

GENERAL TERMS & CONDITIONS

Applicable to issuance of Credit

THIS DOCUMENT CONTAINS IMPORTANT INFORMATION. PLEASE READ CAREFULLY AND RETAIN FOR FUTURE REFERENCE.

These are the terms and provisions upon which each Facility (as defined below) may be issued or established by the BANK (as defined below) for the benefit of the Applicant (as defined below) and are deemed to be incorporated in the facility Agreement between the Applicant and the BANK and shall be applicable to all other legal documents related to the FACILITY issued by the BANK (the "Terms and Conditions"). Where any of the Terms and Conditions conflict with the terms of a request or application for the issue of a Facility (including terms contained in the UCP600 latest version), the Terms and Conditions shall prevail. The Terms and Conditions are in force from the date set out below and replace all previous versions. Our usual banking and business lending practices will apply in the event that any of the terms set out below do not cover a particular situation. In these Terms and Conditions, the BANK may also be referred to as "we", "our" or "us" and the Applicant may also be referred to as "you" or "your".

DEFINITIONS & INTERPRETATIONS

The following terms shall have the following meanings except where the context so otherwise requires or admits.

- A) "AGREEMENT" means the agreed arrangement for the FACILITY entered into between the APPLICANT and the BANK including any /all of amendments made thereto from time to time duly signed by the BANK and the APPLICANT.
- B) "APPLICANT" means a legal person on whose request the FACILITY is provided by the BANK.
- C) "BANK" means Euro Exim Bank Ltd. and/or its associates, representatives and subsidiaries (as the case maybe).
- D) "BENEFICIARY" means the corporate in whose favour the FACILITY is issued by the BANK.
- E) "FACILITY" means an arrangement/ agreement where the BANK agrees to issue an instrument (Letters of Credit, Stand-By Letters of Credit, Guarantees) to a Beneficiary which imposes on the BANK (or purports to impose on the BANK) any liability on behalf of the APPLICANT in the amount, for the terms and purpose, and on the specific terms specified in the application.
- F) "FEE" means the fee payable by the Applicant to the BANK for and in respect of the FACILITY and includes the interest and/or cancellation fee payable thereon in terms of the AGREEMENT.
- G) "FACILITY VALUE" means a sum of USD of lawful currency which shall represent the total value of the FACILITY approved by the BANK in favour of the APPLICANT.
- H) "FACILITY PERIOD" means the period of the FACILITY from the date of issue thereof to the date of maturity/ expiry (as applicable) and may be renewed/extended for further period by duly authenticated amendment solely at the discretion of the BANK.

- I) "PRIME RATE" means the fluctuating per annum rate quoted, published or announced from time to time by the national banks as THE "Prime Rate," which rate is a reference point for pricing loans and as to which loans may be made by you at, below or above such Prime Rate. Interest shall be adjusted concurrent with any change in the Prime Rate. Interest shall be computed on the basis of a 360-day year and the actual number of days elapsed.

The provisions herein provide for the issuance procedure of the FACILITY, as well as stipulate the mutual rights, obligations and liabilities of the APPLICANT and the BANK.

The APPLICANT shall be obliged to read these Terms and Conditions and the APPLICANT's signature on the application shall certify that the APPLICANT has fully read these Terms and Conditions, agrees with them and recognises them as binding.

The FACILITY shall be issued on the basis of the APPLICANT's application in accordance with the terms stipulated in the FACILITY (the "Letter of Credit" / "stand by Letter of Credit" / "Bank Guarantee") a draft of which would have been forwarded and subsequently approved by the APPLICANT.

The FACILITY is not revocable by the APPLICANT and cannot be altered in any way except with the prior written consent of the BANK.

