

## Terms And Conditions Applicable For Facility

The terms and conditions (hereinafter referred to as this **Terms**) set out herein shall form an integral part of each facility agreement entered between Growth Source Financial Technologies Private Limited (**Lender/Growth Source**), the Borrower, and, Co-Borrower (if applicable) (**Facility Agreement or the Agreement**).

### 1. Definitions and Interpretation

#### 1.1. DEFINITIONS

Unless otherwise defined elsewhere, the capitalised terms used in the Terms and Conditions applicable for Facility shall have the meaning assigned to such terms herein and the Agreement:

- a. **Affiliate** shall, with respect to any person, mean any other person who Controls, is Controlled by, or is under the common Control with such person.
- b. **Applicable Laws** shall mean all Acts, statutes, enactments, and acts of legislature, laws, ordinances, rules, bye-laws, regulations, notifications, guidelines, policies, directions, directives, issued by regulatory or statutory authorities and treaties, judgment, orders, decrees of any authority or other governmental restrictions or any other similar form of decision of, or determination or any interpretation or administration having the force of law or any of the foregoing, by any court or any Government Authority which may have jurisdiction as amended or supplemented from time to time, whether in effect as of the date of the Agreement or thereafter.
- c. **Assets** shall mean all the present and future movable assets of the Borrower including, without limitation, the Current Assets, the receivables, book debts and revenues of the Business, all the rights, title, interest, benefits, claims and demands of the Borrower under all insurance contracts, security deposit, and, or, performance security.
- d. **Authorised Officer** shall mean with respect to any person, any officer of such person that is authorised to sign on behalf of such person.
- e. **Business Day** shall mean a day which is not Sunday or public holiday (as defined by Section 25 of the Negotiable Instrument Act, 1881 (26 of 1881)) on which the Lenders and Financial institutions are normally open for business:
- f. **Credit Information Companies / Credit Rating Agencies (CRA)** shall mean the domestic Credit Information Agency and include Credit Information Bureau (India) Limited -CIBIL, Equifax Credit Information Services Pvt. Ltd., Experian Credit Information Company Of India Pvt. Ltd., CRIF High Mark Credit Information Services Pvt. Ltd.
- g. **Consent** shall mean the consent submitted by the Borrower to the Lender for processing lending of the Facility.
- h. **DRT Act** shall mean the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the rules and regulations thereunder.
- i. **Final Settlement Date** shall mean the date on which all Outstanding Obligations owed/ payable to the Lender by the Borrower have been paid, discharged or performed in full to the satisfaction of the Lender in accordance with the terms of the Financing Documents and there are no sums which are owed or payable, even contingently, to the Lender by the Borrower, under or pursuant to the Financing Documents.
- j. **Financial Year** shall mean the period starting on 1 April of a calendar year and ending on 31 March of the subsequent calendar year.
- k. **GAAP** means Generally Accepted Accounting Principles.
- l. **Government** shall mean to include the Government of India (**GOI**) or any State Government and any local or other authority.
- m. **Government Authority** shall mean any Government or department thereof, local authorities (such as corporation, municipality, panchayat), commission, board, agency, regulatory authority, instrumentality, court, arbitration tribunal or other judicial or administrative body having jurisdiction over the matter or matters in question.
- n. **Indebtedness of Borrower** shall mean all amounts due under the Facilities, including interest, additional interest,

, interest tax, prepayment charges, costs, expenses and all other amounts whatsoever payable/repayable by the Borrower to the Lender under this Agreement and/or in connection with the Facility.

