

TERMS AND CONDITIONS
(Applicable for consumer durables)

These terms and conditions ("**Terms and Conditions**") are applicable on the credit facilities extended/to be extended for the purchase of Products (defined hereinafter) from the Dealer (defined hereinafter) by **TATA CAPITAL FINANCIAL SERVICES LIMITED**, a company incorporated under the provisions of the Companies Act, 1956, CIN No. U67100MH2010PLC210201, having its registered office at 11th Floor, Tower A, Peninsula Business Park, Ganpatrao Kadam Marg, Lower Parel, Mumbai 400 013 (hereinafter referred to as the "**Lender**" which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) to the Borrower (defined hereinafter) on the terms and conditions contained herein and registered on November 6, 2018 with the Sub-Registrar at Mumbai City - 3.

WHEREAS:

The Obligors have approached the Lender with a request to grant the Facility to the Borrower, for financing the purchase from the Dealer and the Lender has agreed to lend to the Borrower the required sum on certain terms and conditions mentioned contained herein, including, inter alia that the Obligors shall as security for the Facility, hypothecate the Products in favour of the Lender.

1. Definitions and Interpretation

1.1 The following words and expressions shall, unless the context otherwise requires, have the following meaning in the Facility Documents (defined hereinafter):

- (a) "**Additional Interest**" means the additional interest which may be levied in relation to the Facility as per the terms contained in the Facility Documents.
- (b) "**Affiliates**" includes any body-corporate, partnership, association, foundation, other entity (whether incorporated or not) or person, which through ownership or otherwise, directly or indirectly, is Controlled by, under common Control with, or in Control of such person. Further in case of an individual, Affiliates shall include the Relative (as defined in the Companies Act, 2013) of such individual.
- (c) "**Application Form**" means the application form submitted by the Borrower for applying for the Facility.
- (d) "**Applicable Law**" includes any law, directive, rule, regulation, guideline, circular, notification, clarification, guidelines, instruction, requirement, constitution, decree, judgment, legislation, order, ordinance, regulation, statute, treaty or other legislative measure in any jurisdiction having the force of law in any jurisdiction from time to time, and "lawful" and "unlawful" shall be construed accordingly.
- (e) "**Borrower**" means the borrower as mentioned in the respective Facility Documents.
- (f) "**Business Day**" means a day (other than a Saturday or Sunday or a public holiday as defined under Section 25 of the Negotiable Instruments Act, 1881 or as may be otherwise notified by the Lender) on which the relevant office of the Lender, as specified in the Facility Documents is open for normal business transactions.
- (g) "**Dealer**" means and refers to the person from whom the Borrower has purchased the Products and whose name is duly filled in the Application Form submitted by the Borrower to the Lender for availing of the Facility.
- (h) "**Default**" includes Events of Default (hereinafter defined) and any event which with the lapse of time or notice would become an Event of Default.
- (i) "**Disbursement**" means the disbursement of Facility or part thereof by transfer of funds or preparation of a payment instrument.
- (j) "**Due Date(s)**" shall mean the date(s) on which any amounts in respect of the Outstandings are payable by Obligors to the Lender as more specifically mentioned in the Facility Documents.
- (k) "**Encumbrance**" means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, security interest or other encumbrances of any kind securing or conferring any priority of payment in respect of any obligation of any person and includes without limitation any right granted by a transaction which, in legal terms, is not the granting of security but which has an economic or financial effect similar to the granting of security (including comfort letters, undertakings etc.) under Applicable Law.
- (l) "**Facility**" means the credit facility(ies) availed/to be availed by the Borrower from the Lender from time to time.
- (m) "**Facility Documents**" includes Application Form, sanction letter, if any, these Terms and Conditions, and all other agreements, instruments, undertakings, indentures, deeds, writings and other documents executed or entered into, or to be executed or entered into, by the Obligors, the Lender and/or any other person, in relation, or pertaining, to the Facility and the transactions contemplated under the Facility Documents, and includes all modifications and amendments thereto.
- (n) "**Guarantor**" means the guarantor, if any, as mentioned in the respective Facility Documents.