1. REPRESENTATIONS OF THE APPLICANT

- 1.1 The APPLICANT represents and warrants to the BANK that;
 - (1) The APPLICANT is legally and validly constituted;
 - (2) The FACILITY is within the borrowing limits of the APPLICANT'S Board of directors.
 - (3) To the best of its knowledge and ability, the APPLICANT shall disclose/has not withheld/shall not withhold and/or shall cause third parties to provide all material information pertaining to itself, and/or related/group parties as may be reasonably requested by the BANK and shall ensure that such information is true fair and accurate.
- 1.2 In the event that any representation made by the APPLICANT or on its behalf to the BANK to obtain the FACILITY, is found to be untrue or inaccurate or the APPLICANT, committing any breach of the terms or conditions set out/referred to herein or in any other contract(s) previously entered into or hereafter to be entered into with the BANK for the grant of any other FACILITY the BANK will thereupon be entitled to demand or claim forthwith the payment of such cost or any other delayed interest or any other interest and or other charges thereon as shall then be outstanding to the BANK.
- 1.3 The APPLICANT shall not change its legal status, structure, shareholders or Board of Directors or take any step or action which is or likely to have an adverse effect on the APPLICANT or amend the Memorandum and Articles of Association/ or Partnership Agreement during the FACILITY PERIOD without notifying the BANK of such change so long

GENERAL TERMS & CONDITIONS

Applicable to issuance of Credit

as the FACILITY is valid/ any fees, commissions or charges are due to be paid to the BANK. Any material change in trade, business or occupation of the APPLICANT shall be notified to the BANK by the APPLICANT within fourteen (14) days of the material change.

1.4 No limit on the powers of the APPLICANT to borrow or incur liabilities will be exceeded as a result of obtaining the FACILITY under the AGREEMENT which shall at all times constitute valid and binding obligations on the part of the APPLICANT and in accordance with its terms.

1.5 The APPLICANT is not in default of any agreement or contract to which it is a party or by which it may be bound nor in respect of any financial year commitment or obligation being in any case a default entered into with the effect of which would materially and adversely affect the ability of the APPLICANT to perform its obligations envisaged under the AGREEMENT. Particulars of any litigation which may tend to affect the financial capacity of the APPLICANT shall be disclosed to the BANK whenever such eventuality occurs.

1.6 The necessary approvals and licenses to import the goods under the FACILITY shall be obtained by the APPLICANT wherever necessary from all relevant authorities of the respective countries where the goods are being imported/exported.

1.7 The APPLICANT confirms and guarantees that any asset introduced to the BANK is not derived from or otherwise connected with any illegal activity; that such asset belongs to the APPLICANT and the APPLICANT has full authority to transfer the same to the BANK, and the transfer of such asset(s) does not constitute a fraud on the APPLICANT's creditors; that neither the APPLICANT nor the BANK will be involved directly or indirectly in any unlawful activity and the BANK will not be used for any unlawful purpose.

1.8 The APPLICANT confirms and guarantees that no instructions given to an employee, agent and/or associate will require or involve any unlawful act or contain any falsehood.

1.9 The APPLICANT represents and warrants that neither it, nor any of its subsidiaries, nor any of its or its subsidiary's directors, officers, employees, agents or affiliates, is an individual or entity (person) that is, or is owned or controlled by, persons that are: (a) the target or subject of any sanctions administered or enforced by the US Department of the Treasury's Office of Foreign Assets Control, the US Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury or under the laws of the place where the BANK'S office to which the APPLICANT is making this request is located, your jurisdiction of incorporation or BANK'S jurisdiction of incorporation (collectively, sanctions); or (b) located, organised or resident in a country or territory that is, or whose government is, the target or subject of sanctions.

1.10 The APPLICANT undertakes that it will not, directly or indirectly, use, or facilitate the use by any of its subsidiaries or joint venture partners or by any other person of, the trade product you are requesting from the BANK in this request:

(a) to fund any activities or business of, or with, any person, or in any country or territory, that, at the time of such funding, is, or whose government is, the target or subject of sanctions or

(b) in any other manner that would result in a violation of a sanction by any person.

2. SECURITY

2.1 The APPLICANT shall in respect of the FACILITY together with the commission interest and other charges thereon execute in favor of the BANK a duly notarized AGREEMENT in which THE BANK offers the terms and conditions applicable to the FACILITY (the offer which shall be provided by the BANK) to sign and accept by the APPLICANT.

