled to deduct and adjust, from sums to be lent and advanced to the Borrower(s), any and all monies then remaining due and payable by the Borrower(s) to the Bank, whether under the Transaction Documents or otherwise.

2.4. ADDITIONAL INTEREST

- (i) Without prejudice to any of the rights of the Bank:
 - a. if any amount due and payable under any of the Transaction Documents, including but not limited to, principal, Interest, and/or any other money howsoever payable, is not paid to the Bank on its Due Date, additional interest shall be payable on all such amounts not paid, at the Additional Interest Rate specified in the CAL, which shall be over and above Applicable Interest Rate, till such time that the amount is paid; and/ or
 - b. (A) if the Borrower(s) are in breach of any of the terms and conditions under the Transaction Documents; or (B) if Security is not created and perfected within the timelines stipulated in the Transaction Documents or such other period as may be stipulated by the Bank, from time to time; additional interest shall be payable on all amounts outstanding under the Facility, at the Additional Interest Rate as specified in the CAL, which shall be over and above Applicable Interest Rate, till such time that the breach is cured.
- (ii) Such Additional Interest will be computed from the respective Due Dates and shall become payable upon the footing of compound interest with monthly or such other rests, as may be specified in the CAL or decided by the Bank, from time to time and shall be payable along with Interest. The Additional Interest shall be computed on the basis of 365 (three hundred and sixty-five) days a year, and the actual number of days elapsed.

2.5. INCREASED COST

- (i) The Borrower(s) shall, within 3 (three) Business Days of a demand by the Bank, pay the amount of

any Increased Costs incurred by the Bank as a result of: (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; (b) 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 (c) in the event of the Bank being called upon to pay any additional amount by foreign lending agency in terms of their respective financing agreements; or (d) on account of factors beyond the control of the Bank.

- (ii) The Borrower(s) acknowledges that the Bank shall have the right to demand and recover any costs from the Borrower(s) that may arise pursuant to provisions of applicable law (including capital adequacy or prudential norms).

2.6. TAXES, COSTS AND CHARGES

- (i) The Borrower(s) shall: pay all costs, charges (including legal fees, cost of investigation of title to the Borrower(s)'s/security provider's assets and protection of the Bank's interest) and expenses, in any way incurred by the Bank, and bear all stamp duties, other duties, taxes, charges, levies and penalties, including any differential/additional duties and taxes which may be payable pursuant to law, from time to time, in relation to the Facility and Transaction Documents.
- (ii) In the event that the Borrower(s) fail to pay any money referred above, the Bank will be at liberty (but shall not be obliged) to pay the same on behalf of the Borrower(s). The Borrower(s) shall immediately reimburse all sums paid or expenses incurred by the Bank in accordance with the provisions contained herein. All such sums shall be debited to the Borrower(s)'s loan account and shall carry interest from the date of payment until such reimbursement is made.
- (iii) In case of default by the Borrower(s) in making such reimbursement within the timelines stipulated by the Bank, the Borrower(s) shall also pay on the defaulted amounts, liquidated damages at the rate of 2.1% per annum from the expiry of the timelines until reimbursement.

2.7. DEDUCTIONS

All payments by the Borrower(s) under the Transaction Documents shall be made free and clear of, and without any deduction/withholding, except to the extent that the Borrower(s) are required by law to make the payment subject to any deduction/withholding of taxes. Provided that, all taxes required by law to be deducted/ withheld by the Borrower(s) from any amounts paid or payable, to the Bank (including but not limited to, principal, Interest, Additional Interest, commission, discount, service and other charges and any fees, under the Transaction Documents) shall be paid by the Borrower(s) when due and the Borrower(s) shall, within the statutory time frame prescribed under the law or 30 (thirty) 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.

2.8. APPROPRIATION

The Borrower(s) agrees and confirms that the Bank may at its absolute discretion, appropriate any payments made by the Borrower(s) under the Transaction Documents, towards the dues payable by the Borrower(s) to the Bank under the Transaction Documents and/or other financing agreements entered into between the Borrower(s) and the Bank, and such appropriation by the Bank shall be final and binding on the Borrower(s) in all respects.

Article III Security and contractual comfort

The Borrower(s) 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, the Security Provider shall, upon request of the Bank, provide such additional security 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(s) 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(s) agrees and confirms to give or procure all the required assistance / co-operation to such appraiser for such valuation and the said valuation shall be binding on the Borrower(s). The Borrower(s) 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)'s selling price, whichever is the lowest

Article IV INSURANCE

- 4.1. The Borrower(s) shall ensure that all its assets and assets charged/to be charged to the Bank are kept insured up to their full reinstatement value as approved by the Bank (including surveyor's and architect's fees), against such risk as may be required by good industry practice, including but not limited to, fire, theft, lightning, explosion, earthquake, riot, strike, civil commotion, storm, tempest, flood, marine risks, erection risks and war, and such other risks as specified by the Bank.
- 4.2. The Borrower(s) shall ensure that all premia and other sum payable in relation to the abovementioned insurances are timely paid.
- 4.3. The Borrower(s) agrees that, in the event of a failure to insure the assets or to pay the insurance premia or other sums referred to above, the Bank may at its sole discretion (without having an obligation to do so) get the assets insured or pay the insurance premia and other sums referred to above, as the case may be. Upon such payment by the Bank, the Borrower(s) shall immediately reimburse the Bank in a manner specified in the Facility Agreement.
- 4.4. The Borrower(s) shall deliver to the Bank promptly and in no event, later than 10 (ten) days after the same are issued, originals of all policies of insurance and renewals thereof and endorsements thereto.

ARTICLE - V GENERAL REPRESENTATIONS, WARRANTIES, COVENANTS AND UNDERTAKINGS

5.1. REPRESENTATIONS AND WARRANTIES

The Borrower(s) 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(s) or on behalf of the Borrower(s), to the Bank, are true and accurate in all respects, are not misleading and does not omit any fact, the omission of which would make any fact or statement therein misleading. Nothing has occurred since the date of communication or supply of any information to the Bank which renders such information untrue or misleading in any respect and which, if disclosed, might adversely affect the decision of the Bank to enter into, or to make disbursements under the Facility Agreement, or may constitute a Material Adverse Effect.
- (ii) Without prejudice to clause _NA___ of the Facility Agreement, except to the extent disclosed to

- the Bank, the Borrower(s) has no subsisting Indebtedness.
- (iii) All the licenses, permits and authorizations required for carrying on its business, operations or projects, have been obtained, are in full force and effect, and the Borrower(s) is in compliance in all respects with all laws.
 - (iv) The Borrower(s) has good title to, or is otherwise entitled to use its assets, and, without prejudice to clause ___NA___ of the Facility Agreement, except to the extent disclosed to ICICI Bank, there are no encumbrances subsisting or in existence on any of the Borrower(s)'s assets.
 - (v) The Borrower(s) has complied in all 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 tax is not due or is disputed, the Borrower(s) has established adequate reserves for the payment of those taxes and statutory dues.
 - (vi) The financial statements provided by the Borrower(s) 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.
 - (vii) No litigation, arbitration, administrative or other proceeding against the Borrower(s) or any of its assets before any court, tribunal, authority or agency, has been initiated or is threatened to be initiated which, if adversely determined, might have a Material Adverse Effect.
 - (viii) No litigation 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 the Borrower(s) or of any or all of its assets before any court, tribunal, authority or agency, has been initiated or are pending against the Borrower(s) or its assets.
 - (ix) Except to the extent disclosed to ICICI Bank, all the Borrower(s)'s contracts or agreements with, or any commitments to, any affiliates or group companies (if applicable) are on arm's length basis.
 - (x) 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 proprietor, partners, trustees of the Borrower, directors, members, promoters, and/or their friends and relatives or any of them ("**Promoter Group**") and any other unsecured creditors shall stand and be regarded as subordinate debt in relation to the Facility. The Borrower(s) shall not repay the said loans and advances of the Promoter Group, in whole or in part, or pay any interest thereon, until such time as the entire outstanding Facility is repaid in full.
 - (xi) Neither the Borrower(s) nor any other person benefiting in any capacity, either directly or indirectly, 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 Facility office and/or any other country (collectively, the "**Sanctions**"). The Borrower(s) shall ensure that its transactions do not violate any Sanctions, nor any sanctioned persons or entities are involved in its transactions. The Borrower(s) agrees that it shall not avail the Facility or use the proceeds of the Facility in any transaction with, or for the purpose of financing the activities of, any person currently subject to any Sanctions as aforesaid.
 - (xii) The Sanctions may become applicable with respect to the Facility and/or transactions thereunder, including documentary credits, guarantees issued, disbursements, payments, purpose and/or end use of the Facility, 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 Facility by ICICI Bank may become subjected to the Sanctions and ICICI Bank shall have the unconditional right to refuse to process any transactions that violate/may violate any Sanctions.
 - (xiii) The execution or entering into by the Borrower(s) of the Transaction Documents constitute, and 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.
 - (xiv) The Borrower(s) is duly incorporated under/constituted as per the laws of India, and has the competence, power and authority to: (i) enter into the Transaction Documents, (ii) avail the Facility, (iii) own its assets and carry on its business and operations as it is being or is proposed to be conducted, (iv) exercise its rights and perform its obligations under the Transaction Documents, and (v) perform all other actions required to authorize the execution of the Transaction Documents.
 - (xv) The Borrower(s) has the appropriate authorisation for conducting its business and the performing of its obligations herein, and the Borrower(s) has not received any notice, nor is it aware that any authorisation necessary or required to be obtained, in present or in future, will not be granted or obtained.
 - (xvi) The Transaction Documents have been duly and validly executed by the authorized signatories of the Borrower(s), each of the Transaction Documents constitutes and when executed will constitute,

