

MASTER FACILITY AGREEMENT

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(To be stamped as Agreement, Indemnity, Power of Attorney)

This Agreement made and executed and/or deemed to be executed on the dates and at the places mentioned in Schedule I annexed hereto between the Borrower as described in the Schedule I annexed hereto, hereinafter referred to as "**the Borrower**"

and

KOTAK MAHINDRA BANK LTD., a banking Company incorporated under the provisions of the Companies Act 1956, and having been granted banking licence under the provisions of Section 5(c) of the Banking Regulation Act, 1949(10 of 1949) and having its registered office at 27 BKC, C 27, G Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400051 and a branch office amongst other places at the address specified in Schedule I annexed hereto, hereinafter referred to as "**the Bank**" (which expression shall unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns)

WHEREAS:-

- (a) The Borrower has requested the Bank for the sanction of Working Capital Facility / Facilities for the express purpose as discussed between them or as set out on the Borrower's Application / Request Letter (hereinafter referred to as "**the Request**").
- (b) Pursuant to such Request, and on the terms and conditions contained in this Agreement and relying upon the representations, warranties and statements on the part of the Borrower contained herein or otherwise made to the Bank, the Bank has vide its letter ("**Sanction Letter**") agreed to grant / granted such Facility / Facilities upto the limits and on the terms and conditions more particularly specified in such Sanction Letter, a copy whereof is annexed as Schedule II hereto. The said Facility / Facilities may be disbursed to the Borrower either in lump sum or in such manner as has been / may be mutually agreed upon by the parties, and the Borrower has agreed to utilise the said Facility / Facilities for the purpose/es as mentioned in the Sanction Letter.
- (c) The terms and conditions on the basis of which the Bank has granted the Facility / Facilities are set out hereunder.
- (d) In the event that the Borrower requests the Bank for enhancement / reduction / revision / modification of existing Facility / Facilities and/or for grant of other Working Capital Facility / Facilities offered by the Bank, and the Bank agrees to enhance / reduce / revise / modify the

existing facilities and/or grant such other Working Capital Facility / Facilities, then such Working Capital Facility / Facilities shall be enhanced / reduced / revised / modified and/or granted by issue of Individual Facility Sanction Letter(s) and shall be governed by the provisions of this Agreement and the Product Schedule annexed as Schedule III hereto (if applicable), as may be modified from time to time.

ARTICLE 1 DEFINITIONS

- 1.1 In this Agreement, unless the context otherwise requires, the following terms shall have the following meanings :-
- 1.1.1 **"Agreement"** includes this Agreement together with all the Schedules annexed hereto, all amendments to this Agreement, Sanction Letter(s), Individual Facility Sanction Letter(s) and letters issued by the Bank to the Borrower which are deemed to be Sanction Letter / Individual Facility Sanction Letter for the purposes of this Agreement.
- 1.1.2 **"Assets"** shall mean all the movable/immovable assets/ properties including but not restricted to shares/ stock / bonds of the Borrower and shall also include the Borrower's entire raw materials, finished and semi-finished goods, stocks in process, consumable stores, book debts and receivables.
- 1.1.3 **"Authorized Signatory"** shall mean the Borrower or any person duly authorized by the Borrower to perform any act on behalf of the Borrower under this Agreement.
- 1.1.4 **"Bank Holiday"** means Sunday or Public Holiday as declared under the Negotiable Instruments Act, 1881 even though the Bank or any of its branches is open on that day.
- 1.1.5 **"Borrower's Dues"** means all amounts due under the Facilities or under each Individual Facility (depending on the context in which it may be used), including interest, additional interest, default interest, commitment charges, interest tax, prepayment charges, costs, charges, expenses, taxes, surcharges and other dues payable to Government / Semi- Government bodies, and include all other amounts whatsoever payable/repayable by the Borrower or the Guarantor(s) to the Bank under this Agreement and/or under their Guarantee(s) and/or in connection with the Facilities.
- "Business Day"** shall mean a day which is not a Sunday or a public holiday (as defined by Section 25 of the Negotiable Instruments Act, 1881).
- 1.1.6 **"Conditions Precedent"** shall refer to each and every condition precedent set out in Article 3 hereto.
- 1.1.7 **"Current Assets"** means the aggregate rupee value of the Borrower's cash (including cash at bank), raw materials, finished and semi-finished goods, book debts, consumable stores and marketable securities and includes any money owed to it and payable on demand or within one year from the date of computation, or as otherwise defined by the Bank and/or by guidelines of the RBI from time to time in force.
- 1.1.8 **"Current Liabilities"** means the aggregate rupee value of the Borrower's obligations to pay money within one year of the date of computation, or as otherwise defined by the Bank and/or by guidelines of the RBI from time to time in force.

- 1.1.9 **"Current Ratio"** means Current Assets divided by Current Liabilities as on date.
- 1.1.10 **"Debt Equity Ratio"** means total outside liabilities divided by Tangible Net Worth.
- 1.1.11 **"Debt Service Coverage Ratio"** means the sum of net profit and non-cash expenses and depreciation and interest divided by repayment obligations including interest over a period of one year or as otherwise defined by the Bank.
- 1.1.12 **"Drawing Power"** shall, for any Individual Facilities shall mean the least of (i) Sanctioned Limit for that Individual Facility, (ii) value of the Security provided for that Individual Facilities less margin or (iii) Operative Limit for that Individual Facilities as decided by the Bank based on its assessment.
- 1.1.13 **"Due Date"** means, in respect of any amount payable under any of the Facilities, the date on which such amount falls due in terms of the Master Facility Agreement and/or the Sanction Letter / Individual Facility Sanction Letter(s); and if such date falls on a day which is not a Business Day at the place where the payment is to be made, the immediately preceding Business Day.
- 1.1.14 **"Event of Default"** shall refer to the occurrence of any one or more of the events of default set out in Article 9 hereto.
- 1.1.15 **"Facilities"** shall mean the working capital facilities so sanctioned / agreed to be sanctioned either Fund Based or Non Fund Based in nature granted/agreed to be granted by the Bank to the Borrower as specified in the Sanction Letter and/or the Individual Facility Sanction Letter(s) or any variations thereto by issue of letters in writing by the Bank and on the terms and conditions set out therein.
- "Fund Based Facilities"** shall include Cash Credit Facilities, Overdraft Facilities, Short Term Loan Facilities, Term Loan Facilities, Bills Facilities and Export Pre-shipment / Post shipment Facilities.
- "Non-Fund Based Facilities"** shall include Letters of Credit Facilities, Bank Guarantee / SBLC Facilities and Co-acceptance of Bills Facilities.
- 1.1.16 **"Indebtedness of the Borrower"** means any indebtedness in respect of monies borrowed or liabilities contracted (including under guarantees, indemnities, hire purchase and leasing) of the Borrower towards the Bank and shall be deemed to include any indebtedness of any associate/affiliate of the Borrower or a person or entity related to the Borrower, towards the Bank and any indebtedness of the Borrower and/or of any associate/affiliate of the Borrower or a person and entity related to the Borrower towards any subsidiary/ associate/affiliate company of the Bank.
- 1.1.17 **"Individual Facility"** shall mean each of the various Facilities listed in the Sanction Letter aggregate of which is the Overall Limit. Each such Individual Facility may also be referred to as "Facility" for the sake of convenience and may be so interpreted depending on the context in which it is used.
- 1.1.18 **"Individual Facility Limit"** shall mean the limit of the Individual Facility as specified in the Individual Facility Sanction Letter or as maybe increased/decreased by the Bank from time to time and informed to the Borrower in writing.
- 1.1.19 **"Individual Facility Sanction Letter"** shall mean the letter from the Bank to the Borrower sanctioning any Individual Facility and the limit therein forming part of the Overall Limit or

any variation/s thereto from time to time by issue of letters in writing by the Bank, and such Individual Facility Sanction Letter shall be deemed to form a part of the Sanction Letter annexed as Schedule II hereto.

- 1.1.20 "**Law**" shall include all statutes, enactments, acts of legislature, laws, ordinances, rules, bye-laws, regulations, notifications, guidelines, policies, directions, directives and orders of any Government, statutory authority, court, tribunal, board or recognised stock exchange.
- 1.1.21 "**Lien**" shall mean any right, title or interest existing or created or purporting to exist or be created by way of or in the nature of sale, agreement to sell, pledge, hypothecation, licence, hire-purchase, lease, tenancy, mortgage, charge, co-ownership, trespass, squatting attachment or other process of any court, tribunal or authority, statutory liabilities which are recoverable by sale of property or any other third party rights or encumbrance generally including sale and lease back transactions and title retentions.
- 1.1.22 "**Material Adverse Effect**" shall mean a material adverse effect (i) on the assets, business, properties, liabilities, financial condition, results, operations or prospects of the Borrower; or (ii) on the ability of the Borrower to perform its obligations under this Agreement; or (iii) which materially impairs/diminishes the value of the Security.
- 1.1.23 "**Net Working Capital**" shall mean the aggregate rupee value of the Current Assets minus the Current Liabilities.
- 1.1.24 "**Outstanding Loan**" shall mean the aggregate amounts including accrued interest/charges due under the Facilities for the time being outstanding.
- 1.1.25 "**Overall Limit**" shall mean the aggregate of the limits of the various Individual Facilities as specified in the Sanction Letter or the Individual Facility Sanction Letter or as maybe increased / decreased by the Bank from time to time and informed to the Borrower in writing.
- 1.1.26 "**Person**" includes an individual, statutory corporation, body corporate, partnership, joint venture, association of persons, Hindu Undivided Family (HUF), societies (including co-operative societies), 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 a 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 trustees for the time being, the survivor or survivors of them and the heirs, executors and administrators of the last surviving trustee.
- 1.1.27 "**Product Schedule(s)**" means, as the context may permit or require, any or each of Schedule III hereto which contains additional terms and conditions in relation to specific working capital facilities.
- 1.1.28 "**Purposes**" shall mean the purposes as listed out in the Sanction Letter or the Individual Facility Sanction Letter or in Schedule III annexed hereto.
- 1.1.29 "**RBI**" means Reserve Bank of India.
- 1.1.30 "**Sanction Letter**" shall mean the letter issued / to be issued by the Bank sanctioning the Facilities and specifying the Overall Limit or any variations thereto from time to time by issue of letters in writing by the Bank to the Borrower, annexed as Schedule II hereto.
- 1.1.31 "**Schedule(s)**" shall mean the Schedule(s) annexed to this Agreement. (Whether numbered or otherwise)

- 1.1.32 **"Secured Assets"** shall mean and include all assets of the Borrower (whether moveable or immoveable) over which any Security (as defined below) is from time to time created in favour of the Bank for securing the Borrower's Dues.
- 1.1.33 **"Secured Third Party Assets"** shall mean all assets of a third party (whether moveable or immoveable) over which any Security (as defined below) is from time to time created in favour of the Bank for securing the Borrower's dues.
- 1.1.34 **"Security"** shall include a hypothecation / mortgage / pledge /charge over the Secured Assets and Secured Third Party Assets or any part thereof.
- 1.1.35 **"Security Provider"** shall mean a third party which provides or/ shall provide if the Bank requires at any time during the currency of the Facilities, Security for repayment of Borrower's Dues.
- 1.1.36 **"Tangible Net Worth"** means the rupee value of the excess of the aggregate of the paid-up share capital and the Borrower's net tangible tax-exempt reserves excluding capital revaluation reserves or reserves earmarked to meet specific liabilities over the aggregate of miscellaneous expenditure (to the extent not written off) and the debit balance of the profit and loss account, (being the accumulated losses) if any, and intangible assets, if any.
- 1.1.37 **"Transaction Documents"** include this Agreement together with all Schedules annexed hereto, all amendments to this Agreement, letters issued by the Bank to the Borrower which are deemed to be Sanction Letter / Individual Facility Sanction Letter for the purposes of this Agreement, the applications by the Borrower to avail of the Facilities and all other agreements, instruments, undertakings, indentures, deeds, writings and other documents (whether financing, security or otherwise), including but not limited to FIMMDA declaration, GR Forms, AWB/BL/LR, invoices etc. executed or entered into, or to be executed or entered into, by the Borrower or as the case may be, any other person, in relation, or pertaining to the transactions contemplated by, or under this Agreement and / or the other Transaction Document, and each such Transaction Document as amended from time to time.