2.2 The APPLICANT agrees that the BANK shall only pay and are only obligated to pay the drawings of the FACILITY if and when the BANK receives the same from the APPLICANT.

2.3 The APPLICANT agrees with the BANK that as security for the FACILITY together with the commission interest and other charges thereon the APPLICANT shall agree to execute in favor of the BANK;

1) a GUARANTEE AGREEMENT (in accordance with the format which shall be provided by THE BANK) constituting Directors' Personal Guarantee or Corporate Guarantee of the APPLICANT.

2) a PROMISSORY NOTE; and

3) a Bill of exchange in favor of the BANK.

2.4 The stamp duty/courier charges/Notary's charges payable on the security/indemnity documentation aforesaid shall be borne and paid for by the APPLICANT and also any fees commissions and other payments that may become due and payable in respect thereof.

2.5 THE APPLICANT hereby agrees to indemnify BANK and its affiliates, officers, directors, employees and agents (each, an "Indemnified Party"), harmless from and against all losses, damage, costs or expenses (including, without limitation attorneys' fees, economic loss or other financial loss) arising out of:

(a) the issuance by the BANK of the FACILITY or instruments or incident to BANKS collection of amounts owed by the APPLICANT hereunder or the enforcement of BANKS rights hereunder, including any loss, damage, cost or expense arising in whole or in part from the negligence of the Indemnified Party seeking indemnification, and

(b) THE APPLICANTS failure to timely procure licenses or comply with applicable laws, regulations or rules or any other conduct or failure by the APPLICANT relating to or affecting the Letter of Credit or this Agreement.

GENERAL TERMS & CONDITIONS

Applicable to issuance of Credit

- 2.6 The APPLICANT agrees to not enter into any negotiation/ settlement with the BENEFICIARY outside of the remit of the FACILITY issued by the BANK. The APPLICANT understands that such negotiation/ settlement shall void the FACILITY issued by the BANK; the BANK shall have no further responsibility/ liability pursuant to the FACILITY proffered to the APPLICANT.
- 2.7 The APPLICANT'S obligations hereunder shall survive the expiration, cancellation or termination of the FACILITY and the payment of all other obligations hereunder.

3 **FACILITY/INSTRUMENT - ISSUANCE BY THE BANK**

- 3.1 Subject to the provisions of the AGREEMENT in consideration of the payment by the APPLICANT to the BANK, the FEE as provided and the performance and observance by the APPLICANT of the terms and conditions herein contained (including the provision in para. 2.2 hereinabove relating to deferred payment by the BANK) referred to, the BANK agrees with the APPLICANT to issue the FACILITY up to the extent of the FACILITY VALUE and no more in consideration of the premises the APPLICANT undertakes to pay the BANK the FEE in time and in an orderly manner and to fulfil the terms and other conditions herein contained to and on its part to be performed and observed.
- 3.2 The BANK will decide the form of the instrument. If agreed by the Bank, such instrument will be issued according to the format that has been pre-approved by the APPLICANT. The instrument to be issued by the BANK shall be irrevocable but the format thereof shall be agreed to between the BANK and **the APPLICANT/BENEFICIARY** before their issue subject to the provisions contained in the AGREEMENT.
- 3.3 THE APPLICANT is solely responsible for preparing or approving the text of the Documentary Credit as issued by THE BANK and as received by the beneficiary. APPLICANT'S recommendation or drafting of text or THE BANK use or non-use or refusal to use text submitted by THE APPLICANT shall not affect our ultimate responsibility for the final text and its receipt by the beneficiary. THE APPLICANT acknowledge that THE APPLICANTS not relied on THE BANK in any manner in connection with the wording of the Letter of Credit, including the draw conditions or the structuring of the underlying transaction. These are our responsibility, undertaken with the opportunity to consult with THE APPLICANT'S lawyer/counsel.
- 3.5 The BANK may restrict the availability for negotiation of any format of the instrument issued, even if the APPLICANT'S instructions are for it to be freely negotiable.
- 3.6 The FACILITY shall be subject to and performance by, the BANK and its' correspondents and the beneficiaries thereunder shall be governed by the International Standby Practices 98 ("ISP98") and, to the extent not

inconsistent with ISP98, the laws of England & Wales or the laws of such a state as the BANK at its option may deem best unless otherwise stipulated in the Documentary Credit.