- a legal, valid and binding obligation of the Borrower(s) enforceable in accordance with their respective terms. The Borrower(s) has taken all steps and done all acts to ensure that the Transaction Documents are admissible in evidence in all courts of competent jurisdiction.
- (xvii) The entry into, delivery and performance by the Borrower(s) of, and the transactions contemplated by the Transaction Documents do not and will not conflict: (a) with any law; (b) with the constitutional documents, if any, of the Borrower(s); or (c) with any document which is binding upon the Borrower(s) or on any of its assets.
 - (xviii) No Event of Default has occurred, is subsisting, or might result from, execution of or availing of, the Facility by the Borrower(s); and similarly no default (actual or potential), howsoever defined, is subsisting under any document that is binding on the Borrower(s) or any of its assets.
 - (xix) Neither the Borrower(s) nor any of its directors/promoters/sponsors or guarantors, partner, member or trustees of the Borrower have been declared to be a wilful defaulter. The Borrower(s) shall not induct a person in the capacity of partner, member, trustee of a firm/association of persons/trust as the case may be or director who is identified as wilful defaulter. In the event the person so inducted is found to be a wilful defaulter, the Borrower(s) shall take expeditious and effective steps for removal of such person.
 - (xx) The Borrower(s) herein agrees that the Applicable Interest Rate, Additional Interest Rate and liquidated damages, stipulated hereof, are reasonable and that they represent genuine pre-estimate of the loss expected to be incurred by ICICI Bank, in the event of the breach of any terms and conditions of this Facility Agreement.
 - (xxi) The Borrower(s) acknowledges that the Facility provided is a commercial transaction and waives any defense available under usury or other laws relating to charging of interest.
 - (xxii) The Borrower(s) is not and 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 to the Transaction Documents.
 - (xxiii) The Borrower(s) owns, has licence to use or otherwise has the right to use, free of any pending or threatened liens, all Intellectual Property or Intellectual Property Rights, which are required or desirable for the conduct of the Borrower(s)'s business and operations and the Borrower(s) does not, in carrying on its business and operations, infringe on any Intellectual Property Rights of any person. Further, none of the Intellectual Property or Intellectual Property Rights owned or enjoyed by the Borrower(s), or which the Borrower(s) is licensed to use, which are material in the context of the Borrower(s)'s business and operations are being infringed nor, so far as the Borrower(s) is aware, is there any infringement or threatened infringement of those Intellectual Property or Intellectual Property Rights licensed or provided to the Borrower(s) by any person.
 - (xxiv) All Intellectual Property or Intellectual Property Rights owned by the Borrower(s) or which the Borrower(s) is licensed to use are valid and subsisting. All actions (including registration, payment of all registration and renewal fees) required to maintain the same in full force and effect, have been taken.
 - (xxv) All insurances which are required to be maintained or effected by the Borrower(s) or any other person pursuant hereto or any of the Transaction Documents are in full force and effect, and no event or circumstance has occurred, nor has there been any omission to disclose a fact, which would in either case entitle any insurer to avoid or suspend or otherwise reduce its liability under any policy relating to the insurances. Further, the Borrower(s) has complied with all its obligations in relation to insurance under the Transaction Documents.
 - (xxvi) Without prejudice to clause _____, except to the extent disclosed to ICICI Bank; (i) the Borrower(s) has no subsidiaries and holds no equity interest in any other person, and (ii) the Borrower(s) has not engaged in any business or activities, either alone or in partnership or joint venture.
 - (xxvii) Except to the extent disclosed to ICICI Bank:
 - a. No director of ICICI Bank is: a director, partner, member, manager, managing agent, employee or guarantor of the Borrower(s), or of a subsidiary of the Borrower(s), or of the holding company of the Borrower(s), or holds substantial interest, in the Borrower(s) or a subsidiary or the holding company of the Borrower(s) 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 ICICI Bank or any other bank holds substantial interest or is interested as director or as a guarantor of the Borrower(s) and the Borrower(s) is in compliance with all applicable laws including RBI's Master Circular on Loans and Advances, as amended and replaced from time to time; and
 - b. No relative (as specified by RBI) of a Chairman/Managing Director or director of banking company (including ICICI Bank) or their subsidiaries or trustees of mutual funds/venture capital funds set up by a banking company (including ICICI Bank) or a relative of senior officer (as specified by RBI) of ICICI Bank, hold substantial interest or is interested as a director/partner/member, manager, managing agent, employees or as guarantor of the

Borrower(s).

5.2. INFORMATION COVENANTS

The Borrower(s) shall promptly notify and/or deliver to ICICI Bank:

- (i) within such time and in a manner as may be acceptable to ICICI Bank, a certificate from its statutory auditor or any of its Key Managerial Personnel, duly authorized by the requisite corporate authorizations/ a practicing chartered accountant, regarding the end use of the Facility and certifying that the Facility has been utilised for the Purpose, and not diverted or applied for any other purpose;
- (ii) 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;
- (iii) of any circumstances and conditions (including any material loss or legal proceedings) which may cause Material Adverse Effect;
- (iv) of any loss or damage which the Borrower(s) may suffer/has suffered due to any event or circumstance or Act of God;
- (v) of the occurrence of an Event of Default (including likelihood thereof), and the steps, if any, taken to rectify the same;
- (vi) its duly audited annual accounts, in any event, within four months from the close of its accounting year. The Borrower(s) shall also deliver to ICICI Bank, as soon as the same are available and in any event within 45 (forty five) days of the end of each quarter its audited, or as the case may be, unaudited accounts for that quarter;
- (vii) of any change in the directors/partners/members/trustees or the management set up constitution documents, bye laws or organizational structure of the Borrower(s);
- (viii) of any litigation, arbitration, investigation, administrative or other proceedings initiated or threatened against the Borrower(s) or any of its assets, which, if adversely determined, might have a Material Adverse Effect;
- (ix) 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(s) or of any or all of its assets;
- (x) copies of all documents issued by the Borrower(s) to all its creditors or any general class of them at the same time as they are issued;
- (xi) of any new business, operations or project; or diversification, modernisation or substantial expansion of any of its existing business, operations or project, that it undertakes or may undertake during the currency of the Facility; and
- (xii) such information or documents, financial or otherwise, as are specified in the CAL, or as may be required by ICICI Bank from time to time in relation to the Facility, the Borrower(s)'s business, operations and assets etc., including those in relation to its hedging policy, foreign currency exposures and hedging position thereof, within the period specified in the CAL or by ICICI Bank. The information regarding foreign currency exposure and the hedging position thereof shall be (i) duly certified by its directors or company secretary, within 30 (thirty) days of expiry of each fiscal quarter and (ii) audited and certified by its statutory auditor within 6 months of expiry of each fiscal year.
- (xiii) 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(s), as may be demanded by ICICI Bank, upon the occurrence of an Event of Default. For avoidance of doubt, it is clarified that such right of ICICI Bank shall be in addition to any other rights available to it under the Transaction Documents.