Interpretation

- 1.2.1 The recitals contained in this Agreement and Schedules annexed hereto shall form an integral part of this Agreement.
- 1.2.2 The singular shall include the plural and vice versa.
- 1.2.3 Consent, permission, approval or no-objection (by whatever name called) of the Bank shall mean prior written consent of the Bank unless specifically agreed to otherwise by the Bank and so communicated to the Borrower.
- 1.2.4 All clause headings in this Agreement have been inserted for convenience of reference only and shall not affect the interpretation of the provisions of this Agreement.

ARTICLE 2
GRANT OF THE FACILITIES AND DISBURSEMENT

- 2.1 At the request of the Borrower, and subject to the terms and conditions as contained in the Sanction Letter and this Agreement the Bank hereby agrees to provide to the Borrower, all or some of the Facilities upto the Individual Facility Limit, however, within the Overall Limit, as specified in Schedule II annexed hereto, whereunder the Bank may from time to time disburse the Individual Facility amount either in lump sum or in such manner as has been / may be mutually agreed upon by the parties.
- 2.2 The Facilities shall be utilised only for the purpose specified in the Sanction Letter or the Individual Facility Sanction Letter, as the case may be, and the Borrower shall be required to provide end use statements on a quarterly basis or as may be mutually agreed upon by the parties to the Bank.
- 2.3 The terms and conditions of each Individual Facility shall be as more particularly listed out in the Sanction Letter / Individual Facility Sanction Letter(s) and the same shall be construed as forming an integral part of this Agreement. The Bank shall in its sole discretion be entitled to change the branch from where the Facilities are being granted to any other branch from time to time. The Facilities shall be repayable on demand at the sole discretion of the Bank.
- 2.3.1 The Sanction Letter and each Individual Facility Sanction Letter, as also the additional terms specified in the Schedules annexed hereto, shall be an integral part of this Agreement. The Bank shall be entitled to vary, and or interchange any of the Facilities (i.e. increase / decrease the Facilities / Individual Facility) sanctioned by issue of further letters to the Borrower as also the Overall Limit/ Individual Facility Limit(s). Such further letter(s) issued by the Bank modifying the terms of the Facilities shall be considered as a part of the Sanction Letter / Individual Facility Sanction Letter itself and any reference to the Sanction Letter / Individual Facility Sanction Letter herein shall be deemed to be a reference to such further letter(s) also. In the event of there being a conflict between the Individual Facility Sanction Letter and/or the Sanction Letter and/or this Agreement, then the Individual Facility Sanction Letter shall prevail over the Sanction Letter and this Agreement. In the event of a conflict between the Sanction Letter and this Agreement (and in cases wherein Schedule III has not been executed), the Sanction Letter shall prevail over this Agreement. In cases where Schedule III has been executed and there is any conflict between the Schedule III of this Agreement (which is also a part of this Agreement) and this Agreement, Schedule III and Sanction Letter, read in conjunction shall prevail over the rest of this Agreement. The Bank shall be entitled to alter/ vary/ modify the terms and conditions of this Agreement or the Sanction Letter or the Individual Facility Sanction Letter at any time by a notice in writing to the Borrower, either on its own accord or as maybe required by any Statutory Authority.
- 2.3.2 It is clarified that in case of Term Loan, Short Term Loan and Working Capital Demand Loan Facilities, Schedule III i.e. a separate Product Schedule will not be executed between the Borrower and the Bank. Without prejudice to the repayment terms of any other Facilities, it is agreed that in case of Term Loan, Short Term Loan and/or Working Capital Demand Loan, the Borrower shall repay the Facility (ies) to the Bank forthwith on demand, together with interest, costs, charges, expenses and monies whatsoever stipulated in or payable under the Agreement, the Sanction Letter / Individual Facility Sanction Letter and other Transaction Documents. Unless such demand is made, the Borrower shall repay the Facility (ies) on the date of expiry of the tenure of the Facility.
- 2.3.3 The Borrower shall at all times confine the drawings in each Individual Facility to the Drawing Power for that Individual Facility and in no case shall exceed such limit. The Bank may however, at its own discretion, allow drawings beyond the Drawing Power, including ad hoc / temporary facilities and/or Temporary Overdraft Facilities ("**TOD**"), for such time as may be considered necessary and shall at any time without notice call upon the Borrower to repay

such excess drawings. All rights and obligations of the Bank and the Borrower respectively hereunder and under any Individual Facility Sanction Letter or other documents shall extend to such drawings notwithstanding the specific limit stipulated. All the rights and securities created hereunder in favour of the Bank and the obligations of the Borrower thereunder will extend to cover the Borrower's liability to the Bank under any account whatsoever of the Borrower with the Bank, notwithstanding that such account may not relate to any particular Individual Facility agreed to be granted by the Bank to the Borrower.

ARTICLE 3 CONDITIONS PRECEDENT

The Bank shall not be obliged to disburse all or any of the Facilities unless and until:-

- 3.1 The Borrower has delivered to the Bank a certified true copy of the Borrower's constitutional documents viz., Memorandum and Articles of Association and Certificate of Incorporation or Deed of Partnership or true copy of such other document under which the Borrower is/are constituted/ incorporated (as the case may be), as amended up-to-date as also certified true copies of authorizations from the Board of Directors/ Resolution of the Partners/ Trustees for the purpose of availing the Facilities as also execution of the necessary documents in this behalf as also other documents as may be prescribed by the Bank from time to time; and
- 3.2 The Borrower has created and/or procured the creation of such security in favour of the Bank as the Bank may from time to time specify for the repayment / payment of the Borrower's Dues; and
- 3.3 The Borrower has executed and/or delivered to the Bank such demand promissory notes, guarantees and other documents as the Bank may from time to time require; and
- 3.4 The Borrower has paid the non-refundable service charges as mentioned in the Sanction Letter / Individual Facility Sanction Letter to the Bank.
- 3.5 The "Know Your Customer" (KYC) and such other conditions as may be prescribed by RBI from time to time, are complied with by the Borrower / Security Provider.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

- 4.1 The representations and warranties of the Borrower contained in Article 4 shall be true (i) on and as of the date hereof, shall be deemed to be repeated every day during the life of the Facilities and (ii) on and as of the date of each disbursement of any Individual Facility (as if made on such date). In the event of their being a change / variation in any of the Representation and / or Warranties, the Borrower shall intimate the same to the Bank in writing within a period of 48 hours from the time of such change / variation.
- 4.2 The Borrower represents and warrants to the Bank, prior to and upon the execution of this Agreement and at the time of disbursement / availment of any and or all of the Facilities, that:
 - 4.2.1 The Borrower is duly organized/ incorporated under the existing laws, validly existing, and in good standing;

- 4.2.2 The Borrower is authorised to enter into this Agreement, and this Agreement is a valid and binding obligation of the Borrower enforceable in accordance with its terms; and the execution and performance of this Agreement by the Borrower is lawful and does not constitute a default, acceleration or termination of any other agreement to which the Borrower is a party or breach of any judgment, decree, order or award.
- 4.2.3 All information provided by the Borrower to the Bank prior to the execution of this Agreement and at any time hereafter is and shall be true, complete, and accurate.
- 4.2.4 The Borrower is the sole owner of all the Assets shown on the Borrower's financial statements delivered to the Bank save and except as stated in the said financial statements.
- 4.2.5 Save and except as stated in Annexure I, and / or as specifically furnished/finalized reports and statements, there is no prior charge on its Assets in favour of any person.
- 4.2.6 The Borrower is solvent and capable of paying its obligations as and when they become due.
- 4.2.7 There is no litigation including winding up proceedings or governmental proceeding pending against the Borrower and the Borrower is not aware of any such proceeding being threatened, which could impair the Borrower's Tangible Net Worth or ability to perform t h i s Agreement.
- 4.2.8 The Borrower is in compliance with all the applicable laws.
- 4.2.9 The Borrower maintains and shall maintain accurate business and financial records and prepares and shall prepare its financial statements in accordance with generally accepted accounting principles.
- 4.2.10 In case the Borrower is a Company under the Companies Act:-
- (i) all corporate authorisations required for entering into this Agreement and the performing the transactions pursuant hereto have been obtained and are in force, and this Agreement and all transactions pursuant hereto are and will be in accordance with all applicable provisions of law; and
 - (ii) if applicable to the Borrower, the Borrower shall ensure that the borrowings of the Borrower pursuant hereto are and shall at all times be within the Borrower's limits provided under the applicable provisions of the Companies Act, and shall furnish documentary evidence thereof.
- 4.2.11 The Borrower will continue to comply and be in compliance with all Laws, regulations, guidelines, notifications, etc. pertaining to pollution control and/or environment that may be in force or issued by the authorities concerned from time to time The Borrower has not, and none of its directors, officers, agents or employees has/have, committed or omitted to do any act or thing the commission or omission of which is in contravention of any law including any applicable pollution control or environmental laws.

- 4.2.12 The Borrower is not, and none of its directors, officers, agents or employees is in default or has committed a breach of any agreement with any person who has provided loans or deposits or advances or guarantees or other financial facilities to the Borrower or at the Borrower's instance.
- 4.2.13 The Borrower and / or none of its Directors have been included in any list of defaulters by any regulatory / statutory authority and/or banks and/or financial institutions and/or Non-Banking Financial Companies etc.
- 4.2.14 The Borrower duly owns or holds valid and subsisting licences in respect of all trade names, tradem arks, patents, designs and other intellectual property used or intended to be used by the Borrower in the course of its business and the same are duly registered in the name of the Borrower and have not become voidable.
- 4.2.15 The Borrower duly owns or holds all other material consents, licenses, franchises, permits and authorisations necessary for the lawful conduct, ownership and operation, of its businesses, and the same are valid and subsisting and have not become voidable.
- 4.2.16 The Borrower declares and assures that all the present Assets to be mortgaged and/or hypothecated and/or pledged to the Bank are the absolute properties of the Borrower, are at the sole disposal of the Borrower and free from any material pledges, charge, liens, security interests, claims or other encumbrance, **save and except, as specified in Annexure I annexed hereto**. All the future Assets to be given as security to the Bank shall be likewise the unencumbered, absolute and disposable property of the Borrower. The Borrower shall not, hereafter, without the Bank's prior written permission lease or sell or exchange or create any mortgage, charge, lien or encumbrance of any kind upon or over its undertaking and/or Assets (including uncalled share capital or any part thereof) except to the Bank nor suffer any such mortgage, charge lien or encumbrance to affect the same or any part thereof nor do or allow anything to be done that may prejudice the security while the Borrower remains indebted or liable to the Bank in any manner. With respect to any Assets it leases, the Borrower holds a valid leasehold interest therein, free and clear of any Liens, is in compliance, in all material respects, with the terms of the applicable lease, and enjoys peaceful and undisturbed possession under such lease. All of the Borrower's Assets that are material to the conduct of its business as presently conducted or as proposed to be conducted are in good operating condition and repair, subject to ordinary wear and tear. The Borrower's inventory is in good and marketable condition, does not and will not include any material quantity of items, which are obsolete or damaged and is saleable in the normal course of the Borrower's business as currently conducted.
- 4.2.17 All representations and warranties of the Borrower in this Agreement shall survive the execution, delivery and termination of this Agreement, the consummation of the transactions contemplated hereby and the repayment of the amounts due under the Facilities and/or the Borrower's Dues hereunder.
- 4.2.18 The Borrower is aware that the Bank has entered into this Agreement and the Bank has ~~agreed~~ to grant the Facilities on the basis of the Borrower's representations, warranties, statements, undertakings and covenants contained in this Agreement and/or otherwise made to the Bank.