- 3.7 The BANK may issue, LC and SBLC and the Guarantee under the FACILITY:
- 1) the Letters of Credit will be subject to Uniform Customs and Practice for Documentary Credits, 2007 Revision, ICC Publication No. 600, as revised (**UCP600**).
 - 2) Standby letters of credit will be subject to UCP600 or International Standby Practices (ISP 98) ICC Publication No. 590, as revised. If not specified by the APPLICANT, the BANK will decide.
 - 3) Any changes or modification with respect to the terms or provisions of the Documentary Credit or any of the matters or things herein contained must be in writing and signed by the APPLICANT shall be effective only after receipt thereof and agreement thereto by the BANK and all other concerned parties and shall have no effect upon actions taken by THE BANK'S correspondents prior to such receipt or upon the remaining terms or provisions of the Letter of Credit. Any such changes or modifications made by any of THE APPLICANT shall be deemed to have been made by all THE MEMBERS of THE APPLICANT.
 - 4) The BANK shall have the right to cancel, withdraw, amend or alter the instrument at its discretion. The APPLICANT agrees that the BANK at its discretion without assigning any reason, shall have the right at any time to refuse a request made by the APPLICANT for the FACILITY and/or not to renew the FACILITY issued by the BANK which is already in force.
- 3.8 Upon its review of the shipping documents presented by the Beneficiary's Bank in respect of the Facility issued by the BANK to You (the "Documents"),
- 1) the BANK may acknowledge receipt of the Documents, notify the Beneficiary Bank of its receipt of the same and release the Documents on to You for payment; or
 - 2) the BANK may accept the Documents, notify the Beneficiary Bank of its acceptance of the same and release the Documents on to You for payment; or
 - 3) the BANK may deem the Documents discrepant and notify the Beneficiary Bank and You of its rejection of the same and hold the Documents pending the Beneficiary Bank's instructions; or
 - 4) Subsequent to 2) above, as applicable and confirmed by You, the BANK may communicate waiver of the discrepancies by You to the Beneficiary Bank and release the Documents to you in accordance with the express terms of the Facility. Please note that acceptance of the Documents deemed discrepant by the BANK shall always be on Your own recognizance of payment either through us or directly to the Beneficiary. Your acceptance of Documents deemed discrepant and rejected by the BANK falls outside the remit of the issued

GENERAL TERMS & CONDITIONS

Applicable to issuance of Credit

Facility and accordingly voids the Facility. You shall thereby be responsible for payment of the full sum owing under the Facility.

- 3.9 In respect of the Facility issued by the BANK to you, a waiver of discrepancies and acceptance of Documents by You (paragraph 3.8 above) will not obligate the BANK to waive the discrepancies as well. Both You and the BANK agree that a release of Documents contingent upon Your waiver and acceptance of the discrepancies shall release the BANK of all its obligations under the Facility. Accordingly, upon release of the Documents to You, only You shall be responsible for payment of the sums owing under the Facility.

4 **INSURANCE**

- 4.1 The APPLICANT shall obtain an insurance policy in respect of the goods/assets under the subject FACILITY/INSTRUMENT against all relevant risks and shall keep them insured during the total period of the FACILITY. Such policies shall be assigned in favour of the BANK and should be sent to the BANK to be retained with the BANK. In the event of an extension of Period, then the policy should also be renewed for the respective renewal period.

- 4.2 While the FACILITY is in issue, you undertake to: (a) insure the goods to which the relevant instrument relates (the **goods**) for all periods during which, under the relevant trade terms, you are responsible for them, or for insuring them. Provide the BANK with evidence of this insurance on request; and (c) notify the BANK promptly of any insurance claim relating to the goods.