5.3. AFFIRMATIVE COVENANTS

Save as otherwise provided in the Facility Agreement or the CAL, the Borrower(s) covenants and undertakes to:

- (i) maintain its corporate existence, and the right to carry on its business and operations as it is being conducted, in all applicable jurisdictions; and obtain and maintain all authorisations, franchises and rights necessary for the conduct of its business and operations in such jurisdictions;
- (ii) develop, maintain and implement its business, operations and projects, in accordance with prudent industry standards and accepted industry practices, and conduct its business and operations with due diligence and efficiency, in accordance with sound technical, financial and managerial standards, and business practices;
- (iii) promptly obtain, maintain and comply with the terms of all authorisations necessary for entering into or performing its obligations under the Transaction Documents;

- (iv) create and perfect, or ensure creation and perfection of, Security, guarantees and contractual comforts, as required under the Transaction Documents, to the satisfaction of ICICI Bank, within the timelines stipulated in the CAL or such other period specified by ICICI Bank, from time to time;
- (v) unless otherwise permitted by ICICI Bank, 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;
- (vi) keep and maintain in accordance with good business practice and laws, all statutory books, books of accounts, bank statements and other records of the Borrower(s) and in particular, maintain records showing the operations and financial conditions of the Borrower(s) and such records shall be open to examination by ICICI Bank and/or its authorised representatives;
- (vii) permit or cause the security provider to permit ICICI Bank or such other persons as may be authorised by ICICI Bank, to inspect its premises, units, projects, assets, documents and other materials, at reasonable times. The Borrower(s) shall ensure full co-operation and assistance to ICICI Bank or any person so authorized by ICICI Bank, including providing such explanations or elucidations and allowing the taking of any copies or extracts, as may be required by ICICI Banks or persons authorized by it. The cost and expenses of any such visit or inspection shall be borne by the Borrower(s);
- (viii) 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(s). The cost and expenses of any such audit or examination shall be borne by the Borrower(s);
- (ix) indemnify and keep ICICI Bank indemnified against any and all cost, loss, liability or third party claims (including legal fees and any applicable indirect taxes) incurred by ICICI Bank, arising out of or in connection with the Facility (including any instruments, documents under the Facility) and/or the Transaction Documents and/or due to any breach by the Borrower(s) of the Sanctions or any action taken by ICICI Bank on account of breach of the Sanctions;
- (x) in the event that the existing auditors cease to act as the auditors of the Borrower(s) for any reason, the Borrower(s) shall promptly inform ICICI Bank of the reasons for such cessation and shall appoint another firm of independent chartered accountants, acceptable to ICICI Bank;
- (xi) promptly authenticate and verify the Financial Information submitted by ICICI Bank, as and when requested by information utilities.
- (xii) comply in all respects with all laws applicable to or binding on it or its business and operations. The Borrower(s) shall file all relevant tax returns and pay all its taxes and statutory dues promptly when due and payable and, to the extent any taxes are not due, has established reserves that are adequate for the payment of those taxes and statutory dues. ICICI Bank shall not be responsible for the compliance of direct and indirect tax obligations by the Borrower(s);
- (xiii) in case the Borrower(s) has a sole banking arrangement with ICICI Bank, in terms of the RBI guidelines it shall seek prior consent of ICICI Bank by giving a notice of 15 (fifteen) days before it seeks to establish a relationship with any other bank; and
- (xiv) ensure that its foreign currency exposures, if any, are suitably hedged to the satisfaction of ICICI 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 ICICI Bank; and
- (xv) to comply with such other conditions/covenants as may be mentioned in the CAL.

5.4. NEGATIVE COVENANTS

The Borrower(s) hereby further covenants and agrees that without the prior written approval of ICICI Bank, the Borrower(s) shall not:

- (i) 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;
- (ii) enter into any management contract or similar arrangement whereby its business or operations are managed by any other person;
- (iii) declare or pay any dividend or authorise or make any distribution to its shareholders/partners/members if an Event of Default has occurred and is subsisting or would occur as a result of such declaration or payment of dividend or authorisation or making of distribution;
- (iv) 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 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;
- (v) incur or cause to incur, any Indebtedness in any manner whatsoever;
 - (vi) effect any change in its capital structure or constitutional documents in any manner whatsoever;
 - (vii) change its financial year-end from the date it has currently adopted or change the accounting method or policies currently followed by the Borrower(s) unless expressly required by law;
 - (viii) (i) 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, or (ii) (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;
 - (ix) if an Event of Default has occurred and is subsisting, undertake: (i) any new business, operations or projects, or (ii) modernization, diversification or substantial expansion of any of its present business, operations or projects;
 - (x) pay any commission to its promoters, directors, members, 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(s) or in connection with any other obligation undertaken for or by the Borrower(s); and
 - (xi) 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.

ARTICLE- VI EVENTS OF DEFAULT

6.1. The occurrence of any one or more of the following events shall constitute an event of default under the Facility Agreement:

- (i) **Payment Default**
 - a. Default has occurred in the payment of principal sums of the Facility on the Due Dates (whether at stated maturity, by acceleration or otherwise) for payment thereof; and/or
 - b. Default has occurred in payment of interest on the Facility or any other monies payable under the Transaction Documents.
- (ii) **Breach of Terms**
Borrower(s) 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 VI of this Facility Agreement) and such default has continued for a period of 30 (thirty) days from the date of notice of existence of such 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).
- (iii) **Misleading Information and Representation**
Any information given by the Borrower(s) 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.
- (iv) **Inadequate Insurance Depreciation in value of Assets**
 - a. If the Borrower(s)'s assets have not been kept insured by the Borrower(s) and the same is not remedied within 30 (thirty) days from the date of such default.
 - b. If the Borrower(s)'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(s) 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.
- (v) **Bankruptcy, Insolvency or Dissolution**
 - a. If the Obligor(s) has voluntarily taken or suffered any action for its insolvency, winding-up or dissolution.
 - b. If any step or action has been taken for reorganization, winding-up or dissolution of an Obligor or if 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 Obligor(s), or if any attachment or distraint has been levied on the Obligor's assets or any part thereof, or

certificate proceedings have been taken or commenced for recovery of any dues from the Obligor(s), or if one or more judgments or decrees have been rendered or entered against the Obligor(s) and such judgments or decrees are not vacated, discharged or stayed within a period of 30 (thirty) days and such judgments or decrees involve in the aggregate, a liability which could have a Material Adverse Effect.

- c. If any petition or application in relation to insolvency or bankruptcy resolution of the Obligor(s) (including without limitation, corporate insolvency resolution process and bankruptcy process under the IBC) is filed before any court, tribunal or authority of competent jurisdiction, or the Obligor(s) has become bankrupt or insolvent or is dissolved.
- (vi) Cessation or Change in Business**
- a. If the Borrower(s) ceases or threatens to cease to carry on any of its businesses, or gives notice of its intention to do so, or if all or any part of the assets of the Borrower(s) required or essential for its business or operations are damaged or destroyed.
 - b. If in the opinion of ICICI Bank, there occurs any change from the date of the Facility Agreement, in the general nature or scope of the business, operations, management or ownership of the Borrower(s), which could have a Material Adverse Effect.

(vii) Security in Jeopardy

If in the opinion of ICICI Bank, the security for the Facility is in jeopardy or ceases to have effect; or if any of the Transaction Documents including any security document executed or furnished by or on behalf of the Borrower(s) 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 of the Transaction Documents are assigned or otherwise transferred, amended or terminated, repudiated or revoked without the approval of ICICI Bank.

(viii) Expropriation

Any government (including any political or administrative sub-division thereof), governmental authority, agency, official or entity takes or threatens any action:

- a. for the dissolution of the Borrower(s), or any action which deprives or threatens to deprive the Borrower(s): (a) from conducting any of its businesses or carrying out its operations in the manner it is being conducted or carried out, or (b) of the use of any of its assets;
- b. to revoke or terminate or to refuse to provide or renew any authorisation or to impose onerous conditions on or on the grant or renewal of any authorisation; or
- c. with a view to regulate, administer, limit, or assert any form of administrative control over, the rates applied, prices charged or rates of return achievable, by the Borrower(s) in connection with its business.

which, in each case, in the opinion of ICICI Bank, could have a Material Adverse Effect.