4..3 The Borrower shall have furnished to the Bank the Borrower's latest audited Profit and Loss Account and Balance Sheet including the latest quarterly audited/unaudited results of the Borrower.

- 4.4 The Borrower and/or the Guarantor(s):
- (a) shall, in consideration of the Bank agreeing to grant the Facilities to the Borrower, shall create such Security in favour of the Bank as specified in the Sanction Letter / Individual Facility Sanction Letter / Product Schedules hereto, or as the Bank may specify for the repayment/payment of all Borrower's Dues from time to time;
 - (b) shall arrange to procure / have executed such guarantees as may be required by the Bank;
 - (c) shall have obtained all consents/waivers/in principle approvals for the grant of consent, as may be required for the creation of the Security from other Banks to the Borrower's Security holders and/or any other person and shall have provided such consent letters to the Bank; and
 - (d) shall have executed and/or delivered to the Bank such documents as the Bank may require.
- 4.5 The Bank shall have the absolute right to decide whether or not it will accept as security for the purpose of any/some/all of the Facilities in respect of the Assets so secured /offered as security from time to time to the Bank by the Borrower/ Guarantor.
- 4.6 The Guarantor(s) shall have executed guarantee(s) in favour of the Bank in the Bank's format in respect of all amounts payable by the Borrower to the Bank under this Agreement and/or otherwise in connection with the Facilities and as maybe required by the Bank as per the Sanction Letter / Individual Facility Sanction Letter or as maybe required from time to time by the Bank.
- 4.7 The Borrower shall, if required by the Bank, have submitted to the Bank a certificate (in a form acceptable to the Bank) of a Statutory Auditor acceptable to the Bank certifying that all the aforesaid conditions precedent have been duly fulfilled, and such other things as the Bank may require.

ARTICLE 5 COVENANTS OF THE BORROWER

5. The Borrower hereby agrees and covenants as under:
- 5.1 The Borrower shall manage its finances in a sound and prudent manner and shall not impair its ability to perform this Agreement.
 - 5.2 The Borrower shall not guarantee or pay or provide any collateral for obligations of others unless specifically so permitted by the Bank.
 - 5.3 The Borrower confirms that so long as the Borrower continues to be indebted to the Bank under the Facilities, the Borrower shall not without the previous written consent of the Bank borrow any moneys from any other bank or from any other source whatsoever and whomsoever apart from temporary loans obtained in the ordinary course of business and shall so be conveyed to by the Borrower to the Bank.

- 5.4 Without the Bank's prior written consent, the Borrower shall not enter into, or be a party to, any transaction with any affiliate of the Borrower, except in the ordinary course of and pursuant to the reasonable requirements of the Borrower's business and upon fair and reasonable terms which are fully disclosed to the Bank in advance.
- 5.5 In case the Borrower is a partnership firm or a sole proprietary concern, the Borrower shall not change or permit any change of its constitution (which term includes the admission of any partner or the retirement of any partner for any reason other than the demise of that partner) without the Bank's prior written consent.
- 5.6 In case the Borrower is a company, there shall be no change in the shareholding pattern of the promoters, shareholders (including by issue of new shares and transfer of shares) or in the Borrower's management without the Bank's prior written consent.
- 5.7 The Borrower shall not change its name or trade name without the Bank's prior written consent.
- 5.8 The Borrower shall not without the prior written consent of the Bank change its accounting standards as well as its accounting year.
- 5.9 No change whatsoever in the constitution of the Borrower regardless of whether the same is with or without the consent of the Bank shall impair or discharge the liability of the Bank to the Borrower hereunder.
- 5.10 The Borrower shall not dispose of its assets or compromise with any of its creditors without the prior written consent of the Bank.
- 5.11 The Borrower agrees to accept as conclusive proof of the correctness of any sum claimed to be due from him/her/it/them to the Bank under this Agreement, (if not so refuted by the Borrower within a period of 7 days from receipt of the same, then) a statement made out from the books of the Bank and sent by the Manager/Agent/Accountant and/or other duly authorized officer of the Bank.
- 5.12 The Borrower shall conduct its business operations in compliance with all applicable laws and shall pay all taxes statutory / regulatory / otherwise other obligations when due.
- 5.13 The Borrower shall notify the Bank immediately of any:
- (a) Lawsuits, governmental proceedings, or claims which, individually or in the aggregate, involve an amount exceeding 10% of the Borrower's net worth or which may impair the Borrower's ability to perform this Agreement if the relief prayed for were granted.
 - (b) Occurrence of any Event of Default or any event which with the passage of time (with or without notice) or the giving of notice may result in an Event of Default.
- 5.14 All payment by the Borrower to the Bank hereunder or pursuant hereto shall be made without any deduction, set off or counterclaim (except such deduction of tax, if any, as may be required by law).

- 5.15 The Borrower hereby expressly agrees and covenants with the Bank that each Individual Facility shall be utilised exclusively for the purposes specified in the Individual Facility Sanction Letter and for no other purpose except with the prior written consent of the Bank and further not to use the Facilities for any anti-social, speculative or illegal purpose.
- 5.16 The Borrower expressly undertakes and covenants with the Bank that the Bank may, at the Bank's sole discretion, require from or award a mandate to the Borrower or to the Borrower's Auditors for a certification from the Borrower's Auditors on any of the issues relating to the Facilities including but not limited to the use, diversion or siphoning of funds by the Borrower and the Borrower shall cause the Borrower's Auditors to provide such certificate forthwith upon being so required by the Bank.
- 5.17 The Borrower agrees and undertakes to make all payment due under the Agreement on their respective due dates.
- 5.18 The Borrower agrees and undertakes not to hereafter effect or to purport to effect any Lien, alienation, sale, transfer, mortgage, charge, assignment, deal or other disposition of or encumbrance of, or purport to create any charge or encumbrance over the Security tendered to the Bank and also not to do any other act, which may prejudice the Bank's security or interests.
- 5.19 The Borrower shall carry on its business efficiently properly and profitably and such business shall be confined to such manufacturing, trading and/or other activity as have been notified to the Bank. The Borrower shall maintain proper books of accounts and such other registers, books, documents, relating to the business as may be statutorily required or as may be required by the Bank or as may be necessary and/or generally kept in the business of the kind carried on by the Borrower and shall get the accounts books duly audited and furnish to the Bank a copy of the audited statements and the auditor's report. The Borrower shall if so required by the Bank allow the Bank its officers, agents and nominees and/or qualified auditors and/or technical experts and/or management consultants as may be appointed by the Bank to inspect or audit such books of accounts, registers, books and documents and also furnish to the Bank at such intervals as the Bank may direct from time to time a schedule or copy of all the entries which shall have been made in such books.
- 5.20 The Borrower shall submit to the Bank periodically as required by the Bank copies of the Balance Sheet and Profit and Loss Account duly audited by a reputable firm of Accountants acceptable to the Bank, within 90 days from the close of the financial year and stock statements in the formats as may be prescribed by the Bank from time to time indicating correctly the quantity and value of the stocks and also statements of receivables indicating the names of the debtors amounts of the debts and the periods for which they are outstanding together with a certificate that the quantities and amounts stated are correct and that all stocks are fully covered by insurance unless such insurance is waived by Bank. The Borrower shall also furnish and verify all statements, reports, returns, certificates and information and shall also execute all documents and do all acts and things which the Bank may require to give effect to any of the terms and conditions set out herein or in the security documents or any of them that may be executed and the Borrower authorises the Bank and each of its agents and nominees as Attorney for and in the name of the Borrower to do whatever the Borrower may be required to do under this Agreement.
- 5.21 To comply with the covenants relating to maintenance or improvements of financial ratios relating to the balance sheet structure and profit appropriations as specified by the Bank hereunder and the Borrower agrees:

- 5.21.1 To maintain the current ratio and the Debt Service Coverage Ratio at such levels as the Bank may deem fit;
- 5.21.2 To submit financial data to the Bank as stipulated in Schedule I and Schedule II.
- 5.21.3 To comply with such other financial covenants that the Bank may stipulate from time to time.

The Bank may at its sole discretion decide to vary the aforesaid ratios and provide for maintenance of fresh financial ratios relating to the balance sheet structures and the Borrower shall be bound to comply with such new/revised financial ratios.

It is hereto agreed and clarified between the parties hereto, that in event of any dispute in relation to the interpretation or computation of the terms set out herein, the interpretation or computation of the Bank shall prevail and shall be binding on the Borrower.

- 5.22 To ensure that the Net Working Capital does not fall below the minimum amounts stipulated by the Bank from time to time.
- 5.23 The Borrower shall carry on the entire banking transactions of the business including merchant banking business through the Bank. In particular, the Borrower's entire foreign exchange business, inland bill business and deposits if any shall be placed with the Bank. The Borrower may, however, with the prior permission in writing of the Bank in this regard and to the extent allowed and on such other terms and conditions as may be stipulated deal with any other bank(s).
- 5.24 That the Borrower shall not pay any dividend in event of occurrence of any Event of Default.
- 5.25 The Borrower authorises the Bank to investigate the Borrower's creditworthiness and to obtain information about the Borrower, the Borrower's assets, the Borrower's financial condition whenever the Bank determines it to be necessary.
- 5.26 The Borrower will, when called upon to do so, satisfy the Bank that all Govt. Licences/approvals/consents are effective and in full force.
- 5.27 The Borrower shall not transfer funds/ assets to any group or associate company or concern.
- 5.28 The Borrower shall notify the Bank in writing at least 60 days in advance of any intended changes in the location of its office or principal place of business. The Borrower shall take such action as is required by the Bank prior to making the change.
- 5.29 In the event that auditors for the Borrower cease acting as the auditors for any reason, the Borrower shall promptly inform the Bank of the reasons for such change.

5.30 The Borrower shall not pay any commission to its promoters, directors, managers or other persons for furnishing guarantees, counter guarantees or indemnities or for undertaking any other liability at all times during the currency of the Facility so sanctioned by the Bank to the Borrower.

5.31 The Borrower shall not declare or pay any dividend or authorize or make any distribution to its shareholders: (a) unless it has paid all the dues in respect of the Facility up to the date on which the dividend is proposed to be declared or paid, or has made satisfactory provisions therefore, or (b) if an Event of Default has occurred and is subsisting or would occur as a result of such declaration or payment of dividend.

5.32 In case the Borrower has an occasion to apply to the Bank for any advances or other credit facilities at any branch, the Borrower shall make a full disclosure of all the then existing advances/ facilities, secured or unsecured, granted to the Borrower by the Bank or by any of its affiliate/associate companies or by any other bank/ person/ entity.