- 4.3 Unless a Documentary credit requires the presentation of insurance documents, the APPLICANT will:

a) insure the Goods to the BANK's reasonable satisfaction and have the BANK's interest noted on each policy or, on request, have the BANK named as first loss payee. If the APPLICANT fails to comply, the BANK may arrange insurance.

b) on request, provide the BANK with copies of all insurance documents.

c) immediately tell the BANK of any circumstances likely to give rise to an insurance claim.

d) not take or omit any action that could invalidate the insurance.

e) promptly pay to the BANK any insurance proceeds it receives and, until payment, hold those proceeds on trust for the BANK.

f) at its cost, pursue any insurance claim that may arise or, at the BANK's request, do everything necessary to enable the BANK to pursue any claim.

5. **FEES AND PAYMENTS**

- 5.1 Any and all costs charges and expenses (including

stamp duty) payable in respect of the preparation execution delivery and registration of the AGREEMENT/INSTRUMENT OR any INDEMNITY DOCUMENT OR PRESENTATION DOCUMENT shall be to the account of the APPLICANT who shall pay and settle the same or reimburse them to the BANK if it shall incur any expenditure connected therewith.

- 5.2 The APPLICANT shall pay to the BANK the aforesaid FEE in respect of the commitment being in respect of the FACILITY which shall be paid to the BANK in advance.

- 5.3 Further the Authorised signatories of the APPLICANT Company jointly and severally, agree to pay the BANK upon demand all commissions, charges, fees, costs and expenses assessed or incurred by the BANK OR BANK'S correspondents which it shall be entitled to seek reimbursement in terms of the FACILITY including, without limitation, such origination fees, draw fees, or commitment fees, and similar fees that the BANK charge. The BANK shall only pay and are only obligated to pay the drawings of the Letter of Credit when The APPLICANT pays the same to BANK'S office. charges incurred in the country of issue or outside the country will be for the account of the APPLICANT.

- 5.4 The APPLICANT'S obligation to reimburse the BANK for drawings under the Letter of Credit shall be absolute, irrevocable, and unconditional under all circumstances whatsoever and irrespective of any set-off, counterclaim or defence to payment which the APPLICANT may have or have had against the BANK or any other person, including, without limitation by any reason of:

(a) any set-off, counterclaim or defence based upon or arising out of: any lack of validity or enforceability of this Agreement; or any amendment or waiver of or consent to departure from the terms of the Letter of Credit; or

(b) the existence of any claim, set-off, defence or other right which the APPLICANT or any other person may have at any time against any beneficiary or any transferee of the Letter of Credit (or any person for whom any such beneficiary or any such transferee may be acting); or

(c) any delay or loss in transit of any messages, letters or documents, any delay, interruption, mutilation or other error in the transmission of any telecommunications, or any error in the translation or interpretation of any technical terms or any messages or documents relating to the Letter of Credit; or any allegation that any demand, statement or any other document presented under the Letter of Credit is forged, fraudulent, invalid or

GENERAL TERMS & CONDITIONS

Applicable to issuance of Credit

insufficient in any respect, or that any statement therein is untrue or inaccurate in any respect whatsoever or that variations in punctuation, capitalization, spelling or format were contained in the drafts or any statements presented in connection with any drawing; or any exchange, release or non-perfection of any lien you hold in any collateral securing our obligations hereunder or the release of any guarantor of such obligations; or

- (d) any action or inaction for which THE BANK has no responsibility to THE APPLICANT and which does not impair BANK 'S rights and remedies against the APPLICANT.