- o. **IBC** means the Insolvency and Bankruptcy Code, 2016 and the rules and regulations thereunder.
- p. **Information Utilities** means an information collection body constituted under the provisions of the IBC.
- q. **Material Adverse Effect** means any occurrence, fact, condition, change, effect or consequence of any event or circumstance which is or is likely to be individually or in the aggregate, which in opinion of the Lender: (a) adverse to the ability of the Obligors to perform or comply with any of its obligations under the Financing Documents in accordance with their respective terms; or (b) prejudicial to any of the businesses, operations or financial condition of the Obligors.
- r. **Obligors** mean, collectively, the Borrower, the Co-Borrower and individually any one of them.
- s. **Outstanding Obligations** mean and include the outstanding principal amount of the Facility, Interest, Default Interest, all other interest, all fees, costs, commitments, charges, expenses, stamp duty and all other sums whatsoever payable by the Borrower to the Lender in accordance with the Agreement and the Financing Documents, as well as all other monies whatsoever stipulated in or payable by the Borrower/s under the Agreement.
- t. **Person** shall include individual, partnership firm, company, association of persons, proprietary concern, limited liability partnership and co-operative society as mentioned and stipulated as per the relevant provisions of the Income Tax Act, 1961.
- u. **Platform or Sourcing Platform** shall mean the entity facilitating the service for online availment of financial assistance by the Borrower from the Lender.
- v. **Potential Event of Default** means an event which with the giving of notice, lapse of time, determination of materiality, or any combination of the foregoing or otherwise as stated in the Financing Documents, would constitute an Event of Default.
- w. **Taxes** means all applicable taxes including but not limited to goods and services, registration or stamp tax, levy, cess, impost, rates, duty, stamp duty, charge, fee (including, but not limited to, any license, filing, recording, documentary or registration fee), interest tax, service tax, deduction, withholding or any other obligation (including, without limitation, past obligations) in the nature of tax under Applicable Law.

## 1.2. INTERPRETATION

- a. The headings and references to clauses, annexures and, or, schedules are for ease of reference only and will not be deemed to form any part of the context or to same affect the interpretation of the Agreement, Terms and Conditions applicable for Facility and the provisions and conditions contained in them.
- b. Words importing the singular will include the plural and vice versa; words importing any gender such as its, his and, or, her will include all other genders; and words importing persons will include bodies corporate and unincorporated and vice versa.
- c. Any obligation not to do anything will be deemed to include an obligation not to suffer, permit or cause that thing to be done.
- d. Words such as 'includes', 'including' and 'such as' are deemed to be followed by 'without limitation'.
- e. A reference to a statute or legislation is to that statute or legislation as amended, re-enacted or replaced.
- f. All terms and conditions of the Agreement, and the Terms and Conditions applicable for Facility shall be construed in accordance with the written terms thereof; and if the term or condition be ambiguous, then in accordance with the intention of the Parties.

## 2. CHANGES IN TERMS AND CONDITIONS

The Borrower agrees that the Lender has a right to change the terms and conditions mentioned herein, the Agreement, and other Financing Documents. Lender shall give notice to the Borrower in the vernacular language or a language as understood by the Borrower in the event of any of any change in the terms and conditions.

## 3. CONDITIONS PRECEDENT TO DISBURSEMENT

The Lender shall make the Disbursement in single tranche as per the drawdown request of the Borrower, upon satisfaction of the following conditions to its satisfaction, unless waived by it: . (i) the Borrower has provided to the Lender all information and documents for Know Your Customer (KYC), requisite consents, for undertaking the eligibility check, generation of credit report of the Borrower with the associated credit information companies and, or, documents as may be required by the Lender; (ii) the Borrower, and the Co-Borrower (if applicable), has provided to the Lender post-dated and, or, undated cheques covering all scheduled principal and interest payments (Post Dated Cheques) along with a cheque deposit letter from the Borrower to the satisfaction of the Lender; (iii) the Borrower shall not have its name appears in negative list maintained by the credit information companies; (iv) the Borrower has provided to the Lender duly completed National Automated Clearing House (NACH), e-NACH, Debit mandate or electronic system mandate (ECS) (collectively referred to as **Debit Mandate**) as notified by **RBI** against the Specified Account or Borrower's other bank account for payment of dues; (v) The Borrower shall have paid the Facilitation Fees in accordance with the Agreement and Sanction Letter;