(ix) Illegality

Any obligation under the Facility Agreement or any of the Transaction Documents, is not or ceases to be a valid and binding obligation of any person party to it or becomes void, illegal, unenforceable or is repudiated by such person (other than ICICI Bank).

(x) Change in Control

Any person acting singularly or with any other person (either directly or indirectly) acquires control of the Borrower(s) or of any other person who controls the Borrower(s), without the approval of ICICI Bank.

(xi) Cross Default

- a. Borrower(s) 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 cancels and/or recalls any Indebtedness of the Borrower(s), 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(s), is not paid, whether at stated maturity, acceleration or otherwise.

Provided, however, that the above shall apply only if the Indebtedness is (a) more than 2% of the total Indebtedness of the Borrower(s) or INR 500 million, whichever is lower, and (b) is not cured within 30 days from the date of default.

- d. Any Group Company or Associate Company of the Borrower(s) has defaulted in payment of any of its Indebtedness to ICICI Bank, whether at stated maturity, by acceleration or otherwise.

For the purpose of this clause:

“Group Company” shall mean and include:

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

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

(xii) Material Adverse Effect

One or more events, conditions or circumstances (including any change in law) shall occur or exist which in the opinion of ICICI Bank, could have a Material Adverse Effect.

(xiii) Other Events

Any other event or circumstance specified as an Event of Default under the CAL.

6.2. NOTIFICATION OF DEFAULT

The Borrower(s) shall promptly notify ICICI Bank upon becoming aware of any default and any event which, constitutes or with the giving of notice, lapse of time, determination of materiality or satisfaction of other conditions, would be likely to constitute, an Event of Default, and the steps, if any, being taken to remedy it.

6.3. CONSEQUENCES OF EVENTS OF DEFAULT

Notwithstanding any other right that may be available to ICICI Bank or anything contrary contained in any of the Transaction Documents, on the happening of an Event of Default, ICICI Bank may by a notice to the Borrower(s), exercise the following rights, each of which shall be an independent right:

- (i) terminate either whole or part of the Facility and/or declare any or all amounts under the Facility, either whole or in part, as immediately due and payable to ICICI Bank, whereupon the same shall become due and payable by the Borrower(s) forthwith. Notwithstanding any suspension or termination pursuant to the Facility Agreement, all provisions of the Transaction Documents for the benefit or protection of ICICI Bank and its interests shall continue to be in full force and effect as provided in the Transaction Documents;
- (ii) suspend further access/drawals by the Borrower(s) to the use, either in whole or in part, of the Facility;
- (iii) declare the security created, if any, pursuant to the terms of the Transaction Documents to be enforceable, and ICICI Bank or such other person in favour of whom such security or any part thereof is created shall have, inter alia, the following right:
 - a. 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, to any person including ICICI Bank, by way of lease, leave and license, sale or otherwise; and
 - b. 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 other Transaction Documents or for an injunction against a violation of any of the terms and conditions of this Facility Agreement or other Transaction Documents, or in aid of the exercise of any power or right granted in this Facility Agreement or other Transaction Documents and/or as a creditor.
 - c. Appoint any person engaged in technical, management or any other consultancy business to inspect and examine the working of the Borrower and / or the assets including its premises, factories, plants and units as the Bank may deem fit or appoint any Chartered Accountants / Cost Accountants as auditors for carrying out any specific assignments or to examine the financial or cost accounting system and procedures adopted by the Borrower for its working or as concurrent or internal auditors, or for conducting a special audit of the Borrower, as the Bank may deem fit.
- (iv) Upon the occurrence of a payment default which is continuing for a period of one month 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(s), 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(s) (**“Conversion Notice”**). The Borrower(s) 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(s) can forthwith, on receipt of the Conversion Notice, repay/pay the outstanding amount of the Facility and foreclose ICICI Bank's

conversion right.

- (v) to stipulate such other additional terms and conditions, as ICICI Bank may deem fit; and/or
- (vi) exercise such other remedies as may be permitted or available to ICICI Bank under law, including RBI guidelines.

6.4. EXPENSES INCURRED

All expenses incurred by ICICI Bank after an Event of Default has occurred shall be payable by the Borrower(s), including in connection with:

- (i) preservation of, or enforcement action against the Borrower(s)'s assets or the assets comprised within the security for the Facility (whether then or thereafter existing); and
- (ii) collection of amounts due under the Transaction Documents.

Article VII BENEFIT OR PROTECTION

Notwithstanding anything contained in the Transaction Documents, all the provisions of the Facility Agreement for the benefit or protection of ICICI Bank and its interests, shall continue to be in full force and effect until all monies due and payable to ICICI Bank under the Transaction Documents have been repaid to the satisfaction of ICICI Bank.

Article VIII SET-OFF

- 8.1. ICICI Bank 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(s), whether in single name or joint name(s) (for which, the Borrower(s) hereby confirms that the requisite consent has already been procured by the Borrower(s) from the relevant third party) and on any monies, securities, bonds and all other assets, documents and properties held by/under the control of ICICI 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(s) in any capacity to the extent of all outstanding dues, whatsoever, arising as a result of any of ICICI Bank's services extended to and/or used by the Borrower(s) and/or as a result of any other facilities that may be granted by ICICI Bank to the Borrower(s).
- 8.2. ICICI Bank is entitled to settle any Indebtedness whatsoever owed by the Borrower(s) to ICICI Bank by adjusting, setting-off any deposit(s) and/or transferring monies lying to the balance of any account(s) held by the Borrower(s) with ICICI Bank to combine or consolidate at any time all or any of the accounts and liabilities of the Borrower(s) including accounts not related to the Facility, to sell any of the Borrower(s)'s assets or properties held by ICICI Bank and/or group companies. ICICI Bank's rights hereunder shall not be affected by the Borrower(s)'s bankruptcy or winding-up. It shall be the Borrower(s)'s sole responsibility and liability to settle all disputes/objections with joint account holders, if any.

Article IX NOTICE

- 9.1. All notices or other communications under or in connection with the Facility 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; and
 - (ii) if sent by e-mail or any other electronic or telecommunication mode, when sent by the sender. Provided, however, that no notice or communication to ICICI Bank shall be effective unless actually received by ICICI Bank.
- 9.2. All notices or communication to the Borrower(s) or ICICI Bank, as the case may be, shall be made to the address provided in Schedule I, or such address as may be notified by each party, from time to time.
- 9.3. The Borrower(s) acknowledges and confirms that any notice provided by ICICI Bank shall be treated by the Borrower(s) as sufficient and reasonable notice to the Borrower(s) and agrees to assume the liability for any non- delivery of a notice as aforesaid, by any reason of any error, electronic or otherwise.

Article X EVIDENCE OF DEBT

ICICI 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 Transaction Documents.

In any legal action or proceedings arising out of or in connection with the Facility Agreement, the entries made in the accounts maintained by ICICI Bank, shall be prima-facie and conclusive evidence of the existence and amount of obligations of the Borrower(s) as therein recorded, including for the purpose of IBC.

Article XI GOVERNING LAW AND JURISDICTION

- 11.1. The Borrower(s) agrees that only the courts and tribunals of competent jurisdiction at the place mentioned in Schedule I shall have exclusive jurisdiction with respect to any suit, action or any other proceedings ("**Proceedings**") arising out of or in relation to this Facility Agreement. The Borrower(s) irrevocably waives any objection, now or in future, to the jurisdiction of the courts and tribunal specified herein.
- 11.2. Nothing contained in this clause shall limit any right of ICICI Bank to, commence any legal action or Proceedings arising in relation to the Facility or the Transaction Documents in any other court, tribunal or other appropriate forum, competent jurisdiction and the Borrower(s) hereby consents to that jurisdiction.