5.5 The Directors of the APPLICANT company jointly and severally, promise to pay, THE BANK upon demand, to the BANK's designated Account in immediately available funds, the value of the FACILITY drawn under the FACILITY together with interest thereon, such interest to accrue on the amount of each draw from the date paid to but not including the date of repayment at a per annum rate equal to the PRIME RATE plus ten percent (10.0%) or such other percentage as may be mutually agreed by the BANK and the APPLICANT. The BANK is authorised to charge all sums including the commission and fees under the Documentary Credit or hereunder whether in negotiating instruments, drafts or otherwise. Such sums negotiated shall be duly accepted by the Applicant under this Documentary Credit on presentation and pay them at maturity.

5.6 The APPLICANT agree that The BANK/ or any of BANK's Branches Agents or correspondents may make such arrangements as they think proper with the drawer and/or Endorsers of any drafts negotiated under this FACILITY regarding the disposition of the Bills of Lading or the proceeds thereof or of the goods and the APPLICANT undertakes to reimburse the BANK any amounts disbursed or paid by the BANK under this Documentary Credit or hereunder whether in negotiating drafts or otherwise interests, commissions and all charges and hereby give a specific charge claim in lien on all the goods and the proceeds thereof on all policies of insurance monies to an amount sufficient to cover all such amounts interest commission and charges and on all Bills of Lading handed to the BANK /agents with full power authority to retain, take possession sell and dispose of the same at discretion at any time without demand on or notice to the APPLICANT for the BANK'S security of reimbursement and to charge the APPLICANT with all expenses and/or short fall including commission for sale legal charges and other disbursements the Applicant shall be conclusive evidence against the APPLICANT of the amount by of any shortfall which the APPLICANT hereby undertake to pay on demand.

5.7 The APPLICANT agree that The BANK/ or any of BANK's Branches Agents or correspondents are not in any circumstances to be held responsible for any detention,

loss or deterioration of, or any damage to the goods either before shipment or during its transit by sea /land/air or after its arrival or by reason of any failure to insure them, or improper or inadequate Insurance thereof nor for any deficiency in the description of their quantity, quality, weight condition or value nor for any misrepresentation for any discrepancy or difference, between the goods shipped and the goods mentioned in or purported to be represented by the documents or any of the documents relating to them handed over or the delivered nor the correctness, validity, sufficiency regularity, legality or genuineness (all of which the APPLICANT hereby guarantee) of such documents and the APPLICANT further agree that the transmission of advice of the credit and instructions under the credit or hereunder and forwarding of documents will be entirely at APPLICANT'S risk and expenses.

5.8 Further the APPLICANT agrees to pay all freight and landing charges and undertake to hold the BANK and any of its Branches, Agents or correspondents covered against fire and all other risks after expiry of the insurance mentioned above and in case of loss will collect the amount due under the policy or certificate and pay over to the BANK the proceeds and until payment will hold the same as trustee for the BANK and on its behalf.

6. VALIDITY AND EFFECTIVENESS OF THE AGREEMENT, SUSPENSION AND CANCELLATION

6.1 The AGREEMENT shall be in force during the FACILITY PERIOD (i.e. a period of one year in respect of the instrument commencing from the date of issue thereof).and may be renewed/extended for a further period solely at the discretion of the BANK.

6.2 The contract shall become effective upon the APPLICANT countersignature. In addition to the provisions elsewhere contained and herein set forth, the execution registration and delivery to the BANK of the INDEMINITY DOCUMENTS particularized in the foregoing Articles shall constitute an additional condition which shall be fulfilled by the APPLICANT before this contract shall become effective.

6.3 The entire commitment or part thereof and all the provisions of the AGREEMENT shall continue to be in full force and effect during the whole period of the FACILITY and shall be cancelled thereafter.

6.4 The AGREEMENT shall be terminated on expiration of the said period unless the parties hereto mutually agree to extend the same in writing.