#### **4. REPRESENTATION AND WARRANTIES**

- 4.1. The Borrower represents, and warrants that: (i) it has the competence to execute the Financing Documents under all Applicable Laws and has taken the necessary approvals in relation to the execution of the Financing Documents (to which the Borrower is a party), which approvals will remain valid and subsisting till the Final Settlement Date; (ii) all the information provided by the Borrower in relation to the Facility, whether or not relevant for ascertaining the credit worthiness of the Borrower, is true and correct and not misleading in any manner; (iii) there are no actions, suits, proceedings or investigations pending or threatened by or against the Borrower before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may constitute individually or in the aggregate or may result in a Material Adverse Effect; (iv) no Event of Default or Potential Event of Default or Material Adverse Effect shall have occurred and no circumstances shall have occurred which shall make it improbable for the Borrower to fulfil his and, or, its obligations under the Agreement; (v) the Borrower has paid and shall pay when due, all public demands such as taxes and all the other revenues payable to any Central or State authority and that at present there are no arrears of such taxes and revenues due and outstanding; (vi) Borrower have not been declared as wilful defaulter/s under any applicable law and or by any relevant authority nor he/she is a specified near relation to the Lender; (vii) Neither the Borrower, has been engaged in (a) corrupt practices, fraudulent practices, collusive practices or coercive practices in connection with the Borrower's business and operations, (b) money laundering or acted in breach of any applicable laws relating to money laundering; or (c) the financing of terrorism. This representation will continue to remain valid till the repayment of all amounts under the Agreement and conclusion of the underlying transaction pursuant to the Financing Documents.
- 4.2. Each of the representations and warranties given by the Borrower are deemed material.
- 4.3. Further, the Borrower confirms that the representations and warranties contained herein shall be deemed to be repeated by the Borrower on and as of each day from the date of this Terms until the Final Settlement Date, as if made with reference to the facts and circumstances existing on such day.

#### **5. COVENANTS AND UNDERTAKINGS OF THE BORROWER**

- 5.1. Till the Final Settlement Date, the Borrower hereby covenants and agrees (i) promptly give written notice to the Lender (a) any material circumstances affecting the ability of the Borrower to repay the Outstanding Obligations in the manner stipulated hereunder; (b) change in its address or any other material change in relation thereto; (ii) do, perform and execute such acts, deeds, matters and things as the Lender may consider necessary to carry out the intent of the Agreement and the Financing Documents; (iii) confirm that the copies of the document submitted for the purpose of availing the Facility from the Lender are genuine and remain present at all times, reasonably called by the Lender for verification and or submission of originals of all such copies; (iv) bear all costs of making good any deficit in stamp duty on the documents executed by the Borrower or any other Person in relation to the Financing Documents in favour of the Lender; (v) immediately deliver to the Lender all documents, including Borrower's account statements as may be required from time to time. (vi) It also authorizes the Lender to communicate independently with any Bank where the Borrower maintains an account to seek details and statement in respect of such account from the Bank; (vii) immediately notify the Lender of any litigations or receipt of notice of legal proceedings against Borrower, including but not limited under the IBC or upon occurrence of a Potential Event of Default, Event of Default, or Material Adverse Effect along with the steps taken to rectify such event; (viii) provide an end use statement of the Facility as and when required by the Lender within 7 (Seven)

days of receiving such request from the Lender (ix) keep such adequate accounting and control systems, management information systems, books of account, and other records as are required to be maintained under Applicable Law and such accounts as are adequate to reflect truly and fairly the financial condition and results of operations and which shall contain full, true and correct entries in conformity with GAAP consistently applied and all requirements of Applicable Law; (x) consents to the Lender to use and store all the information provided by the Borrower or otherwise procured by the Lender in the manner it deems fit including for the purposes of this Facility and understands and agrees that the Lender may disclose such information to its contractors, agents and any other third parties; (xi) pay the EMI on the EMI Payment Dates and shall pay all any tax, imposts, duties, and levies of whatever descriptions, payable on the Interest and / or the Default Interest, levied pursuant to the Applicable Laws by statutory authority or other authorities in connection with the Facility as applicable from time to time; (xii) The Borrower acknowledges and authorizes the Lender to procure Borrower's PAN No., copy of Pan Card, Aadhaar Number, other identity proof and Lender account details, from time to time and to also generate / obtain CIBIL, Experian reports, and such other reports as and when the Lender may deem fit.

- 5.2. Each of the representations and warranties given by the Borrower are deemed material and shall survive the execution, delivery and termination of the 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.

## **6. FORECLOSURE OF THE FACILITY**

The Borrower shall be entitled to foreclose the Facility in full or part, as set out in **Sanction Letter**: (i) only if Lender permits the same upon at least 15 days' written notice from Borrower communicating intention to foreclose; and (ii) subject to such conditions as the Lender may prescribe as mentioned in the Sanction Letter or as specified from time to time by the Lender. In the event of the Borrower intends to foreclose the Facility, the Interest would be calculated till the date of actual foreclosure. Such foreclosure shall take effect only when entire Outstanding Balance has been paid to and realized by the Lender. Further, the payment can be made by the Borrower before the monthly closure window for foreclosure, as displayed and mentioned on the Lender's website.