5.33 CALL ON SHARES

The Borrower shall as soon as any call in respect of its share capital has been resolved upon by the Directors or as soon as it shall have been resolved to issue any unissued share capital or to create any new shares immediately give notice of such call to the Bank or give notice to the Bank of the intention of the Borrower to issue or create any such share capital as aforesaid and the proposed amount thereof and shall not until the expiration of seven clear days from the time when such notice shall have been sent to the Bank issue any notice to the members of the Borrower in respect of payment of any calls or issue or create any such existing or new shares respectively as aforesaid. If the Bank shall so require every notice prospectus application form or allotment letter sent out by the Borrower in pursuance of any such resolution shall direct the members or applicants for allotment of the share of the Borrower to pay the call so made or the moneys payable in respect of the said existing or new shares to the Bank or as it shall direct and if no such requisition be made by the Bank the members, applicants or allottees shall be directed to pay any call or other moneys into the Bank's office (as may be informed or notified) to the joint account of the Borrower and the Bank or in such manner as the Bank may direct. The Bank shall be entitled to require all such calls or moneys received by the Borrower to be applied either wholly or partly in or towards the payment or satisfaction of the principal, sum, interest and other moneys due to the Bank but in default of the Bank requiring the said calls or moneys to be so applied as aforesaid within one month of their being paid, the Borrower may without the consent of the Bank apply the whole of the balance thereof over and above what shall be required by the Bank to be otherwise applied to the general purposes of the Borrower as it shall think fit provided also that all moneys hereunder to be received by the Borrower from its members in advance of calls upon the shares shall be held by the Borrower in trust for the Bank and so as to form part of the securities and shall be dealt with in the manner hereinbefore mentioned in the case of calls or other moneys received by the Borrower.

5.34 That the Borrower shall not invest any of the Borrower's funds in the shares, debentures, deposits or other investments of any other company without the prior written permission of the Bank nor will the funds so availed in terms of the Facilities so sanctioned by the Bank to the Borrower be invested in capital market.

- 5.35** To execute and deliver to the Bank such further agreements, undertakings, declaration, assurances, security documents and writings as the Bank may from time to time require in relation to the Facilities, this Agreement and/or any Security;
- 5.36** To bear and pay all taxes, rates, duties (including stamp duties), charges and other imposts and obligations, existing as well as future, in respect of this Agreement, the transactions hereunder and all writings executed pursuant to or in connection with this Agreement, including without limitation the expenditure incurred on the creation of any Security;
- 5.37** That the Borrower shall ensure that the guarantor(s) / Security Provider duly performs and discharge all their obligations under the letter(s) of guarantee / security documents and all writings executed/rendered by them to the Bank pursuant to the terms and conditions of the Agreement.
- 5.38** During the currency of these presents the shareholding of such of the shareholders in the Borrower who are its Directors at present and the principal shareholders and promoters of the Borrower shall not be varied without the previous written consent of the Bank first obtained.
- 5.39** The Borrower shall not during the subsistence of the liability of the Borrower to the Bank under or in respect of any of the Facilities without the written consent of the Bank:-
- (A) change or in any way alter the capital structure of the Borrower.
 - (B) effect any scheme of amalgamation or reconstitution.
 - (C) enter into any compromise with any of its creditors or shareholders, or enter into any other arrangements, mergers, amalgamations, consolidations, structuring, restructuring, spin offs, hive offs.
 - (D) implement a new scheme of expansion or take up an allied line of business or manufacture.
 - (E) declare dividend or distribute profits except where the instalments of principal and interest payable to the Bank in respect of the Facilities are being paid regularly and there are no irregularities whatsoever in respect of the Facilities.
 - (F) enlarge the scope of the other manufacturing/trading activities if any undertaken at the time of the application and notified to the Bank as such.
 - (G) withdraw or allow to be withdrawn any monies brought in by the promoters and directors or relatives and friends of the promoters or directors of the Borrower.
 - (H) invest any funds by way of deposits or loans or in share capital of any other concerns (including subsidiaries) so long as any money remains due to the Bank; the Borrower will however be free to deposit funds by way of security with third party in the normal course of business or if required for the business.
 - (I) borrow or obtain Facilities of any description from any other bank or credit agencies or Banks or enter into any hire purchase arrangement.

5.41 If required by the Bank at any time during the currency of the Facilities so sanctioned by the Bank to the Borrower and for the due discharge of the liabilities undertaken by the Borrower, the Borrower shall be required to provide to the Bank one or more post dated / undated cheques drawn in favour of the Bank. The said post dated / undated cheques will be required to be super-scribed in the format as specified as described in Schedule II hereto. The execution and delivery of such post dated / undated cheques by the Borrower to the Bank hereunder shall not discharge the Borrower from paying the amount concerned in terms of the repayment schedule in terms of the provisions of this Agreement; and in case of such payment, the Bank shall return the post dated / undated cheques to the Borrower on satisfaction of all the dues of the Bank.

ARTICLE 6 REPAYMENT, PREPAYMENT CHARGES AND COMMITMENT

6.1 Repayment

6.1.1 The Borrower shall repay to the Bank at the place and as per the period stipulated in the Sanction Letter / Individual Facility Sanction Letter (Due Dates) the said Facilities amount together with interest thereon at the rate stipulated therein. The

detailed repayment schedule shall be so advised by the Bank to the Borrower from time to time.

Provided that if the amount of the loan actually disbursed is less than the Facilities amount then the amount of installments payable as aforesaid shall be reduced pro- rata but the same shall be payable on the stipulated days mentioned in the Sanction Letter / Individual Facility Sanction Letter or the period of repayment shall be correspondingly reduced as the Bank may decide in its discretion and notify the Borrower in writing. In the event of any revision, modification, enhancement or reduction the amount of installments and the dates of repayment notified by the Bank to the Borrower shall be deemed to be substituted herein in place and stead of the amount of instalments and dates of payment mentioned in the Sanction Letter / Individual Facility Sanction Letter annexed as Schedule II hereto, and this Agreement shall be read and construed accordingly

6.1.2 If any payment under this Agreement is required to be made on or before a day which is not a Business Day or within a period which ends on a day which is not a Business Day then the Borrower shall be required to make the payment on the immediately preceding Business Day. Provided however, that the Borrower shall pay interest at the rate specified in the Sanction Letter / Individual Facility Sanction Letter with monthly rests or such other rests upto the date when payment is due or payment was actually due.

6.1.3 No intimation shall be given to the Borrower regarding its obligation to pay the installments of principal amount or the interest periodically as mentioned in the Sanction Letter / Individual Facility Sanction Letter. The Borrower agrees that it shall be entirely its responsibility to ensure prompt and regular payment of the principal amount and the interest and all other amounts payable by the Borrower to the Bank on the dates and in the manner provided in the Sanction Letter / Individual Facility Sanction Letter.

6.1.4 The Bank shall be entitled to recompute/recalculate the installments/repayment schedules if the Bank varies the interest rate and/or upon the occurrence of any event which in the opinion of the Bank necessitates a recomputation/recalculation of the same.

6.2 Prepayment

The Borrower shall not without the prior written approval of the Bank (which approval may be given subject to such terms and conditions as may be stipulated by the Bank including payment of prepayment premium), prepay the outstanding principal amount together with interest due in full or in part before the due dates. The Borrower shall give the Bank at a minimum of 30 days' prior notice of its intention to prepay (i.e. repay ahead of the previously agreed tenor or repayment date) whole or part of the Facilities subject to Borrower's agreeing to bear the Prepayment Charges as provided hereinbelow.

In the event that the Bank accedes to the request for prepayment made by the Borrower then the Borrower shall be liable to pay to the Bank Prepayment Charges at such rate as may be advised by the Bank at the time such prepayment request is made for prepayment of the Facilities on the amounts repaid by the Borrower to the Bank ahead of previously agreed repayment schedule (or tenor or terms or dates of repayment) as contained in the Sanction Letter / Individual Facility Sanction Letter annexed as Schedule II hereto for the Individual Facility to which such repayment relates.

6.3 COMMITMENT CHARGES

The Borrower shall be liable to pay to the Bank Commitment Charges for non-utilization of the Facilities as follows:

- (a) when the amount outstanding under any Individual Facilities is lower than the limit granted for that Individual Facility;
- (b) on the differential amount between the Individual Facilities Sanction Limit for that Individual Facilities and the amount outstanding under that Individual Facility; and
- (c) at the rate of 2% p.a. for the period of such differential, computed on a daily basis.

ARTICLE 7 INTEREST / COMMISSION / CHARGES ETC.

7.1 RATE OF INTEREST

The Borrower shall be liable to pay to the Bank interest on the amounts due under the Individual Facility at the rate specified in the Sanction Letter / Individual Facility Sanction Letter annexed as Schedule II hereto, at monthly/quarterly rests and mentioned therein or as maybe intimated by the Bank in writing from time to time and the Borrower shall not dispute the same.

7.2 RATE OF COMMISSION

The Borrower shall be liable to pay to the Bank commission on various non-funded facilities including letters of credit, bank guarantees, etc. at the rate specified in the Individual Facility Sanction Letter and the same shall be payable on the Facilities at the rates agreed to between the Bank and the Borrower as mentioned in Schedule II hereto or as maybe intimated by the Bank in writing from time to time and the Borrower shall not dispute the same. If no rate of commission is specified in the Individual Facility Sanction Letter, the Borrower shall be liable to pay commission at the Bank's Card Rates (Standard Rates) as in force from time to time.

7.3 TAX ON INTEREST / COMMISSION

The Borrower shall also be liable to pay tax on the interest / commission payable on the amounts due under the Facilities at the prevailing rate(s). The Borrower shall bear and pay any increase in the rate of tax. Where the Bank is required to pay any tax either in

pursuance of a general statute or specific order of the Government or other statutory authority relating only to the Bank, the Borrower agrees, declares, confirms and affirms that any increase in the rate of interest / commission effected by the Bank as a sequel to such statute will be binding on the Borrower and become payable from the date it becomes effective on the Bank.

7.4 RIGHT TO VARY RATE OF INTEREST ON OUTSTANDINGS

The Borrower hereby specifically agrees/agree that the Bank shall be entitled to change/ vary the interest rates on account of any change as may be directed by Reserve Bank of India and/or any other regulatory /statutory body from time to time. The Borrower agrees/agree to pay interest at such revised rates as aforesaid. It is agreed that it will not be necessary for the Bank to send intimation of change of rate of interest to the Borrower and a publication either in the newspaper or on the notice board will be sufficient and the Borrower will be deemed to have consented to such change.

Interest shall be charged on the outstanding(s) in the account(s) opened in respect of the Facilities at such rate(s) as may be determined by the Bank from time to time at the Bank's sole discretion provided that the rate(s) shall be subject to changes in the Bank's Benchmark Prime Lending Rate and/or changes in interest rates prescribed by the Reserve Bank of India from time to time.

7.5 CONCESSIONAL RATE - GOVERNMENT SCHEMES

Where interest is charged by the Bank at a concessional rate or rates because of the Facilities being granted by the Bank to the Borrower under the Interest Subsidy Scheme or any other Scheme(s) formulated by the Government and/or Reserve Bank of India and/or any other authority from time to time, the Borrower agrees, declares, confirms and affirms that in the event of the withdrawal, modification and/or variation of such Scheme(s), the concessional rate or rates of interest shall stand withdrawn and the normal rate or rates of interest of the Bank applicable at the material time to such Facilities shall become effective and the Bank shall become entitled to charge the Borrower such rate or rates of interest and the Borrower shall pay to the Bank on demand the difference between such concessional rate or rates and the normal rate or rates of interest of the Bank applicable at the material time to such Facilities and such difference shall become due and payable by the Borrower to the Bank from the date the withdrawal, modification and/or variation of such Scheme(s) becomes effective. Interest shall be calculated respectively on the daily balance of such account(s) and be debited thereto on the last working day of the month or quarter according to the practice of the Bank. The Bank shall also be entitled to charge at its own discretion such enhanced rates of interest on the account(s) either on the entire outstanding or on a portion thereof as it may fix for any irregularity and for such period as the irregularity continues or for such time as the Bank deems it necessary regard being had to the nature of the irregularity and the charging of such enhanced rate of interest shall be without prejudice to the Bank's other rights and remedies.