7. SPECIAL CONDITIONS

7.1 In the event THE APPLICANT is not able to honour the AGREEMENT, the FACILITY value shall be payable on demand. In order to affect this condition, amongst others (as the BANK deems fit) the APPLICANT is required to submit to the BANK, a duly notarised PROMISSORY NOTE (the format which shall be provided by the BANK to the APPLICANT) subject to the following;

GENERAL TERMS & CONDITIONS

Applicable to issuance of Credit

- a) No delay or omission on part of the holder of the Promissory Note in exercising any right hereunder shall operate as a waiver of any such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or any other right on any future occasion.
- b) If the APPLICANT fails to make payment when due or fails to comply with any other term of the promissory note, the CONTRACT will be considered as in default.
- c) In the event any payment under the Promissory Note is not paid when due, the party who signs such promissory note agrees to pay, in addition to the transaction amount, all other reasonable expenses incurred by the Beneficiary in exercising any of its rights and remedies upon default.
- d) All of the foregoing is the promise of the APPLICANT described in the INSTRUMENT to state that the APPLICANT shall bind itself and its successors, heirs and assigns; provided, however, that APPLICANT may not assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the holder of this Note.
- e) All other parties to the promissory note, whether as guarantors or sureties, agree to remain fully bound until this FACILITY is fully paid and further agree to remain bound not withstanding any extension, modification, waiver and other indulgence of any obligor hereunder.
- f) Any modification or change in terms, hereunder granted by the holder hereof, shall be valid and binding upon each of the signatories, notwithstanding the acknowledgement of any of the signatories, and each of the signatories does hereby irrevocably grant to each of the others a power of attorney to enter into any such modification on their behalf. The rights of any holder hereof shall be cumulative and not necessarily successive. The promissory note shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of England and Wales.
- g) In an event of acceleration by the Beneficiary of the FACILITY/ Instrument i.e., sending a demand for payment from the Beneficiary's Bank to the BANK or if any amendment is effected to the special /restrictive clause, in addition to any other rights and remedies that the BANK may have and shall have the right at its sole and exclusive option to declare such note immediately due and payable. If the APPLICANT fails to make payment when due or fails to comply with any other term of the, promissory note, then the contract will be considered as in default.

8. BREACH, DEFAULT, FAILURE, OMISSION OR DELAY BY THE APPLICANT

- 8.1 In the event of the APPLICANT committing any breach of the Terms and Conditions set out herein, the BANK shall be entitled at any time to cancel the FACILITY/INSTRUMENT and to demand and recover payments of all its claims on the APPLICANT.
- 8.2 If the APPLICANT shall commit a default of any of the provisions contained in the Agreement pertaining to the Facility, such default shall until or unless waived by the BANK be construed for all intents and purposes a default against the BANK itself and in which event the BANK shall be entitled to cancel all or any of the FACILITY or any part of it and demand payment of all monies then outstanding or payable by the APPLICANT to the BANK and to take any action against the APPLICANT in terms of the respective terms.
- 8.3 Failure, omission or delay by the BANK to enforce or exercise any right power or remedy accruing to the BANK hereunder or under the contract shall not impair any such right power or remedy or be deemed to be a waiver thereof unless expressly waived either conditionally or unconditionally by the BANK without prejudice to such rights powers and remedies which shall at all times remain exercisable whenever the BANK shall think fit as if such waiver had not been waived.

9. LAW AND GOVERNING RULES

- 9.1 All the presentation and Indemnity documents including the Agreement, Guarantee Agreement and Promissory Note shall be deemed to be made under and governed by and construed in accordance with the internal laws of the Republic of St. Lucia. The APPLICANT irrevocably: (a) submit to the jurisdiction of any court in St. Lucia (or such other jurisdiction as the BANK may deem best, at its sole option), (b) waive any right to object to such jurisdiction on grounds of inconvenient forum or improper venue, and (c) agree that service of process pursuant to court rule will grant personal jurisdiction over the APPLICANT.

10. MISCELLANEOUS PROVISIONS

- 10.1 Any notice by the BANK in respect of the FACILITY shall be in writing and sent by way of courier or post to the APPLICANT at the address specified in the FACILITY application or to such other address as may be informed in writing to the BANK and shall be deemed to be received by the BANK.
- 10.2 The Terms and Conditions herein shall be binding upon THE APPLICANT as well as upon APPLICANT'S legal and/or personal representatives, successors and/or assigns; provided, however, that this Agreement may not be assigned by THE APPLICANT without the BANK'S

GENERAL TERMS & CONDITIONS
Applicable to issuance of Credit

prior written consent and any assignment of its obligations pursuant to the Agreement without such consent shall automatically be deemed null and void.