## **7. EVENT OF DEFAULT**

- 7.1. The following events shall constitute an events of default (each an "Event of Default"), and upon the occurrence of any of them the entire Outstanding Balance shall become immediately due and payable by the Borrower and further enable the Lender inter alia to recall the entire Outstanding Balance (a) Failure on Borrower's part to perform any of the obligations or terms or conditions or covenants applicable in relation to the Loan including under this document/other documents; (b) any breach of terms and conditions or misrepresentations or misstatement by the Borrower; or (c) occurrence of any circumstance or event which adversely affects Borrower's ability/capacity to pay/repay the indebtedness / Outstanding Balance or any part thereof or perform any of the obligations; (d) If any attachment, distress, execution or other process against the Borrower; or (e) in the event of death, insolvency, failure in business, commission of an act of bankruptcy of the Borrower, or change or termination of employment/profession/business for any reason whatsoever or any other event, which in the Lender's opinion, prejudicially affects the Lender's interest (f) if the Borrower is being declared insolvent or any insolvency proceedings are instituted against the Borrower, whichever is earlier; (g) any demand made against or filing of any application in respect of and, or, against Borrower under the IBC and the regulations framed thereunder (or which demand, filing or application may lead to a proceeding under the IBC) by any person including any creditor (whether operational or financial) of such person;

## **8. CONSEQUENCES OF AN EVENT OF DEFAULT**

The Borrower agrees and acknowledges that the decision of the Lender shall be final and binding on any questions or issues on point in respect of happening/non-happening of the Event of Default. Following are the consequences upon occurrence of an Event of Default: (i) Notwithstanding anything contrary contained in the Financing Documents, upon happening of any Event of Defaults, Lender, by a written notice to the Borrower may declare the Outstanding Obligations and/or any other amounts including Interest and Default Interest which may be payable by the Borrower under or in terms of the Financing Documents and/or any other agreements, documents subsisting between the Borrower and the Lender, to be due and upon such declaration the same shall become due and payable forthwith. Further, the Default Interest to be borne by the Borrower shall be computed from the respective Due Dates and shall be compounded on monthly basis; (ii) Lender shall be entitled to

communicate, in any manner it may deem fit, to or with any Person or Persons with a view to receiving assistance of such Person or Persons in recovering the defaulted amounts including but not limited to visiting the office /residence of the Borrower and/or any place of work of the Borrower; (iii) Lender shall have the right to modify the Repayment Schedule in the manner as it deems fit; (iv) In addition to the rights specified in this terms of the Agreement, Lender or its representatives including Assignees shall be entitled to take all or any action with or without intervention of the courts to recover all the dues payable by the Borrower under the Agreement without limited to initiate criminal proceeding or any other appropriate actions against the Borrower, if Lender at its sole discretion has sufficient grounds to believe that the Borrower has made any misrepresentations and /or submitted any forged documents or fabricated data to the Lender; (v) The Lender shall have a right to exercise its right available under the Applicable Laws including but not limited to IBC, DRT.

## **9. LIEN AND SET OFF**

Notwithstanding anything to the contrary in the Agreement or any other document and, or, arrangement: (i) in respect of all and any of the Borrower's, present and future liabilities to the Lender or to the affiliates, group entities, associate entities, parent, subsidiaries, or any of branches of the Lender (hereinafter collectively referred to as the **Relevant Entity(ies)**), whether under this document or under any other obligation, loan, facilities, borrowings or document, whether such liabilities are or be crystallised, actual or contingent, primary or collateral or several or jointly with others, whether as principal debtor and/ or otherwise howsoever (collectively **Liabilities**), the Lender and the Relevant Entities shall have a specific and special lien on all the Borrower present and future stocks, shares, securities, property, held with or in custody, legal or constructive, with the Lender and the Relevant Entities, now or in future, whether in same or different capacity of the Borrower and, or, entities, and whether severally or jointly with others, whether for any safe custody, collection, or otherwise, and (ii) separately, the Lender and the Relevant Entities shall have an express right to, without notice to and without consent of the Borrower and, or, entities, set-off, transfer, sell, realise, adjust, appropriate all such securities, amounts and property as aforesaid (whether earmarked for any particular Liability or not) for the purpose of realising or against any dues in respect of any of the Liabilities and to set-off any monies, whether of same type or nature or not and whether held in same capacity or not including upon any default in payment of any part of any of the Liabilities when due in terms of such documents and (iii) the security created by the Borrower or any other entity within the Borrower in respect of any specific Liability in favour of the Lender or any of the Relevant Entities shall be deemed to be created for and shall secure all the Liabilities and may be enforced for the realisation of any or all the Liabilities. The Lender or the concerned Relevant Entity (as the case may be) shall not be bound to release any such security even if the specific Liability for which it was created has been discharged and shall be entitled to continue to hold such security (as security for the other Liabilities) until the full and final discharge of all the Liabilities to the satisfaction of the Lender and, or, concerned Relevant Entity.