Article XII ASSIGNMENT

- 12.1. The Borrower(s) shall not assign or transfer all or any of its rights, benefits or obligations under the Transaction Documents without the approval of ICICI Bank. Notwithstanding anything contained in the Transaction Documents, ICICI Bank shall be entitled to, at any time, assign, novate or transfer, the whole or part of its outstanding or commitment in one or more tranches, and all any of its rights, benefits and obligations, under the Transaction Documents (including security interest) to any person, without the prior approval of the Borrower(s). Notwithstanding any such assignment or transfer, the Borrower(s) shall, unless otherwise notified by ICICI Bank, continue to make all payments under the Facility Agreement to ICICI Bank and all such payments when made to ICICI Bank shall constitute a full discharge to the Borrower(s) from all its liabilities in respect of such payments.
- 12.2. The Borrower(s) acknowledges and confirms that in case of an assignment or transfer of the Facility (in part or full) by ICICI Bank, each of ICICI Bank, transferee and assignee shall be deemed to have provided independent facilities under the Facility Agreement. Each of ICICI Bank, transferee and 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.
- 12.3. Without prejudice to the aforesaid provision, ICICI Bank may, without notice to the Borrower(s), share the credit risk of the whole or a part of the Facility with any person by way of participation. Notwithstanding such participation, all rights, title, interests, special status and other benefits and privileges enjoyed or conferred upon or held by ICICI Bank under the Transaction Documents shall remain valid, effective and enforceable by ICICI Bank on the same terms and conditions and the Borrower(s) shall continue to discharge in full all its obligations under the Transaction Documents to ICICI Bank. The Borrower(s) shall not have and shall not claim any privity of contract with such participating bank on account of any reason whatsoever.

Article XIII SEVERABILITY

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

Article XIV DISCLOSURE

- 14.1. The Borrower(s) agrees, accepts and consents for the disclosure and sharing by ICICI Bank of all or any information and data relating to the Obligors or any credit facilities, including but not limited to Financial information, information relating to default, if any, committed by the Obligors, in the discharge of the Obligor's obligations, as ICICI Bank may deem appropriate and necessary to disclose and furnish, to RBI and/or any agency/credit bureau authorized in this behalf by RBI, to information utilities, to its professional advisers and consultants and to its service providers, third party or otherwise, through written or oral communication including paper publication (with or without photographs) and/or as required under applicable law, at the order of a court of law, or any statutory,

- regulatory or supervisory authority of any jurisdiction.
- 14.2. The Borrower(s) 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 ICICI Bank in such manner as deemed fit by them in any particular circumstances and shall not hold ICICI Bank responsible or liable in this regard.
 - 14.3. The Borrower(s) further gives consent to ICICI Bank, to recover/set off any fees required to be paid by ICICI Bank to the information utilities, for availing their services in relation to the Facility, from the disbursements made to the Borrower(s) by ICICI Bank, from time to time.
 - 14.4. ICICI Bank, its group companies, agents/representatives would be entitled to provide the Borrower(s), its promoters, directors and employees, information on various products, offers and services through any mode (including through telephone calls / SMS / emails).

Article XV

TERMS AND CONDITIONS APPLICABLE FOR SPECIFIC FACILITIES

PART A

FORMING PART OF THE FACILITY AGREEMENT WITH DOCUMENT REFERENCE NUMBER _____

Terms and Conditions Applicable for FCNR(B)

1. DEFINITIONS

- (i) “**FCNR(B) Loan Scheme**” shall mean the regulatory framework (established by the RBI) in relation to ‘authorized dealer’ banks in India extending foreign currency loans to Indian residents against the deposits held in FCNR (B) accounts amended, modified or replaced from time to time.
- (ii) “**FCNR(B) RBI Guidelines**” means all notifications, circulars and regulations on the subject of FCNR (B) issued by the RBI including the Master Circular on Loans and Advances - Statutory and Other Restrictions issued by the RBI as amended, modified or replaced from time to time.

2. FACILITY

- (i) Upon the request of the Borrower(s), ICICI Bank has granted/ agreed to grant to the Borrower(s) FCNR(B) facility not exceeding an amount specified in the CAL (the “**FCNR(B) Facility**”).
- (ii) The FCNR(B) Facility shall be governed by, inter alia, FCNR(B) Loan Scheme, FCNR(B) RBI Guidelines and other applicable guidelines.
- (iii) The foreign currency amount would be the limiting factor and the Borrower(s)’s liability would accordingly be reckoned in the foreign currency in which the FCNR(B) Facility is denominated.
- (iv) The Borrower(s) is liable to pay interest and repay principal in the currency in which the FCNR(B) Facility have been denominated. In the event of any default in the payment of principal and / or interest on the Due Date of the FCNR(B) Facility, ICICI 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 ICICI 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.
- (v) 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(s) hereby agrees and confirms that the Borrower(s) shall further execute, sign and furnish all such documents, deeds and writings required by ICICI Bank to cover such increased value in terms of Indian Rupees:

3. PROVISIONS RELATING TO ALTERATION IN THE CURRENCY / CURRENCY OR INTEREST SWAPS

- (i) ICICI Bank may at any time, at its absolute discretion, substitute the original currency or its equivalent currency as the case may be, of the FCNR(B) Facility or any part thereof, with a new foreign currency or its equivalent currency. In such an event, the liability of the Borrower(s) in respect of the FCNR(B) Facility 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 ICICI Bank to the Borrower(s), which shall be final and binding on the Borrower(s).

- (ii) ICICI Bank may, at any time, at its absolute discretion, effect currency and / or interest rate swap for the FCNR(B) Facility or any part thereof provided / agreed to be provided under the Facility Agreement. In such an event, the liability of the Borrower(s) in respect of the FCNR(B) Facility 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 FCNR(B) Facility or such part thereof, shall be as intimated by ICICI Bank to the Borrower(s), which shall be final and binding on the Borrower(s).

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(s) shall make payments to ICICI Bank, whether of principal amount of the FCNR(B) Facility, interest, 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 ICICI Bank charges and out of pocket expenses as determined by ICICI Bank.
- (ii) The Rupee sum shall be paid by the Borrower(s) to ICICI Bank 10 Business Days in advance of the Due Dates to enable ICICI Bank to remit the foreign currencies on the Due Dates.
- (iii) The Rupee sum shall be paid by the Borrower(s) to ICICI Bank in the relevant Account or if so required by ICICI Bank at their office in Mumbai or to such other places as may be specified by them by telegraphic, telex or mail transfer to the account of such offices or by cheque / bank draft drawn in favour of ICICI Bank at Mumbai or such other places and shall be so paid as to enable ICICI 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 ICICI 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(s) to ICICI Bank and the actual amounts incurred by ICICI Bank as referred to in Sub-clause (i) above shall be borne by or be given credit to the Borrower(s).
- (vii) If ICICI Bank decides not to call for payment in equivalent Rupees in the manner provided above, ICICI Bank shall have the right to notify the Borrower(s) 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(s).

5. RUPEE TYING OF DEFAULTED AMOUNTS

- (i) Without prejudice to any of the obligations of the Borrower(s) in terms of the Facility Agreement, in the event of default by the Borrower(s) in making payment in discharge of any of its obligations under the Facility Agreement on the Due Dates, then, notwithstanding anything to the contrary contained in the Facility Agreement, the liability of the Borrower(s) thereafter in respect of such amounts may be converted to Rupees, which sums shall be determined and notified by ICICI Bank to the Borrower(s) (the "**Rupee Tied Defaulted Amounts**").
- (ii) 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 Facility Agreement and shall be payable on the Due Dates for payment of interest under the Facility Agreement.