10.3 The APPLICANT agrees that the Instrument pertaining to the FACILITY issued by the BANK is identical to the draft form of the Instrument (Letter of Credit/standby Letter of Credit/Bank Guarantee) made available to the APPLICANT by the BANK in PDF format and that the Applicant has not at any time amended/alterd or done any modification to the contents of the said document/instrument and the APPLICANT further agrees and undertake to hold the BANK harmless and indemnified against any action, proceedings, claims, demands whatsoever which may hereafter be brought or made against the BANK whosoever and from all losses and/or damages, costs, charges or expenses of whatsoever kind which the Bank may suffer or incur or sustain under any and whatsoever circumstances arising from the BANK accepting the APPLICANT'S FACILITY application.

10.4 The APPLICANT agrees to notify the BANK of any objections the APPLICANT may have to the BANK'S issuance or amendment of the Instrument, BANK'S acceptance or rejection of a presentation under the Instrument, or any other action or inaction taken or proposed to be taken by the BANK under or in connection with the Agreement or the FACILITY. The APPLICANT'S notice of objection must be given to the BANK by expeditious means within three (3) banking days after the APPLICANT receives notice of the action or inaction taken or proposed to be taken by the BANK.

10.5 All notices required to be given by the APPLICANT or the BANK to the other shall be addressed:
(a) if by The BANK to the APPLICANT at the address shown on approved draft of the Instrument,
(b) if by the APPLICANT to, to the BANK at the address shown on the approved draft of the Instrument, or such other address(es) as either the APPLICANT/the BANK may advise in writing.

10.6 Electronic transmission, including, without limitation, SWIFT, or other notice from BANKS, correspondents of payment, acceptance, or other action under the FACILITY shall be presumptive evidence of the APPLICANT'S liability to reimburse the BANK.

10.7 The APPLICANT agrees not to initiate or acquiesce in any judicial, administrative, or other proceeding for any injunctive or declaratory relief to block from paying under the FACILITY. This clause shall apply notwithstanding to any fraud covered by Section 5-114 of the Uniform Commercial Code. We acknowledge that remedies for all such fraud-related risks have been adequately considered in the agreements between the beneficiary/(ies) of the subject Instrument and the APPLICANT.

10.8 The APPLICANT shall, on request by THE BANK at any time or times, execute and sign all such transfers,

powers of attorney, further assurances or other documents and do all such other acts and things as the BANK may require to realise or to vest the goods or any of them in BANK or BANKS nominees or a purchaser or transferee or to perfect or preserve APPLICANT'S rights and interests under or pursuant to the undertakings and agreements contained in this agreement and indemnity, including the institution and conduct of legal proceedings. The APPLICANT irrevocably and by way of security appoint the BANK and any persons nominated in writing under the hand of any of BANK'S officers as APPLICANT'S attorney and in APPLICANT'S names and on our behalf to execute and do all assurances, acts and things which you deem necessary or desirable for the above-mentioned rights and purposes.

10.9 No delay on your part in the exercise of any of APPLICANT'S rights or remedies shall operate as a waiver, nor shall any single or partial waiver of any right or remedy preclude any other further exercise of that right or remedy, or the exercise of any other right or remedy, and no waiver or indulgence by the APPLICANT of any default shall be effective unless it is in writing and signed by THE BANK, nor shall a waiver on any one occasion be construed as a bar to, or waiver of, any right on any future occasion.

10.10 Any term and/or condition herein that may prove unenforceable under any law shall not affect the validity of the remaining terms and conditions.

YOU UNDERSTAND THAT OPENING OF THE FACILITY REQUESTED IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN HEREIN WHICH YOU FULLY AGREE AND ACCEPT.

.....
.....