## **10. TERM AND TERMINATION**

- 10.1. The Agreement shall become binding on the Borrower and the Lender on and from the Effective Date hereof. It shall be in full force till all the Outstanding Obligations and other amounts due under any other agreements, documents which may be subsisting/ executed between the Borrower and the Lender have been fully paid to the satisfaction of the Lender.
- 10.2. The Lender may terminate the Agreement and recall the entire loan/ facility from the Borrower, in the event of default of any of the obligations of the borrower under the Agreement (including the Sanction Letter) executed in relation to the Financing Documents. Any such termination will not affect payment or any other obligations.

## **11. EXCLUSION OF LIABILITY**

In no event shall Lender be liable to the Borrower for any special, incidental, indirect, punitive or consequential damages whatsoever (including, without limitation, damages of loss of goods or services, loss of information, or any other pecuniary loss) arising out of the use of, or inability to use or access of Credit Facility or for any security breach or any virus, bug, unauthorized intervention, defect, or technical malfunctioning of Platform, whether or not foreseeable and whether or not Lender have been advised of the possibility of such damages, or based on any theory of liability, including breach of contract or warranty, negligence or other tortious action, or any other claim arising out, of or in connection with, Borrower's use of, or access to, Credit Facility. Further, Lender shall not be liable to the Borrower for any temporary disablement, permanent discontinuance of the services or suspension/ cancellation of facility by the Lender or for any consequences resulting from such actions.

## **12. OUTSOURCING BY THE LENDER**

The Parties acknowledge and agree that Lender shall have the right to engage as per applicable law, at any time and from time to time, the services of third parties for the purpose of KYC document/ information collection, NACH/ repayment mode pickup, collection / recovery of any and all amounts outstanding and due and payable to the Lender under the terms of the Agreement, inclusive of any/all legal remedies available to the Lender against the Borrower.

The Borrower acknowledges(s) that pursuant to any such services if outsourced by Lender to various service provider/third parties, the Borrower information may be disclosed by Lender to such service provider/third parties. The Borrower hereby gives its consent to disclosure by Lender to such service provider/third parties confidential information relating to Borrower and disclaims any liability that may arise by such disclosure by Lender.

## **13. INDEMNIFICATION**

The Borrower undertakes to indemnify and keep the Lender and its directors, officers, employees, agents and representatives fully indemnified and harmless from and against all forms of losses, liabilities, claims, actions, demands, suits, proceeding and or damages including but not limited to all costs, expenses, taxes and other costs incurred or suffered by the Lender in relation to or by reason of (i) this Facility; and or (ii) action and, or, inaction of the Borrower; and or (iii) breach and, or, default contravention and, or, non-observance and, or, non-performance of the terms of the Financing Documents; and or (iv) third party claims or claims from relevant regulators or authorities.

The Borrower further agrees to indemnify and keep indemnified the Lender and/or its Affiliates from time to time and at all times hereafter from and against any and all claims, damages, costs, losses, expenses, suits, proceedings, actions, liabilities, etc., whatsoever arising in connection with or relating to any Communications (as defined below) provided/received by the Lender and/or its Affiliates by Electronic Media as mentioned under in Clause 18 hereunder.