Part B

FORMING PART OF THE FACILITY AGREEMENT WITH DOCUMENT REFERENCE NUMBER _____

Terms and Conditions Applicable for Capex Letters of Credit

1. DEFINITIONS

Unless there is anything repugnant to the subject or context thereof, the expressions listed below shall have the following meanings viz.:

- (i) **"Amounts Devolved"** means the sum of the payments due from the Borrower(s) under all the LCs for which the Documents have been presented to and paid by ICICI Bank but reimbursement thereof has not yet been made by the Borrower(s) to ICICI Bank.
- (ii) **"Applicable Rate of Exchange"** means -
 - a. in case a forward exchange contract / swap has not been booked by the Borrower(s) with ICICI Bank, the applicable foreign currency bill selling rate of ICICI 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;
 - b. the forward exchange contract / swap rate in case a forward exchange contract / swap has been booked by the Borrower(s) with ICICI Bank.
- (iii) **"Bills"** means, as the context may permit or require, any or each of the bills of exchange drawn under the LCs.
- (iv) **"Date of Crystallisation"** means the 10th day after the date of receipt of Documents by ICICI 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.
- (v) **"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.
- (vi) **"Documentary Credit Application"** means, as the context may permit or require, any or each of the Borrower(s)'s application(s) to ICICI Bank for opening LCs and all supporting documents furnished by the Borrower(s) in respect thereof to ICICI Bank.
- (vii) **"Goods"** means the relevant goods described in the Documentary Credit Application.
- (viii) **"LC Outstanding"** means the sum of the value of all the LCs opened by ICICI Bank on behalf of the Borrower(s) for which the Documents have not been presented to ICICI Bank as well as the LCs where documents are received but are not due for payment / outstanding for payment.
- (ix) **"Capex Letters of Credit" or "LCs"** means, as the context may permit or require, any or each of:
 - a. Usance LCs and / or Sight LCs, both inland and foreign,
 - b. Usance LCs and / or Sight LCs, only foreign,
 - c. Usance LCs and / or Sight LCs, only inland,
 Issued / opened by ICICI Bank as per the Documentary Credit Application to ICICI Bank for opening LCs and all supporting documents furnished by the Borrower(s) in respect thereof to ICICI Bank.
- (x) **"Sight LCs"** means the LCs which provides for payment by ICICI Bank to the negotiating bank on presentation of relevant Documents drawn under the LCs.
- (xi) **"Suppliers"** means the suppliers of Goods as per the terms of the LCs.
- (xii) **"SWIFT"** means Society for World Wide International Financial Telecommunications, which expression shall include its successors and assigns.
- (xiii) **"Usance LCs"** means the LCs which provides for payment by ICICI Bank on maturity as per the terms of the LCs.

2. LC FACILITIES

ICICI Bank has, at the request of the Borrower(s), agreed to open Capex Letters of Credit ("LC") in foreign currencies and / or in Rupees in favour of the Suppliers for amounts to the maximum extent of the amount specified in the CAL (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 specified in CAL.

3. PAYMENT AND INTEREST

- (i) The Borrower(s) 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(s) in paying the Bills / amounts paid / payable by ICICI Bank in respect of the LCs on the Date of Crystallisation, ICICI Bank is called upon / required / expected to pay or has paid, all or any of the monies in pursuance of the LCs, the Borrower(s) shall forthwith pay / reimburse to ICICI Bank, all amounts payable or as the case may be, paid by ICICI Bank under the LCs together with all interest, costs, charges, expenses and monies whatsoever stipulated in or payable under the Transaction Documents. ICICI Bank shall be entitled, at its sole discretion, without any further consent from the Borrower(s), to debit any of the account/s of the Borrower(s) with ICICI Bank, with the amount of any payments ICICI Bank is required to make / makes under or in respect of the LCs, as also all interest, commission, charges and other monies payable by the Borrower(s) in respect of the LCs.

4. BORROWER(S)'S CONFIRMATIONS

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

- (i) ICICI Bank may in its sole and absolute discretion and without reference to the Borrower(s) and without ICICI Bank being required to ascertain whether or not there was any breach on the part of the Borrower(s) of the agreements / contracts underlying the LCs and without ICICI Bank being required to go into the validity thereof or otherwise and notwithstanding any directions to the contrary given by the Borrower(s) or any other person on the ground of a dispute as to the liability of the Borrower(s) or otherwise, admit or compromise and pay or submit to arbitration or dispute or resist any claim or demand made against ICICI Bank under or in respect of such LCs and the benefit of the Facility Agreement shall continue to be available to ICICI Bank in respect of any action or repayment which ICICI Bank may take or make in respect of such LCs / LC Facilities.
- (ii) The Borrower(s) 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 ICICI 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 ICICI Bank against valid import licences, 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(s) shall, if so required by ICICI Bank, furnish projected cash flow statements; In addition, ICICI Bank shall be entitled to also call for opinion reports from reputed information exchange bureaus acceptable to ICICI Bank, like Dun and Bradstreet, or from other banks / institutions in India or overseas at the costs and expenses of the Borrower(s).
- (vii) ICICI Bank shall issue LCs only in a form acceptable to ICICI Bank.
- (viii) The Borrower(s) shall make adequate arrangement for retiring the Documents under the LC Facilities and does not contemplate to seek any financial assistance from ICICI Bank for such purpose, unless otherwise previously arranged with ICICI Bank.
- (ix) The Borrower(s) shall have furnished to ICICI 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(s); or (c) Indent / offer from Supplier or his authorised agent together with the exchange control copy of the relative Import licence; or (d) Any other documents as may be specified by ICICI Bank from time to time.
- (x) The Borrower(s) shall submit to ICICI 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(s) requests ICICI Bank to issue delivery order ("DO") pending receipt of Documents to enable the Borrower(s) to clear the Goods covered under the LCs, the Borrower(s) shall:
 - a. accept and retire the Documents irrespective of any discrepancy on receipt or on due date without any demur whatsoever;
 - b. indemnify and keep ICICI Bank indemnified against any liability, loss, damages, costs and expenses (including costs between attorney and client) awarded against or incurred or paid by ICICI Bank as a result of or in connection with ICICI Bank issuing DO and / or the Borrower(s) refusing to accept any discrepancy in the Documents on receipt or on due date.
- (xii) In the event agency commission is payable in India or abroad, the Borrower(s) shall deduct the same and request ICICI 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(s) shall promptly effect the payment of such commission in equivalent Rupees out of its own resources and submit to

ICICI Bank the receipt(s) from the local agents of such Suppliers.

- (xiii) (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 ICICI Bank under the LC Facilities as registered in the records of ICICI Bank shall be conclusive and binding on the Borrower(s); (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 Importer Exporter Code (IEC) number assigned by the Director General of Foreign Trade; (e) it is authorised to undertake imports of the Goods, wherever applicable; (f) 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;
- (xiv) the LCs may be amended and / or modified by ICICI Bank in its absolute discretion, including for an increased limit on the Borrower(s) giving ICICI 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(s) 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;
- (xv) (xv) the LC Facilities shall be utilised only for the purpose as has been disclosed to ICICI Bank in Documentary Credit Application, unless otherwise previously permitted by ICICI Bank in writing;
- (xvi) ICICI Bank shall be entitled, at its sole discretion and without any reference to and / or consent of the Borrower(s), to make payment of the Bills under the LCs on presentment thereof or on the due date thereof;
- (xvii) notwithstanding the possibility, existence, pendency or continuance of any dispute or differences or of any arbitration proceedings or of any suit or other legal proceedings whatsoever between the Borrower(s) and the beneficiary or beneficiaries 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) directly or indirectly connected with or relating to or arising out of subject matter(s) of the LCs, the reasonableness or propriety or validity of any such payment shall be conclusive and binding on the Borrower(s) so far as concerns the Borrower(s)'s liability to ICICI Bank under the Facility Agreement.
- (xviii) In respect of Goods, their documents of title, or other Documents in favour of ICICI Bank / held by ICICI Bank or released by ICICI Bank in its sole discretion at the request of the Borrower(s), the Borrower(s) agrees, confirms and undertakes that :
 - a. the Borrower(s) shall receive, hold and store the underlying Goods and / or their documents of title and / or any other Documents delivered by ICICI Bank to the Borrower(s) as trust agents for ICICI Bank until sale and as such trust agents, sell the Goods (if so required by ICICI Bank, at such price as ICICI Bank may approve) and upon sale and as long as any monies remain due to ICICI Bank, hold the sale proceeds in trust for ICICI Bank and immediately upon receipt thereof, pay the said proceeds to ICICI Bank without any deduction and at the same time, advise ICICI Bank of the account and the transaction in respect of which such payment is made;
 - b. ICICI Bank shall have full authority to demand and receive from any person(s) the purchase money of the Goods or any part thereof;
 - c. the Borrower(s) shall at its own cost insure and keep the Goods insured to their full value against such risks and with such insurers acceptable to ICICI Bank, and hold the policies in trust on behalf of ICICI Bank and in the name of ICICI Bank, and if required assign or ensure that ICICI Bank's name is noted as first loss payee, and deliver the policies to ICICI Bank and ensure payment to ICICI Bank of all sums payable by the insurers under or in respect of such policies;
 - d. the Borrower(s) shall store / keep the Goods separate and shall not raise any finance against the same without the approval of ICICI Bank and the Goods shall be excluded from the value of stocks for arriving at drawing power for availing fund based financial assistance;
 - e. ICICI Bank, its officers, servants and agents shall be at liberty at all times without notice to the Borrower(s), to inspect the Goods and retake possession or demand redelivery thereof to ICICI Bank (which the Borrower(s) undertakes to give on demand) and remove and sell the same at such price, in such manner and upon such terms and conditions as ICICI Bank may in its absolute discretion think fit and otherwise to take whatever steps ICICI Bank consider expedient for the protection of their interest therein and enforcement and realization of security;
 - f. the Goods shall, in addition to the Security set out in the CAL, be a security to ICICI Bank for the payment of all monies payable to ICICI Bank from the Borrower(s) under the LC