7.6 DEFAULT INTEREST

The Borrower agrees that the Bank has the right to levy a default interest in the circumstances and at the rate specified in Schedule I or in the Sanction Letter / Individual Facility Sanction Letter, or as maybe communicated by the Bank to the Borrower in writing, which rate shall be over and above the applicable rate of interest in respect of all the Borrowers Dues from the due date(s) thereof to the date of payments and/or in terms of RBI guidelines. In default of payment of interest at any point of time, whilst the said loan is outstanding, the same shall be capitalized and added to the principal and shall be treated as a loan advanced to the Borrower by the Bank and the Bank will be entitled to charge interest at the aforesaid rate or at the varied/changed rate on the amount of the debit balance inclusive of interest not paid by the Borrower and hence capitalized as aforesaid.

The Bank shall further be entitled to charge penal interest on such defaulted amount and to capitalize and add such amount of penal interest to the principal and interest amount due.

7.7 VARIATION AND CALCULATION

- 7.7.1 The Bank shall have at its absolute discretion the right to vary the rate of interest / commission / other charges (including default interest rates) applicable to the Facilities from time to time;
- 7.7.2 It is herein clarified and agreed between the parties hereto that such variation shall be applicable from the date of such variation in the records of the Bank and not from the date of notice/receipt of notice by the Borrower;
- 7.7.3 Interest shall be calculated on a 365 days year basis and in case of a leap year, on a 366 days year basis. Interest shall be calculated on a 360 day year basis for loans and advances being made in foreign currency and shall be paid in the currency of the loan.
- 7.7.4 Commission and other charges shall be calculated as per the Bank's standard practice as in force from time to time;
- 7.7.5 Interest on all outstanding amounts (including towards interest, commission, costs and expenses) will be computed on the daily outstanding balance under the Facilities at the rates specified and will be charged to the respective Individual Facilities account, unless specified otherwise, on a monthly basis (and in case of closure of Individual Facilities account during the quarter, on the day of such closure) and payable by the Borrower upon charge;
- 7.7.6 Interest will be computed at the Default Interest Rate as defined herein on the amounts in default i.e. amounts becoming due and remaining unpaid (whether or not specifically demanded by the Bank), from the date of default till date of receipt of payment by the Bank of such amounts in default.

ARTICLE 8 SECURITY

8.1 SECURITY AS PER INDIVIDUAL FACILITY SANCTION LETTER

As security for the due repayment, discharge and redemption of the Facility so advanced by the Bank to the Borrower, the Borrower and/or Security Provider shall be required to provide such security as stipulated by the Bank from time to time. Such security so provided by the Borrower and/or Security Provider shall be governed in terms of the provisions as more particularly described hereunder and in all Transaction Documents in relation thereto. In the event that the said Facility is unsecured in nature then these clauses and all references to Security / Third Party Security so provided by the Borrower and /or Security Provider shall stand deleted.

The Borrower hereby agrees and undertakes not to raise any dispute as to the value at which the Security is sold or transferred by the Bank and the decision made by the Bank shall be final and binding on the Borrower. The Bank shall not be liable for any loss arising due to such sale or transfer or disposal of the Security. The Bank shall be entitled to proceed against the Borrower for any deficiency after sale of such Security. All accounts of sale rendered by the Bank shall be conclusive on all matters contained therein.

The Borrower agrees that the Bank may at the risk and cost of the Borrower engage a collection agency to collect the Borrower's dues and/ or to enforce any security and may furnish to the collection agency such information, facts and figures relating to the Borrower as may be necessary.

Any floating charge over the Secured Assets / Secured Third Party Assets in favour of the Bank shall forthwith crystallize:

- (a) on the occurrence of an Event of Default; and/or
- (b) the Bank appointing a Receiver or doing some other act which affects the company's power of disposition over the asset charged; and/or
- (c) the Bank filing a suit/ proceeding for enforcement of the Floating Charge.

8.2 **PERFECTING TITLE TO SECURITY**

The Borrower / Security Provider will from time to time on request of the Bank do all such acts and/or execute all such documents as the Bank may consider necessary for perfecting the title of the Bank to any Assets hereby charged and hypothecated / pledged / mortgaged to the Bank and/or securing to the Bank the full benefit of all rights, powers and remedies conferred on the Bank herein and for this purposes the Borrower/ Security Provider hereby irrevocably appoints the Bank as its/ their attorney in fact to do all such acts and execute all such documents in the name of the Borrower/ Security Provider.

8.3 **ADDITIONAL SECURITY**

8.3.1 The Borrower undertakes to create from time to time such additional Security in favour of the Bank as security for the repayment/payment of the Borrower's Dues as the Bank may require and in such manner as the Bank may require and to execute and/or furnish to the Bank such guarantee(s) and other documents and writings as the Bank may require. The Borrower undertakes to obtain from time to time such additional Guarantees from the Guarantors as the Bank may require in favour of the Bank in the Bank's format and for amounts as required by the Bank.

8.3.2 Without prejudice to the generality of Clause 8.3.1 above, the Borrower agrees and undertakes to create / to get such Security Provider to create in favour of the Bank such additional Security as the Bank may require in the event of:

8.3.2.1 the market value of the Security available to the Bank falling below 200% (or as specified in the Individual Facility Sanction Letter) of the amount of the Borrower's Dues then outstanding (hereinafter referred to as the "**Margin**"); or

8.3.2.2 the destruction, depreciation or fall in value of any property available to the Bank as Security or the title of any property available to the Bank as Security being unclear, unmarketable or encumbered in the opinion of the Bank.

8.3.5 The Borrower shall if required at any time by the Bank, procure irrevocable and unconditional guarantees from its Partners/ Directors and/or other firm/ companies for the payment and discharge by the Borrower to the Bank of the sums, interest, all costs, charges and expenses and other monies due and payable by the Borrower to the Bank under or in respect of the Facilities in the form prescribed by the Bank.

8.4 CONTINUING SECURITY

The Security hereby given by this Agreement or under any document in terms of this Agreement or otherwise at any time given to the Bank shall be and remain a continuing security to the Bank and accordingly shall:

- 8.4.1 be binding upon the Borrower/ Security Provider, its successors and assigns;
- 8.4.2 shall extend to cover the Borrower's Dues hereunder or otherwise;
- 8.4.3 shall not be discharged by any intermediate payment by the Borrower or any settlement of accounts between the Borrower and the Bank;
- 8.4.4 shall be in addition to and not in substitution for or derogation of any other security which the Bank may at any time hold in respect of the Borrower's Dues/obligations hereunder; and
- 8.4.5 shall be a Security for all amounts due and payable by the Borrower for all sums due by the Borrower to the Bank, whether under this Agreement or otherwise.

The security created and indemnities and undertakings given herein and/or by the security documents including the Demand Promissory Note executed in favour of the Bank for the Facilities shall operate as continuing security and/or indemnities and/or undertakings for all moneys indebtedness and liabilities of the Borrower under the Facilities and will operate as security and/or indemnities and/or undertakings for the ultimate balance or aggregate balance with interest thereon and costs charges and expenses if any to become payable upon the account(s) to be opened and the said account(s) is/are not closed and is/are not to be considered to be closed for the purpose of such security and/or indemnity and/or undertaking and the security and/or indemnity and/or undertaking is not to be considered exhausted merely by reason of the said account(s) being closed and fresh accounts being opened in respect of fresh facilities being granted within the Overall Limit sanctioned to the Borrower or either or any of them being brought to credit at any time or from time to time or any partial payments made thereto or any fluctuations of such account(s) and if the whole of the Borrower's dues shall be repaid and the whole of the security be withdrawn the account(s) or either or any of them may nevertheless at any time before such account(s) has or have been closed, be continued under this Agreement upon the security as aforesaid being again furnished.

8.5 PERMISSIONS FOR CREATION OF SECURITY

The Borrower/ Security Provider shall ensure that all permissions, intimations, notices, etc. which may be required by law or under the terms of any agreement or document for creation of Security shall have been duly obtained/given.

- 8.6 The Borrower shall not (a) allow any Receiver to be appointed of the undertaking or of the properties, immovable and moveable of the Borrower (and/ or Security Provider) mortgaged, pledged and/or charged to the Bank or any part thereof (b) allow any distress or execution to be levied upon or against the same or any part thereof and (c) make or attempt to make without the previous consent of the Bank in writing any alterations of its Memorandum or Articles of Association or in its capital structure.
- 8.7 The Borrower shall ensure that the Registers of Assets shall be kept by the Borrower and such registers shall contain all particulars of such Assets. Such Registers shall at all times be open for inspection of the Bank and the Borrower shall if so required by the Bank furnish to the Bank daily or at such intervals as the Bank may request from time to time a schedule or copy of all the entries which shall have been made in the said Registers. The Register

shall clearly indicate which of the Assets have been hypothecated / mortgaged / pledged or otherwise charged to the Bank or to any other person.

- 8.8 The Borrower shall keep and shall ensure that it and / or the Security Provider keeps all its Assets adequately insured at all times. The Borrower agrees to keep and / or ensure that the Security Provider shall keep all its Assets provided as Security to the Bank insured against all risks from time to time in the joint names of the Borrower and/ or Security Provider and the Bank with an Insurance Company approved by the Bank and for such amount as the Bank may consider necessary and that the insurance policies will be delivered to the Bank when required by the Bank to do so. In addition thereto, the Bank shall be entitled to direct the Borrower to insure the Assets provided to the Bank as Security for amounts as stipulated by the Bank. The Borrower shall ensure that the insurance policies are valid, subsisting and in force at all times.