## **14. TRANSFER AND ASSIGNMENT**

The Lender may, at any time, assign, transfer, sell, all or any part of Lender's right and obligations under the Facility, including the outstanding Obligations, receivables, rights, benefits and any other interest created by the Borrower in favour of the Lender under the Financing Documents without prior concurrence or intimation to the Borrower or to any Person/s in whole or in part and in such manner and on such terms as the Lender may decide without any reference to the Borrower. Notwithstanding any such assignment or transfer, the Borrower shall, unless otherwise notified by the Lender, continue to make all payments under the terms of the Agreement to the Lender and all such payments when made to the Lender shall constitute a full discharge to the Borrower from all its liabilities in respect of such payments. In no event, the borrower shall be entitled to directly or indirectly assign or in any manner transfer, whether in whole or part, any rights, the benefit or obligation under the Loan and Financing Documents.

## **15. NOTICES**

Any notices or communications required to be given or served by one Party on the other in respect of the Agreement, shall be in the form and manner as mentioned herein . Any notice, request, document, communications etc. ("Communication") issued to the Borrower shall be in writing and sent by the Lender in person or electronically by email/ WhatsApp/ SMS/ electronic message or by speed post, registered post to the address/ E-mail address/ mobile no. latest mentioned in the Facility Documents.

All notices shall be deemed to have been validly given on (i) the expiry of seven (7) days after posting if sent by registered post or speed post; and (ii) the expiry of five (5) days, if sent by courier;

## **16. END USE**

The Borrower undertakes that the services availed from the Platform will not be used for any unlawful, illegal and anti-social activity or any other activity for which this Facility is not extended.

## **17. GENERAL RIGHTS OF THE LENDER**

The Lender shall have an unqualified right and authority to disclose and furnish information regarding the Facility

including personal information, details in relation to documents, Loan, defaults, security, obligations of the Borrower to any such Person as it may deem fit, including but not limited to the RBI, CIBIL, other rating agency and any other agency authorized in this behalf by the RBI and/or any other governmental/regulatory/statutory, service providers, any third parties, any assignees/potential assignees or transferees, who may need the information and may process the information, publish in such manner and through such medium as may be deemed necessary by the publisher/ Lender/ RBI, including publishing the name as part of a wilful defaulter's list from time to time, as also use for KYC information verification, credit risk analysis, or for other related purposes and the Borrower hereby acknowledges this right of the Lender and understands that this right of the Lender is a pre-condition of the Facility given to the Borrower by the Lender. The Borrower waives the privilege of privacy and privity of contract.

## **18. ELECTRONIC MEDIA**

- 18.1. The Borrower hereby confirms, acknowledges and agrees that the online acceptance of the Agreement including any addendums hereto through the Website or such other internet or web-based means results in a binding contract between the Parties.
- 18.2. The Borrower is aware that transmission of the Agreement, addendums to the Agreement, terms and conditions, instructions, acceptances and communications ('Communications') through electronic means such as email, SMS text messaging, websites, online acceptance, etc. ('Electronic Media') involves a number of risks including fraudulent alterations and incorrect transmissions and absence of confidentiality. However, the Borrower is desirous of receiving Communications from and addressing Communications to the Lender through the Electronic Media for various matters under the Agreement including in relation to the Loan and the operation thereof.
- 18.3. In consideration of the Lender permitting the same, the Borrower hereby irrevocably, confirms and undertakes to the Lender as under:
- (i) The Lender shall be entitled (without being bound to do so) to rely upon the Communications provided through the Electronic Media (and believe the same to be genuine), for their requirements and the records of the Electronic Media received by the Lender shall be treated as final, conclusive and binding.
  - (ii) The Borrower has ensured and shall ensure that the Communications provided through the Electronic Media to the Lender are provided by the Borrower and hereby agrees and confirms that the Lender shall not be responsible for conducting any verification whatsoever in this regard.
  - (iii) The Borrower confirms that the Lender shall not be bound to act in accordance with whole or any part of the communications as it may appear in the Communications so conveyed and the same shall be at the sole risk of the Borrower.
  - (iv) The Lender shall not be liable for the consequences of any act or any refusal or omission to act or deferment of action by the Lender on basis of the Communications through the Electronic Media.
  - (v) The Lender shall not be required to await receipt of the communications in writing before taking any action in connection with the Communications provided through any Electronic Media and the non-delivery and non-conformity of such communications in writing shall not in any manner prejudice the Lender's rights under the Agreement or otherwise.
  - (vi) The Lender may at any time whatsoever without assigning any reason withdraw or modify or add the facility/ies provided to the Borrower in relation to the Communications through Electronic Media.
  - (viii) The Borrower is aware and confirms that the Lender is agreeing to act on any Communications provided through Electronic Media only by reason of, and relying upon the undertaking and indemnities contained in this Clause.