- Facilities and all monies in respect thereof under the Transaction Documents;
- g. the Goods shall, in all respects, be treated by the Borrower(s) in its books, as belonging to and held on behalf of ICICI Bank.
 - (xix) if for any reason whatsoever the liability of ICICI Bank extends beyond the validity period specified in the LCs, or if ICICI Bank is prevented by any action initiated by the Borrower(s) or otherwise, from making payment of part or whole of the amounts under the LCs, the Borrower(s) shall be liable to pay commission also for the period for which ICICI Bank remains liable under the LCs and / or the period for which the payment of the amounts under the LCs / discharge from the obligations under the LCs has been delayed;
 - (xx) the Borrower(s) 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 ICICI Bank is restrained from making payment.

5. NO LIABILITY

The Borrower(s) 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)'s risk. ICICI 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.

6. INDEMNITY

In addition to the indemnity provisions contained elsewhere in the Transaction Documents, the Borrower(s) shall indemnify, keep indemnified and save ICICI Bank against any liability, loss, damages, costs, which ICICI Bank may incur or suffer in connection with the LC as a result of:

- (i) 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;
- (ii) release to the Borrower(s), on trust, of the Goods, movables and other assets pledged to ICICI Bank notwithstanding any discrepancy between the price, quantity and quality of the Goods and the price, quantity and quality specified in the contract;
- (iii) Borrower(s)'s act, default or omission or of the Borrower(s)'s servants or employees or other person acting on behalf of the Borrower(s) in respect of goods, movables and other assets pledged to the Bank and released to the Borrower(s) on trust;
- (iv) ICICI Bank complying with the Borrower(s)'s instructions to deliver to the Borrower(s) or to the Borrower(s)'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;
- (v) ICICI Bank's complying with the Borrower(s)'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 ICICI 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;
- (vi) 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;
- (vii) any claim, loss or damage, costs, charges and expenses (including litigation expenses) whatsoever which may be brought or made against or sustained or incurred by ICICI Bank (and whether paid by ICICI Bank or not) or which ICICI Bank may become liable under or in respect of the LCs;
- (viii) action or proceedings made or brought against ICICI Bank, its correspondents or confirming banks or agents in connection with the LC;
- (ix) ICICI Bank, its correspondents or confirming banks or agents having established the LCs;
- (x) every payment made, obligation, liability, loss and damage, penalties, taxes, etc. whatsoever undertaken or incurred or suffered by ICICI Bank (whether directly or indirectly) under or in connection with and / or arising from all or any or some of such LCs;
- (xi) ICICI 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.

7. SALE OF GOODS

- (i) On the happening of any of the Events of Default, ICICI 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(s) (which the Borrower(s) 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 ICICI 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 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 ICICI Bank in respect of any payment made by ICICI Bank under the LC Facilities for the account of the Borrower(s), and interest thereon and all costs charges and expenses as hereinabove mentioned. The Borrower(s) shall accept ICICI 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. ICICI Bank shall not be liable to the Borrower(s) for any loss which may occur pending sale or disposal of the Goods and / or document of title of the 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(s) agrees and undertakes to sign, execute and deliver to ICICI Bank from time to time on demand made by ICICI Bank, such further or other deeds, documents and writings and do all such acts, matters and things as may be required by ICICI Bank for better perfecting the title of ICICI Bank to the Goods so as to render the same readily saleable or transferable by ICICI Bank to any purchaser(s) at all time.

Part C

FORMING PART OF THE FACILITY AGREEMENT WITH DOCUMENT REFERENCE NUMBER _____

Terms and Conditions Applicable for Letter of Undertaking (LOU)

1. DEFINITIONS

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

- (i) **"Applicable Rate of Exchange"** means:
 - a. in case a forward exchange contract /swap has not been booked by the Borrower(s) with ICICI Bank, the applicable foreign currency bill selling rate of ICICI Bank prevailing on the date falling one (1) Business Day prior to the LOU Payment Date. Provided however, 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(s) with ICICI Bank.
- (ii) **"Buyer's Credit Facility"** means the credit facility granted to the Borrower(s) on the comfort of the LOU(s) issued by ICICI Bank.
- (iii) **"Buyer's Credit Lender"** means an offshore lender granting the Buyer's Credit Facility to the Borrower(s).
- (iv) **"Crystallized Rupee Amount"** means the Rupee sum of the payments due from the Borrower(s) under all the LOUs for which the Documents have been presented to and paid by ICICI Bank but reimbursement thereof has not yet been made by the Borrower(s) to ICICI Bank.
- (v) **"Documents"** mean the underlying agreements / contracts in relation to the LOUs and documents as specified under the LOUs in respect of which Buyer's Credit Facility has been issued by a Buyer's Credit Lender on behalf of the Borrower(s) (including all bills) and drawn up in accordance with the terms of LOUs and/or the documents as specified under / or in connection with co-accepted bills.
- (vi) **"LOU Outstanding"** means the sum of the value of all the LOUs issued by ICICI Bank on behalf of the Borrower(s) which are not due for payment / outstanding for payment or in respect of which there is no claimed amount.
- (vii) **"LOU Payment Date"** shall mean in respect of an LOU, the date of maturity of ICICI Bank's obligation under such LOU.

- (viii) **“Notice of Drawdown”** means, as the context may permit or require, any or each of the Borrower(s)’s application(s) to ICICI Bank for opening/issuing Letter(s) of Undertaking under the LOU Facility and all supporting documents furnished by the Borrower(s) in respect thereof to ICICI Bank.
- (ix) **“SWIFT”** means Society for World Wide International Financial Telecommunications, which expression shall include its successors and assigns.

2. LOU FACILITIES

At the request of the Borrower(s), ICICI Bank has agreed to issue letter(s) of undertaking (**“LOU(s)”**) in foreign currencies in favour of the Buyer’s Credit Lender to the extent of the amount specified in the CAL (the **“LOU Facility/ies”**, which expression shall, as the context may permit or require, mean any or each of such LOU Facilities) from time to time.

Provided however, the total of LOU Outstanding and Crystallized Rupee Amount together with all costs, charges and expenses whatsoever payable or paid, suffered or incurred by ICICI Bank in respect of or in relation to or arising out of the obligation under the LOU Facility shall not at any point of time exceed the amount specified in the CAL.