ARTICLE 9 EVENTS OF DEFAULT AND CONSEQUENCES THEREOF

- 9.1 If the Borrower shall fail to carry out and perform any of the obligations under this Agreement or commit breach of any of the terms hereof or of the Sanction Letter / Individual Facility Sanction Letter / Transaction Documents or of the terms of the Request which forms the basis of this Agreement, or if any of the representations, warranties, assurances, statements and particulars contained in the Request being found in the Bank's opinion (which shall be conclusive and binding on the Borrower) to be incorrect, or if after execution hereof, any circumstance shall occur which in the sole judgement of the Bank is prejudicial to or imperils or is likely to prejudice or imperil this Facilities and the securities created thereunder, then the Bank shall, if it thinks fit, be entitled at the risk and expense of the Borrower after giving notice at any time or time after such occurrence and in its sole judgement to refuse to grant the said Facilities or any part thereof which may remain to be disbursed or to recall the said Facilities and/or to enforce the security that may be/is required to be created thereunder. On the question whether any of the events, matters or circumstances mentioned above have or has occurred, the opinion of the Bank shall be final, conclusive and binding on the Borrower, both in and out of court/ judicial/ quasi judicial authority. It shall not be open to the Borrower at any stage to question the decision of the Bank to refuse to grant the said Facilities or any part thereof which may remain to be disbursed or to recall the said Facilities and/or to enforce the security created thereunder.
- 9.2 Any of the following shall constitute an Event of Default under this Agreement:
- (i) if the Borrower fails to promptly pay any amount now or hereafter owing to the Bank as and when the same shall become due and payable;
 - (ii) if the Borrower fails to duly observe or perform any obligation hereunder or under any other agreement with the Bank or any other person;
 - (iii) any representation made by the Borrower to the Bank shall be found by the Bank to have been false at any time or misleading as of the date on which the same was made or deemed to be made;
 - (iv) the threat or apprehension of or the occurrence of any damage to or loss, theft, misappropriation or destruction of any of the Secured Assets, Secured Third Party Assets or of any other security of the Bank or of any assets of the Borrower if so provided by Borrower / Secured Third Party;

- (v) the occurrence of any event or condition which, in the Bank's opinion, constitutes or could constitute a Material Adverse Effect;
- (vi) the Borrower entering into any arrangement or composition with his/her/its/their creditors or committing any act of insolvency, or any act the consequence of which may lead to the insolvency or winding up of the Borrower;
- (vii) execution or distress or other process being enforced or levied upon or against the whole or any part of the Borrower's property whether secured to the Bank or not;
- (viii) any order being made or a Resolution being passed for the winding up of the Borrower (except for the purpose of amalgamation or reconstruction with the prior approval of the Bank);
- (ix) a Receiver being appointed in respect of the whole or any part of the property of the Borrower;
- (x) the Borrower or any of the partners of the Borrower (if a firm) being adjudicated insolvent or taking advantage of any law for the relief of insolvent debtors;
- (xi) the Borrower ceasing or threatening to cease to carry on business or giving or threatening to give notice of intention to do so;
- (xii) it being certified by an accountant or a firm of accountants appointed by the Bank (which the Bank is entitled and authorized to do at any time) that the liabilities of the Borrower exceed its assets or that the Borrower is carrying on business at a loss;
- (xiii) if the Borrower and/or Security Provider shall without the consent in writing of the Bank attempt or purport to create any mortgage, charge, pledge, hypothecation or lien or encumbrance ranking in priority to or pari-passu with or to create any mortgage, charge, pledge, hypothecation or lien or encumbrance subsequent to, the security given or to be given to the Bank for the said Facilities;
- (xiv) if the Borrower shall stop payment or threaten to do so;
- (xv) Inability to pay debts, proceedings of winding up, or the Borrower being declared or considered to be a sick company, or a relief undertaking or a protected company or a sick industrial company or a protected industrial company or otherwise, under any law, statute, rule, ordinance etc. which would have the effect of suspending or waiving all or any right against the Borrower or in respect of any contract or agreement concerning the Borrower;
- (xvi) the passing of any order of a court ordering, restraining or otherwise preventing the Borrower from conducting all or any material part of its business;
- (xvii) the cessation of business by or the dissolution, winding-up, insolvency or liquidation of the Borrower;
- (xviii) if the Borrower has voluntarily or compulsorily become the subject of proceedings under any bankruptcy or insolvency law or being a company, goes into liquidation or has a Receiver appointed in respect of its assets or refers itself to the Board for Industrial and Financial Reconstruction or any other authority or relief undertaking;

- (xix) the commencement of a legal process against the Borrower under the Securitization And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 or under any criminal law in force;
- (xx) if the title of the Security Provider to the Security is in jeopardy or if there is an attachment or lien against the Security;
- (xxi) any change in respect of its constitution or management or shareholding;
- (xxii) use of the facility for investments in shares and securities, on-lending to associate companies, investments in ICD/ inter corporate loans;
- (xxiii) one or more events, conditions or circumstances (including any change in law) shall occur or exist which in the opinion of the Bank, could have a Material Adverse Effect;
- (xxiv) if an Event of Default has occurred under any other agreement entered into by the Borrower or any associate/ affiliate/group company of the Borrower or a person or entity related to the Borrower with the Bank or any associate/ affiliate company of the Bank.

On the question whether any of the acts, matters, events or circumstances mentioned herein above have occurred the opinion of the Bank shall be final and conclusive and be binding on the Borrower.

9.3 Upon the occurrence of an Event of Default the Bank may, by notice to the Borrower, accelerate, and declare immediately due and payable, all or any part of the unpaid balance of all Facilities granted hereunder together with accrued interest and all other amounts payable by the Borrower to the Bank. In addition, the Bank may take immediate possession of and/or appoint a receiver of the Secured Assets and/or Secured Third Party Assets and all the documents relating thereto without demand or other notice and without legal process and/or Security Provider. For this purpose and in furtherance thereof if the Bank so requests, the Borrower shall immediately hand over the Secured Assets / procure the Security Provider to immediately hand over the Secured Third Party Assets and all documents relating thereto and make them available to the Bank at a reasonably convenient place designated by the Bank; and the Bank shall have the right and the Borrower hereby authorises and empowers (and shall procure that the Security Provider shall authorize and empower) the Bank, its agents or representatives, to enter upon the premises wherever such Secured Assets and/or Secured Third Party Assets and documents relating thereto may be and for that purpose to break open any outer or other doors of any premises where they may be and to take possession of any of them as may be lying and to remove the same. Upon the occurrence of an Event of Default, the Bank may, in its sole discretion, and without prejudice to its other rights:

- (i) Sell or otherwise dispose of or deal with any or all of the Secured Assets and/or Secured Third Party Assets, or any portion thereof, at any time after five days' written notice to the Borrower, by a public or private sale; and/or
- (ii) Demand and receive any amounts or property forming part of the Secured Assets and/or Secured Third Party Assets; and /or
- (iii) Declare the Bank's obligations in connection herewith to be terminated and cancelled and retain and appropriate any sums of money that may have been paid by the Borrower in connection therewith; and/or

- (iv) Enforce any other remedy that the Bank may have under applicable law.

The Borrower hereby appoints the Bank as the Borrower's agent and attorney to do all or any of the acts mentioned hereinabove. The Borrower agrees that such appointment shall be irrevocable until and unless the Borrower's Dues have been finally paid to the Bank in full.

9.4 **CROSS DEFAULT AND CROSS ACCELERATION**

- 9.4.1 It is clearly understood that in addition to the events provided hereinabove, the following shall also constitute an Event of Default for the purpose of this Agreement and the consequences provided in Clause 9.3 shall follow:
 - (a) The Borrower's failure to pay any amount or meet with any obligation when due to any Person other than the Bank or an Event of Default being constituted in relation to any of the Borrower's credit, borrowal or any other arrangement with any Person or entity other than the Bank; and
 - (b) Any Person other than the Bank accelerating repayment (i.e. demanding repayment ahead of the previously agreed repayment schedule) due from the Borrower to such other Person under the Borrower's credit, borrowal or any other arrangement with that Person.
- 9.4.2 In addition to any general lien or similar right to which the Bank may in law generally be entitled, the Bank may at its discretion use and enforce its right of set-off and cross default between all the facilities sanctioned to the Borrower.
- 9.4.3 The Bank may at its absolute discretion appropriate any payments made by the Borrower under these Facilities towards another agreement or transaction entered into by the Borrower and/or towards any other Indebtedness of the Borrower and such appropriation shall be final and binding on the Borrower and the Borrower shall continue to remain liable to the Bank for payment of dues under this Facility in respect of which such sums of money were so paid but were appropriated towards another agreement or transaction entered into by the Borrower or towards another Indebtedness of the Borrower. In addition, the Bank has the power to sell/transfer or otherwise dispose of any and all security created in its favour under the security documents or deposited with Bank or under its possession or control and appropriate the same towards satisfaction of amounts due to the Bank on account of another agreement or transaction entered into by the Borrower and/ or the Indebtedness of the Borrower.
- 9.4.4 The Borrower's default under this Facility shall be deemed to be a default of all the other facilities availed of by the Borrower, and notwithstanding anything contrary elsewhere contained in any writing or otherwise, and the Bank shall regard all borrowings by the Borrower as immediately due and payable and the Bank shall be entitled to recall all the facilities granted to the Borrower and also utilize and enforce any mortgage, charge, pledge, hypothecation, lien or any other security interest created and subsisting as on such date towards recovery of its dues under the facilities.

ARTICLE 10 WITHDRAWAL OF THE FACILITIES

In respect of the Facilities granted or to be granted by the Bank either payable in Indian or foreign currencies the Borrower agrees and declares that notwithstanding anything contained herein or in any other security documents the entire amounts of the loans or the balances then due in respect to all such Facilities shall, if so decided by the Bank, become forthwith due and payable by the Borrower to the Bank, upon the happening of any of the Events of Default as listed out in Article 10 and the Bank shall be entitled to enforce its security.

Provided always that the Bank may in its discretion refrain from forthwith enforcing any of its rights under this Agreement in spite of the happening of any of the contingencies aforesaid and provided further that the failure or delay by the Bank in exercising any right, power or privilege hereunder or under any of the security documents shall not impair/extinguish the same or operate as waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The rights and remedies provided herein and in the security documents are cumulative and not exclusive of any rights and remedies provided by law.

ARTICLE 11 MISCELLANEOUS

11.1 SCHEDULES

The Schedules annexed to this Agreement shall be an integral part of this Agreement and shall be read in conjunction with the terms and conditions contained herein.

11.2 PAYMENT, TAXES

All payments of whatever nature (whether by way of principal interest or otherwise) shall be made to the Bank in immediately available i.e. clear funds on the day on which they are due, without right of set off or counterclaim or deductions and free and net of all taxes, imposts and levies of any nature whatsoever, by whomsoever imposed, both present and future. All payments shall be made at the place specified by the Bank and shall be so paid as to enable the Bank to realise the sum on or before the due date. The payment shall be deemed to have been made only on realisation and credit for payments shall be given only on realisation.

In case the Borrower is a non-resident, the above paragraph shall be substituted as under:- "All payments by the Borrower under this Agreement shall be made free and clear of and without any deduction / withholding except to the extent that the Borrower is required by law to make payment subject to any deduction / withholding of taxes. If any tax or amounts in respect of tax must be deducted / withheld, or any other deductions / withholdings must be made, from any amounts payable or paid by the Borrower, the Borrower shall pay such additional amounts as may be necessary to ensure that the Bank receives a net amount equal to the full amount which it would have received had payment not been made subject to tax or other deduction / withholding. Provided that, all taxes required by law to be deducted / withheld by the Borrower from any amounts paid or payable, including but not limited to interest, commission, discount, service and other charges and any fees, under this Agreement, shall be paid by the Borrower when due and the Borrower shall, within the statutory time frame prescribed under the law or 20 days of the payment being made, whichever is earlier, deliver to the Bank satisfactory evidence in accordance with the prevailing tax laws as may be amended from time to time, that the tax has been deducted at source / withheld and duly remitted to the appropriate authority."

11.3 SERVICE CHARGE

The Borrower shall pay to the Bank non-refundable service charges for each Individual Facility as provided for in the Sanction Letter/ Revised Sanction Letter for each Individual facility.

11.4 ASSIGNMENT

The Bank shall be entitled to sell, assign or transfer its rights and obligations under this Agreement to any person(s) of the Bank's choice in whole or in part and in such manner and on such terms as the Bank may decide. Any such sale, assignment or transfer shall conclusively bind the Borrower. The Borrower shall not be entitled to directly or indirectly assign the benefit or obligation of this Agreement without the prior written permission of the Bank. The Borrower expressly agrees that during the subsistence of the Facilities, the Bank shall have the liberty to shift, at its discretion, without notice to the Borrower, from time to time a part or portion of the outstandings under the Facilities (hereinafter referred to as "the Participations") to one or more Scheduled Commercial banks. The Borrower further agrees that such Participations shall be governed by the terms of the Uniform Code Governing Inter Bank Participations, 1988 and shall not affect the rights and obligations, inter se, the Borrower and the Bank in respect of the Facilities or any of them.