## **19. GOVERNING LAW AND JURISDICTION**

The Loan, this document/other documents, shall be governed by the laws of India. The parties hereto expressly agree that all disputes arising out of and/or relating to the Loan, this document or any other relevant document shall be subject to the exclusive jurisdiction of the court/tribunal of the city/place as specified in **Schedule I** of the Facility Agreement, provided that the exclusivity aforesaid shall bind the Borrower and Lender shall be entitled to pursue the same in any other court of competent jurisdiction at any other place.

In addition to aforesaid, the Borrower hereby agrees and confirms that the Lender shall be permitted to invoke

the provisions of the DRT, or IBC and any amendments thereto as may be applicable in order to recover all the Outstanding Obligations and dues under the terms of the Agreement from the Borrower, or any other Person and the Lender shall stand absolutely entitled to exercise such rights and remedies thereunder irrespective of the initiation, pendency, or continuation of any other arbitral or other proceedings.

## **20. DISPUTE RESOLUTION**

Without prejudice to the rights of the Lender under any Applicable Laws, any disputes, differences and or claims under the terms of the Agreement shall be referred to arbitration by sole arbitrator jointly appointed by Lender and the Borrower. The proceedings of such arbitration shall be governed by the provisions of the Arbitration and Conciliation Act of 1996 (as amended from time to time) and notwithstanding the seat and venue mentioned in **Schedule I** of the Facility Agreement. In the event of incapacity or resignation or death of the sole arbitrator so appointed, the proceedings shall be continued as per the provisions of Arbitration and Conciliation Act of 1996. The Parties shall be entitled to apply to the competent courts for interim or interlocutory relief in respect of such arbitration. The award given by the sole arbitrator shall be final and binding on the Parties. The cost of the arbitration shall be borne by the Parties, in accordance with the award passed by the sole arbitrator.

## **21. WAIVER**

No forbearance, indulgence or relaxation or inaction by the Lender at any time to require performance of any of the provisions of the Agreement, and the Financing Documents shall in any way affect, diminish or prejudice the right of the Lender to require performance of that provision from the Borrower, and any waiver or acquiescence by the Lender of any breach of any of the provisions of the Agreement, and the Financing Documents shall not be construed as a waiver or acquiescence of any continuing or succeeding breach of such provisions or a waiver of any right under or arising out of the Agreement, and the Financing Documents or acquiescence to or recognition of rights and/or position other than as expressly stipulated in the Agreement and the Financing Documents.

## **22. SEVERABILITY**

In the event that any provision of the terms of the Agreement is determined to be unlawful, void or unenforceable, such provision shall nonetheless be enforceable to the fullest extent permitted by applicable law, and the unenforceable portion shall be deemed to be severed from the terms of the Agreement, such determination shall not affect the validity and enforceability of any other remaining provisions.

## **23. MISCELLANEOUS**

The Borrower agrees / confirms that: (i) that the terms and conditions and all the covenants and details of all the Schedules as mentioned in the Facility Agreement shall be read and construed as part and parcel of these presents; (ii) that the financing transaction hereunder gives rise to a relationship of debtor and creditor as between the Borrower and the Lender and not in respect of any service rendered/to be rendered by the Lender. Accordingly, the provisions of the Consumer Protection Act, 1986 shall not apply to the transaction hereunder; and (iii) that the Borrower has read and understood the terms of the Agreement and in the event that the Borrower is illiterate and/or cannot read English language, the terms and conditions of the Agreement have been read over, translated and explained in detail in the vernacular language to the Borrower.

## **24. INCONSISTENCY**

Parties agree that in case of any inconsistency or conflict between this Terms, the Sanction Letter issued by the Lender for the Facility, and the Facility Agreement, the Facility Agreement shall prevail. Additionally, the Parties agree that in the event of any conflict between the term of the Sanction Letter of the Lender on one hand and the term of the sanction letter of another Lender or the terms of this Terms, on the other hand, the terms which are more beneficial to the Lender shall prevail.