3. PAYMENT AND INTEREST

- (i) The Borrower(s) irrevocably agrees and confirms to ICICI Bank that not later than 1 (one) Business Day before the LOU Payment Date, it shall unconditionally pay to ICICI Bank, without demur or protest, the Crystallized Rupee Amount, together with all costs, charges and expenses whatsoever payable or paid, suffered or incurred by ICICI Bank in respect of or in relation to or arising out of the obligation under the LOU Facility.
- (ii) If the Borrower(s) fails to pay the Crystallised Rupee Amount together with all costs, charges and expenses payable in respect thereof on or before the date falling one (1) Business Day prior to the LOU Payment Date, then notwithstanding anything contained herein, the amounts paid by ICICI Bank under the LOUs, and not forthwith reimbursed by the Borrower(s), shall constitute a demand loan and the failure by the Borrower(s) to repay such amounts shall constitute an Event of Default and ICICI Bank shall be entitled to exercise any of the rights and remedies available to it under the Transaction Documents and/or under applicable law upon the occurrence of an Event of Default, including but not limited to, the right to levy interest/commission on such amounts at the additional rate specified by ICICI Bank. ICICI Bank shall also be entitled, at its sole discretion, without any further consent from the Borrower(s), to debit any of ICICI Bank account of the Borrower(s) with any of the branches of ICICI Bank, with the amount of any payments ICICI Bank is required to make / makes under or in respect of the LOUs, as also all interest, commission, charges and other monies payable by the Borrower(s) in respect of the LOUs.
- (iii) Notwithstanding the above and without prejudice to ICICI Bank’s other rights and remedies under this Facility Agreement, ICICI Bank shall be at liberty to crystallise on the date falling one (1) Business Day prior to the LOU Payment Date, the Borrower(s)’s outstanding liability in respect of the LOUs by converting the foreign currency amount into Rupees, whereupon the Borrower(s) shall forthwith pay / reimburse to ICICI Bank the Indian Rupee equivalent of such foreign currency amount as calculated at the Applicable Rate of Exchange in respect of such LOUs (the **“Defaulted Amounts - FC LOU”** or **“Defaulted Amounts”**) and until such payment by the Borrower(s), the same shall, unless otherwise agreed to by ICICI Bank in writing, be deemed to be on-demand loan to the Borrower(s) and shall, without prejudice to any other rights and remedies available to ICICI Bank, carry interest, at the Additional Interest Rate mentioned in the CAL which shall be over and above the Applicable Interest Rate (as specified in the CAL for term loan Facility), on and from the date of payment by ICICI Bank with monthly rests.
- (iv) Any difference on account of exchange fluctuations in the rates of foreign currencies involved between the payment made by the Borrower(s) to ICICI Bank and the actual amounts incurred by ICICI Bank shall be borne by or be given credit to the Borrower(s).
- (v) All payments made by ICICI Bank in foreign currencies may be, at the option of ICICI Bank, converted into Rupees with reference to the actual cost to ICICI Bank (including all commission or other bank charges and out-of-pocket expenses) in remitting the foreign currencies.

4. ADDITIONAL PROVISIONS IN RELATION TO LOU FACILITIES

(A) BORROWER(S)’S UNDERTAKINGS

The Borrower(s) further agrees, confirms and undertakes the following.

- (i) The Borrower(s) shall not amend or agree to amend or grant waiver of any of the provisions of the Documents in respect of which Buyer's Credit Facility has been issued by a Buyer's Credit Lender on behalf of the Borrower(s).
- (ii) The Borrower(s) shall duly and punctually observe, perform and comply with all the covenants, obligations and conditions of all the agreements / contracts underlying the LOUs including due payment and discharge of all its payment obligations under such contracts / agreements on the due dates.
- (iii) The Borrower(s) shall have furnished to ICICI Bank at the time of submitting a Notice of Drawdown, the following, duly completed:
 - a. Request letter along with a trade credit form in the format specified by ICICI Bank;
 - b. Bill of lading (B/L) or Airways bill;
 - c. Invoice copy;
 - d. Offer letter from a foreign bank (Buyer's Credit Lender) and/ or any other document as may be required by ICICI Bank.
- (iv) The Borrower(s) shall submit to ICICI Bank the exchange control copy of the relative customs bills of entry within the time limit stipulated by RBI.
- (v) In the event agency commission is payable in India or abroad, the Borrower(s) shall deduct the same and request ICICI Bank to open the LOU/s for the net amount of the contract value.
- (vi) If for any reason whatsoever, the liability of ICICI Bank extends beyond the validity period specified in the LOUs or if ICICI Bank is prevented by any action initiated by the Borrower(s) or otherwise from making payment of part or whole of the amounts under the LOUs, the Borrower(s) shall be liable to pay commission also for the period for which ICICI Bank remains liable under the LOUs and/or the period for which the payment of the amounts under the LOUs / discharge from the obligations under the LOUs has been delayed;
- (vii) The Borrower(s) shall provide / deposit immediately on demand and without demur, additional acceptable security to ICICI Bank and/or sufficient amounts by way of 100% cash margin on the amounts of the LOU/s in respect of which ICICI Bank is restrained from making payment, or in respect of which, in ICICI Bank's opinion, ICICI Bank is likely to become liable to pay amounts to the beneficiaries thereunder. The Borrower(s) shall accept ICICI Bank's judgement on such likelihood as final and binding.
- (viii) In the event of the interest rate/commission on the principal amount of the financial assistances guaranteed by ICICI Bank increases for any reason whatsoever beyond the percentage specified in the underlying agreements / contracts and consequentially the liability and obligation of ICICI Bank under the LOU/s increases, the Borrower(s) shall indemnify and keep indemnified ICICI Bank to the extent of additional interest/commission liability paid in such form as may be determined by ICICI Bank.

(B) CONFIRMATION BY BORROWER(S)

The Borrower(s) further agrees, confirms and declares that:

- (i) 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;
- (ii) it has a valid Importer Exporter Code (IEC) number assigned by the Director General of Foreign Trade;
- (iii) it is authorised to undertake imports of the Goods, wherever applicable;
- (iv) the transaction covered under the LOU 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;
- (v) the LOUs may be amended and/or modified by the ICICI Bank in its absolute discretion, including for an increased limit on the Borrower(s) giving the ICICI Bank written instruction for the same and in such an event, such amendment/ modification will be deemed to form part of the relevant Notice of Drawdown and will be governed by the terms hereof and the Borrower(s) 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 LOUs;
- (vi) the LOU Facilities shall be utilised only for the purpose as has been disclosed to ICICI Bank in the Notice of Drawdown;
- (vii) ICICI Bank shall be entitled, at its sole discretion and without any reference to and/or consent of the Borrower(s), to make payment under the LOUs on the LOU Payment Date;
- (viii) Notwithstanding the possibility, existence, pendency or continuance of any dispute or

differences or of any arbitration proceedings or of any suit or other legal proceedings whatsoever between the Borrower(s) and the beneficiary or beneficiaries of the LOUs which may directly or indirectly arise out of or under or in connection with the subject matters of the LOUs or which may affect the legality or validity of the LOUs and/or any transactions directly or indirectly connected with, or relating to or arising out of subject matters of the LOUs, the reasonableness or propriety or validity of any such payment shall be conclusive and binding on the Borrower(s) so far as concerns the Borrower(s)'s liability to ICICI Bank under this Facility Agreement;

- (ix) On making payment of the Crystallised Rupee Amount together with all costs, charges and expenses payable in respect of the LOUs the Borrower(s) shall ensure that all security interest of the Buyer's Credit Lender over any assets of the Borrower(s) shall stand vacated;
- (x) ICICI Bank may, in its sole and absolute discretion and without reference to the Borrower(s), and without ICICI Bank being required to ascertain, whether or not there was any breach on the part of the Borrower(s), of the agreements / contracts underlying the LOUs and without ICICI Bank being required to go into the validity thereof, or otherwise and notwithstanding any directions to the contrary given by the Borrower(s) or any other person on the ground of a dispute as to the liability of the Borrower(s) or otherwise, admit or compromise and pay, or submit to arbitration or dispute or resist any claim or demand made against ICICI Bank under or in respect of such LOUs; and the benefits of this Facility Agreement and provisions hereunder shall continue to be available to ICICI Bank in respect of any action or repayment which ICICI Bank may take or make in respect of such LOUs or LOU Facilities;
- (xi) The LOUs will be opened by ICICI Bank only as per the provisions of applicable laws and regulations including exchange control norms laid down by RBI and import trade regulations;
- (xii) ICICI Bank shall issue LOUs only in a format acceptable to ICICI Bank.

(C) INDEMNITY

In addition to the indemnity provisions contained elsewhere in the Transaction Documents, the Borrower(s) shall indemnify, keep indemnified and save ICICI Bank against:

- (i) all actions, proceedings, claims, demands, duties, penalties, taxes, losses, costs, damages, charges and expenses (including litigation costs and expenses) and other liabilities whatsoever which may be brought or made against or sustained or incurred by ICICI Bank (and whether paid by ICICI Bank or not) or which ICICI Bank may become liable for, under or in respect of the LOUs;
- (ii) action or proceedings made or brought against or any liability or loss incurred or suffered by, ICICI Bank, its correspondents or confirming banks or agents by reason of it having established the LOUs;
- (iii) every payment made, obligation, liability, loss and damage, penalties, taxes, etc. whatsoever undertaken or incurred or suffered by ICICI Bank (whether directly or indirectly) under or in connection with and/or arising from all or any or some of the LOUs.