11.5 INSPECTIONS

The Bank may at the risk and cost of the Borrower engage one or more person(s) to verify any facts or information furnished by, concerning or pertaining to the Borrower and/or in relation to this Agreement and/or to collect the Borrower's Dues and/or to enforce any Security and may furnish to such person(s) such documents, information, facts and figures as the Bank thinks fit and may delegate to such person(s) the right and authority to perform and execute all acts, deeds, matters and things connected therewith or incidental thereto as the Bank thinks fit. The Bank shall be entitled to carry on inspections at such intervals as it may deem fit.

11.6 SEARCH, INSPECTION AND VALUATION

The Bank or any of its officers/employees, auditors, representatives or any person appointed by the Bank may at any time, at the risk and cost of the Borrower enter upon any premises, whether tenanted or leasehold or owned by the Borrower or forming a part of the Secured Third Party Assets or is the business location of the Borrower / Security Provider:

- 11.6.1 for the purposes of inspecting, verifying or valuing such premises and may thereafter value such premises;
- 11.6.2 where any Assets / Secured Third Party Assets are stored/kept, for the purposes of inspecting, verifying or valuing such Assets / Secured Third Party Assets and may thereafter inspect, verify and value such assets;
- 11.6.3 where any Securities of the Bank are stored/kept and/or any records relating to any Securities are maintained or kept for the purposes of inspecting, verifying or valuing such Securities and/or such records relating to the Securities and may thereafter inspect, verify and value such Securities and/or such records relating to the Securities;
- 11.6.4 where any other records, accounts are maintained for the purposes of inspecting and verifying such records and may thereafter inspect, search and/or verify any of the records, entries, accounts, etc.;
- 11.6.5 for the purposes of inspecting, verifying or valuing any other item in which the Bank possesses a security interest.

The Borrower hereby grants and has procured and granted in favour of the Bank from the Security Provider, an irrevocable licence to enter upon any premises, whether tenanted or leasehold or owned by the Borrower or forming a part of the Secured Third Party Assets for the aforesaid purposes and the Borrower agrees and undertakes to give such inspection and possession to the Bank forthwith on demand.

11.7 **NOTICES**

All notices, requests, demands, waivers and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered personally, (b) mailed, certified or registered mail with postage prepaid, (c) sent by next-day or overnight mail/courier or delivery or (d) sent by telecopy/fax or telegram, to the addresses and numbers as specified in Schedule I annexed hereto.

All such notices, requests, demands, waivers and other communications shall be deemed to have been received (a) if by personal delivery on the day after such delivery, (b) if by certified or registered mail, on the seventh business day after the mailing thereof, (c) if by next-day or overnight mail/courier or delivery, on the day delivered, (d) if by telecopy or telegram, on the next day following the day on which such telecopy or telegram was sent, provided that a copy is also sent by certified or registered mail.

Any notice pursuant hereto shall be deemed to be duly given to any party hereto if delivered by hand or sent by Registered Post or under Certificate of Posting addressed to that party's address mentioned above or to any changed address if such has been notified to the other party.

Any notice or communication or demand by the Bank in writing to the Borrower under this Agreement or any security documents shall be deemed to have been duly given to the Borrower by sending the same by post addressed to the Borrower at the address notified by the Borrower and such notice or communication or demand shall be deemed to have been received by the Borrower four days after the date of posting thereof and shall be sufficient if signed by any officer of the Bank and in proving such service it shall be sufficient if it is established that the envelope containing such notice, communication or demand was properly addressed and put into the post office.

11.8 **FEES AND COSTS**

The Borrower shall upon demand pay to or reimburse the Bank in full:

- (a) The legal costs of the preparation of this Agreement and all documents relating thereto;
- (b) All costs, expenses and fees relating to the periodic valuation, inspection, insurance and protection/preservation in any other manner of the security tendered to the Bank;
- (c) All costs (including legal fees) incurred by the Bank in creation of Security preserving perfecting or enforcing any of its rights under or in respect of this Agreement, or any present or future security and other documents.

The Borrower shall bear and pay all costs charges and expenses (between Advocate and Client) including stamp duty, registration and other charges payable in respect of this Agreement and also in respect of other security documents to be executed between the parties hereto as stipulated in this Agreement and if any penalty or charges are paid or

become payable by the Bank, the Borrower shall pay to the Bank the amount thereof with interest thereon at the rate aforesaid forthwith on demand by the Bank.

11.9 **DISCLOSURE**

11.9.1 The Borrower agrees that in addition to any other rights available to the Bank, in the event of the Borrower committing any default, the Bank shall be entitled to disclose to the Reserve Bank of India or any other statutory / regulatory authority or to any other third person, the name/identity of the Borrower/Guarantor and/or all its/their Directors and the default as committed. In case of default in payment of any of the Borrower's Dues to the Bank, the Bank or the Reserve Bank of India will have an unqualified right to disclose or publish the name of the Borrower/Guarantor and/or its/their directors as defaulters (including as wilful defaulters) in such manner and through such medium as the Bank and/or the Reserve Bank of India in their absolute discretion may deem fit.

11.9.2 The Borrower hereby consents to the disclosure by the Bank, of information and data relating to the Borrower, of the Facilities availed or to be availed by the Borrower, obligations assumed or to be assumed by the Borrower in relation thereto and default, if any, committed by the Borrower in discharge thereof, as the Bank may deem appropriate and necessary, to Credit Information Bureau (India) Ltd. or any other agency authorized in this behalf by RBI. The Borrower further undertakes that:

- (a) the Credit Information Bureau (India) Ltd. and any other agency so authorized may use, process the said information and data disclosed by the Bank in the manner as deemed fit by them; and
- (b) the Credit Information Bureau (India) Ltd. and any other agency so authorized may furnish for consideration, the processed information and data or products thereof prepared by them, to banks/financial institutions and other credit grantors or registered users, as may be specified by RBI in this behalf.

This clause shall operate in addition to and not in derogation of any other clause in these presents.

11.9.3 In addition and without prejudice to the above, the Borrower hereby irrevocably agrees to and consents that the Bank may disclose at any time and share with or in any manner make available to any agencies, bureaus, affiliate companies, firms, associations, corporate bodies and other persons any information about the Borrower, where such disclosure is necessary under law or where there is a duty to the public to disclose such information or where the interest or the Bank requires such disclosure. Further, the Bank may disclose such personal and financial information about the Borrower that is in the public domain.

11.9.4 The Borrower hereby agrees and consents that the Bank may share / distribute any information including the personal information provided by the Borrower to its affiliates and subsidiaries including third parties where the Bank deems it necessary. Additionally, the Borrower consents to the Bank using personal information and financial information for giving credit report and credit opinions about the Borrower to other banks and financial institutions.

11.10 **ADDITIONAL LIABILITY TO THE ACCOUNT OF THE BORROWER**

Any additional liability to the Bank on any account whatsoever, including any additional statutory levies by way of taxes, stamp duties etc. including penalties, fines etc. thereof, which the Bank shall be liable to pay on account of the Facilities shall be charged to the account of the Borrower.

11.11 **JURISDICTION**

This Agreement shall be construed in accordance with the laws of India and the Courts and Tribunals having jurisdiction over the place of the branch, as mentioned in Schedule 1 hereto, shall have exclusive jurisdiction in respect to any and all matters/disputes arising out of or in connection with this Agreement. Nothing contained in this clause 11.11, shall limit any right of the Bank to initiate proceedings in any other court or tribunal of competent jurisdiction and the Borrower irrevocably and unconditionally submits to the jurisdiction of such other court or tribunal and waives any objection it may have now or in the future in this regard.

11.12 **WAIVER**

Any delay in exercising or omission to exercise any right, power or remedy accruing to the Bank under this Agreement or any other Agreement or document shall not impair any such right, power or remedy and shall not be construed to be a waiver thereof or any acquiescence in any 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.

11.13 **APPLICATION AND APPROPRIATION OF PROCEEDS**

- 11.13.1 The net proceeds of any sale or other disposition or of any realisation by the Bank of the Secured Assets and/or Secured Third Party Assets and/or other security shall be applied in or towards the satisfaction of the Borrower's Dues in such manner as the Bank thinks fit, and if such net proceeds shall be insufficient to satisfy the Borrower's Dues in full then the Borrower shall forthwith pay to the Bank the balance remaining due of the Borrower's Dues.
- 11.13.2 Nothing herein contained shall negate, qualify or otherwise prejudicially affect the right of the Bank to recover the Borrower's Dues from the Borrower notwithstanding that all or any of the Secured Assets and/or Secured Third Party Assets may not have been sold, disposed or realised.
- 11.13.3 The Borrower shall not question the terms on which and the consideration for which the Secured Assets and/or the Secured Third Party Assets may have been sold, disposed off or realised by the Bank
- 11.13.4 Unless otherwise agreed to by the Bank, any payments due and payable or received by the Bank shall be appropriated in the following order:-
- 11.13.5.1 Firstly, towards costs, charges, expenses and other monies due and payable by the Borrower to the Bank;
- 11.13.5.2 Secondly towards overdue and penal interest due and payable and/or accruing and payable to the Bank;

- 11.13.5.3 Thirdly towards interest due and payable and or accruing due and payable to the Bank;
- 11.13.5.4 Lastly towards repayment of the amount of instalments of the Principal due and payable by the Borrower to the Bank;

11.14 RIGHT OF LIEN AND SET- OFF

- 11.14.1 The Bank at all times shall have the right of lien and set-off and apply any and all assets, security, credits, money or properties of the Borrower in the Bank's possession or control against any obligation of the Borrower to the Bank.
- 11.14.2 That in addition to any general lien or similar right to which the Bank as bankers may be entitled by law, the Bank may at any time and without notice to the Borrower combine or consolidate all or any of the Borrower's accounts with and liabilities to the Bank and set off or transfer any sum or sums standing to the credit of any one or more of such accounts in or towards satisfaction of any of the Borrower's liabilities to the Bank on any other account or in any other respect, whether such liabilities be actual or contingent, primary or collateral and several or joint.

11.14.3. The Borrower agrees and confirms that the Bank may at its absolute discretion appropriate any payments made by the Borrower under this Agreement towards another agreement or transaction entered into by the Borrower and/or towards any other Indebtedness of the Borrower and such appropriation shall be final and binding upon the Borrower who shall continue to remain liable to the Bank for payment of dues under this Agreement in respect of which such sums of money were so paid but were appropriated towards another agreement or transaction entered into by the Borrower or towards another Indebtedness of the Borrower. In addition, notwithstanding the repayment of the Facilities, the Borrower hereby expressly gives the Bank the power to sell/transfer or otherwise dispose of any and all security created in favour of the Bank under the security documents or deposited with it or under its possession or control and appropriate the same towards satisfaction of amounts due to the Bank on account of another agreement or transaction entered into by the Borrower and/ or the Indebtedness of the Borrower. The provisions of this Agreement and any security document executed pursuant to this Agreement shall apply mutatis mutandis to the manner of disposal of security and appropriation under this Article.

Without in any manner inhibiting or restricting the Bank's right to apply the provisions of this Article to any other entity related to the Borrower (in the manner stated in this Agreement), this Article shall particularly apply in respect of the Facilities availed of by the Borrower.

- 11.14.4 It is agreed, acknowledged and understood by the Borrower that if the Borrower commits a default under this Agreement then such default shall be and deemed to be a default of all the other facilities availed of by the Borrower, and notwithstanding anything contrary elsewhere contained in any writing or otherwise, and the Bank shall regard all borrowings of the Borrower as immediately due and payable and the Bank shall be entitled to recall all the facilities granted to the

Borrower and also utilize and enforce any mortgage, charge, pledge, hypothecation, lien or any other security interest ("Security") created and subsisting as on date towards recovery of its dues under the facilities.

11.15 INDEMNITY

The Borrower shall indemnify the Bank against all losses, damages, costs and expenses whatsoever that may arise pursuant to this Agreement or as a result of non-fulfilment by the Borrower of any of the conditions of the Agreement.

11.16 SEVERABILITY

If any provision of the Agreement hereof shall be illegal or unenforceable for any reason the legality and enforceability of the remainder of the provisions of the Agreement shall not be affected or impaired thereby.

11.17 OTHERS

The Borrower's liability hereunder shall not be affected, terminated or prejudiced by any amendments to or changes in the Borrower's ownership or management or in its constitution, Memorandum or Articles of Association etc., by any winding-up, liquidation, reorganisation or any similar process or becoming bankrupt or insolvent or any proceeding in respect thereof or, any analogous step, but such liability shall continue in full force and effect and shall be binding on the Borrower's respective successors.

11.18 GOVERNING TERMS AND CONDITIONS

The Borrower declares and confirms that the Facilities agreed to be granted to the Borrower shall be governed by the terms and conditions as set out in the Sanction Letter / Individual Facility Sanction Letter the additional terms contained in the Product Schedule, Schedule III hereto as also herein contained, as well as those embodied in the relative security documents.

11.19 BORROWER TO NOTIFY ANY VARIATION IN PROPOSAL

The Borrower undertakes to notify in writing to the Bank of any circumstances affecting the correctness of any of the particulars set forth in the Borrower's proposal immediately on the happening or occurrence of any such circumstance.

11.20 MAINTAIN FINANCIAL INTEREST IN THE BUSINESS

The Borrower shall at all times maintain sufficient financial interest in the business and shall if so considered necessary by the Bank bring additional funds or assets by way of capital, deposits or otherwise. The Borrower shall not withdraw except with the Bank's prior permission in writing or divert or misuse the funds and assets invested in or brought into the business by the Borrower as capital, deposits or otherwise.

11.21 TERM OF THE AGREEMENT

11.21.1 The effective date of this Agreement shall be as specified in Schedule I, and shall continue to subsist until terminated as hereinafter provided.

11.21.2 Subject to the other provisions of this Agreement, the Bank may at any time in its discretion, serve not less than 7 Business Days written notice on the Borrower specifying the Facilities Termination Date ("**the Facilities Termination Date**"). The said Facilities shall be available to the Borrower upto the Facilities Termination Date. Notwithstanding anything contained

elsewhere in this Agreement, the Borrower shall repay / pay to the Bank the Borrower's Dues in full on or before the Facilities Termination Date.

- 11.21.3 The parties hereto may at any time terminate this Agreement by mutual agreement recorded in writing and signed by both the parties.
- 11.21.4 Notwithstanding what is stated above, the Bank may terminate this Agreement by giving 3 Business Days written notice to the Borrower if the Borrower commits breach of any provisions of this Agreement or it is found that the Borrower has/have made any misrepresentation to the Bank.
- 11.21.5 Termination shall not affect any rights or obligations which have accrued or arisen prior to the termination and shall not affect the applicability of the provisions of this Agreement to transactions which have taken place prior to the termination.
- 11.21.6 Termination in any manner shall not affect the Bank's security interest or the Borrower's obligations to the Bank.
- 11.21.7 Upon termination, the Borrower shall pay to the Bank all amounts (including loans, principal, interest, and reimbursable expenses) outstanding hereunder. Payment shall be made at the earlier of: (i) the times provided elsewhere in this Agreement, or (ii) the effective date of termination.
- 11.21.8 The Bank reserves the right to revoke or cancel the Facilities and/ or vary, alter, modify or rescind, amend or change at any time any one or more of the terms and conditions of the facility at its discretion with such notice as the Bank may deem reasonable and without assigning any reason(s).
- 11.21.9 The provision of the Facilities is at the total discretion of the Bank and any request for extension/ enhancement / renewal of the Facilities and any disbursements thereunder will be at the discretion of the Bank and on fulfilment of terms and conditions as prescribed by the Bank.

11.22 **APPOINTMENT OF NOMINEE DIRECTOR**

The Bank shall at all times during the currency of the Facilities be entitled to appoint one Nominee on the Board of Directors of the Borrower if in its opinion the same is required to ensure that the interest of the Bank are adequately protected. Such Nominee will be entitled to all rights and interest, remunerations and fees payable to other directors of the Borrower. The Nominee Director shall not be liable to retire by rotation or hold qualification shares. The Borrower shall accept such Nomination and will ensure that the necessary formalities required to be completed are duly effected as per the applicable procedures of law as stated in the Companies Act or any other applicable law as may be amended from time to time.

11.23 **WILFUL DEFAULTER**

The Borrower shall be required to ensure that it shall not at any point of time during the currency of the Facilities so sanctioned to the Borrower by the Bank induct into the company any person who is a director on the board of any other company which has been classified as a wilful defaulter, and that in the event that the Bank ascertains that such a person has been inducted, then the Bank shall be within its rights to direct the Borrower to initiate appropriate steps for the removal of such a person.

11.24. **DISCLOSURE OF RELATIONSHIPS**

The Borrower declares, assures and states that, except as mentioned hereunder none of its directors/partners (if the Borrower is a company/partnership firm) is a director or [near specified] relative of a director and/ or Senior Officer of any bank;

The term "**Senior Officer**" means an officer of the Bank who is in equivalent scale as an officer in senior management level in Grade IV and above in a nationalised bank.

The term "**relative**" shall mean and include any or all of the following persons: (a) Spouse (b) Father (c) Mother (including step-mother) (d) Son (including step-son) (e) Son's wife (f) Daughter (including step-daughter) (g) Daughter's husband (h) Brother (including step-brother) (i) Brother's wife (j) Sister (including step-sister) (k) Sister's husband (l) Brother (including step-brother) of the Spouse (m) Sister (including step-sister) of the Spouse.

The Borrower makes the above declaration solemnly and sincerely believing the same to be true and knowing fully well that on the faith and strength the correctness thereof the Bank has agreed to grant the Facility. The Borrower also agrees that it is a condition of the grant of the Facilities that if any statement made with reference to the above is found to be false at any time the Bank shall be at liberty and entitled to revoke the Facilities. The Borrower declares that the Borrower is related to the director(s) and/ or Senior Officer(s) of any bank as specified in Schedule I hereto.

11.25 **SPECIAL CONDITIONS**

- (a) The Borrower shall not recognize or register any transfer of shares in the Borrower's capital made or to be made by any person as may be specified by the Bank. The Borrower shall procure and furnish undertakings from such persons, in a form and manner required by the Bank, whereby such person shall agree, inter alia, not to dispose off their shareholdings in the Borrower to any person in any manner whatsoever. The Borrower shall join in such undertaking as a confirming party. The Borrower shall procure that such person providing the undertaking referred to above deposits with the Bank, all original certificates pertaining to their shareholding in the Borrower.
- (b) The Borrower shall undertake and/or procure undertaking(s) from such persons as may be specified by the Bank in the form required by Bank, whereby it / he / she / they shall take the responsibility for making arrangements satisfactory to the Bank for meeting the shortfall, if any, in the resources of the Borrower for working capital requirement and/or any of its project. If required, the Borrower shall join in such undertakings procured from such other persons as a confirming party. The funds brought in to meet the shortfall in the resources of the Borrower for working capital and/or for any of its project, shall be in such form and manner and on such terms as may be required by the Bank (we generally stipulate sub-ordination of unsecured loans of promoters/ share application money etc.).
- (c) The Bank may at its sole discretion or otherwise, if the security furnished for various Facilities is common, permit interchangeability between the Facilities

within the overall limits granted to the Borrower from time to time on such terms and conditions as the Bank may deem fit and proper. However, unless otherwise agreed by the Bank in writing, such interchangeability will only be permitted between; Secured Fund based Limits and Secured Non Fund Based Limits inter se, Secured Fund Based limits inter se and Secured Non fund based limits inter se.

- (d) If the Borrower subsequent to this Agreement enters into any agreement/s for financial assistance with other creditors on any terms and conditions more favourable to such creditors than the terms and conditions stipulated herein or elsewhere mentioned or offered to the Bank, Or in the sole opinion of the Bank, such terms and conditions agreed to by the Borrower with such creditors may affect the rights of the Bank either under this Agreement or under any other agreement/s / document/s executed between the Borrower and the Bank or in any way dilutes the financial interest and /or materially prejudices the nature of security interest created in favour of the Bank, then in such an event the Borrower shall promptly inform the Bank of such terms and conditions and such of those terms and conditions as may be considered necessary by Bank shall apply to this Agreement as if Borrower had specifically agreed to such terms and conditions which terms and conditions shall be deemed to have been expressly incorporated herein from inception. The Borrower does hereby irrevocably undertakes and agrees, at its cost, to enter into such addendum / amendments/ supplementary agreements or such other agreements for incorporating such additional terms and conditions, as the Bank may deem necessary, in this Agreement and / or other agreements / documents in connection with the Facility/s granted, to the satisfaction of the Bank.

112.26 DERIVATIVE TRANSACTIONS

The Borrower agrees that the Bank shall have the right of first refusal in the event that the Borrower seeks to do any derivative transactions including but not restricted to interest rate or currency swaps or any other derivative transaction with regard to the Facilities or otherwise.

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

Subject to specific provisions incorporated in the relevant Product Schedule, in case any of the Facilities are denominated in any currency other than Indian rupees, the following conditions shall apply:

- (i) The foreign currency amount would be the limiting factor and the Borrower's liability would accordingly be reckoned in the foreign currency in which the relevant Facilities are denominated.
- (ii) The Borrower is liable to pay interest and repay principal in the currency in which the relevant Facilities have been denominated. In the event of any default in the payment of principal and/or interest on the Due Date of such Facilities, the Bank may, at its discretion, convert the amount into Indian rupees, on the Due Date(s) for such

payment(s) or on any subsequent date, at the Bank's TT selling rate prevailing on the date of such conversion. The amount due thereafter would be reckoned as denominated in Indian rupees.

(iii) The Indian rupee equivalent of the relevant Facilities denominated in currencies other than Indian rupees have been reckoned for the purpose of this Agreement at the exchange rate as under:
[1_____ = _____ Indian rupees]

(iv) In the event the Indian rupees value depreciates vis-à-vis the currency in which the relevant Facilities, the Borrower hereby agrees and confirms that:

- (1) such increased value in terms of Indian rupees shall also be covered by the securities, if any, stipulated in this Agreement;
- (2) the Borrower shall further execute, sign and furnish all such documents, deeds and writings required by the Bank for the aforesaid purpose.

IN WITNESS WHEREOF the Borrower and the Bank have caused this Agreement to be executed on the date and place specified in Schedule I and the same shall be deemed to have been duly executed when the second and final party thereto has executed the same in full

SIGNED AND DELIVERED

BY THE **BORROWER** :

By the hands _____ :

its Director / Partner :

SIGNED AND DELIVERED

BY **KOTAK MAHINDRA BANK LIMITED** :

By the hands of its Authorised Signatory :

Mr./Ms. _