- (o) "**Indebtedness**" means any indebtedness incurred for or in respect of: (a) monies borrowed; (b) any amount raised under any other transaction (however structured) having the commercial effect of a borrowing; and (c) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) and (b) above.
- (p) "**Interest**" includes the interest in relation to the Facility at the Rate of Interest as specified in the Facility Documents and wherever applicable.
- (q) "**Material Adverse Change**" means the occurrence of any event(s) or circumstance(s) which has or could reasonably be expected to have a Material Adverse Effect.
- (r) "**Material Adverse Effect**" means a material adverse effect on or a material adverse change (in the judgement of the Lender) in: (a) the business, operations, property, assets, condition (financial or otherwise) or prospects of the Obligors; (b) the ability of the Obligors to enter into and to perform its obligations under the Facility Documents or any other related document to which any of the Obligors is or will be a party; or (c) the validity or enforceability of the Facility Documents or any other related document or the rights or remedies of the Lender thereunder; or (d) the international capital or loan market; or (e) the political, financial or economic condition of Republic of India; and shall also mean and include any event whether domestic or international, which in the opinion of the Lender could have an adverse effect.
- (s) "**Monthly Instalments**" or "**MI**" shall mean the instalments payable on a monthly basis to amortize the Facility, of such amount as may be determined by the Lender from time to time under the Facility Documents and comprises both principal amount of the Facility and Interest thereon. Such Monthly Instalments may either be equated or otherwise.
- (t) "**Obligors**" shall mean the Borrower and the Guarantor collectively and the expression "Obligor" shall mean any one of them.
- (u) "**Outstandings**" or "**Obligations**" shall include, at any time, all amounts payable by the Obligors to the Lender pursuant to the Facility Documents including but not limited to the present and future obligations and liabilities of the Obligors to pay/ repay without limitation the principal amount of the Facility, Interest and Additional Interest thereon and all stamp duties, Taxes, expenses, fees, liquidated damages, indemnities, costs, charges and expenses including without limitation any statutory or legislative charges, penalties, if any, in connection with the Facility; and such other expenses incurred in relation to any exercise by the Lender of its right, together with legal fees and court costs.
- (v) "**Payment Instrument(s)**" or "**PI(s)**" means any instrument/instruction, electronic or in writing, for transfer of funds as may be notified by the RBI and shall include, without limitation, post-dated cheques, inchoate cheques, instructions for direct debit from a bank account, a message for transfer of funds sent electronically, physically or through an image of instrument for transfer of funds sent electronically, an electronic file containing the details of the funds transfer sent by electronic media, payment through an electronic truncated cheque, various types of plastic cards, electronic clearing system (ECS), National Automated Clearing House (NACH), demand draft or such other instrument / instruction / clearing service as may be notified by RBI from time to time for transfer of funds and acceptable to the Lender.
- (w) "**Product(s)**" shall mean the Product(s) as per the details given in the Facility Documents and shall include all addition and accessions thereto and all replacements and renewals thereof whether made before or after the date of the Facility Documents.
- (x) "**Rate of Interest**" shall mean the Rate of Interest applicable for the Facility and as more specifically mentioned in the Facility Documents and as may be amended by the Lender from time to time in accordance with the Facility Documents.
- (y) "**RBI**" means the Reserve Bank of India.

- (z) **“Repayment Schedule”** shall mean the repayment schedule(s) in respect of the Facility as specifically mentioned in the Facility Documents and includes any replacements/revisions thereof by the Lender from time to time.
- (aa) **“RERA”** shall mean and include Real Estate (Regulation and Development) Act, 2016, West Bengal Housing Industry Regulation Act, 2017, and the rules and regulations made thereunder and all such amendments to the same made from time to time and shall also include any succeeding or other enactment in that regard for the time being in force.
- (ab) **“Security”** shall mean such security (including without limitation mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, security interest or other Encumbrance of any kind under Applicable Law) as may be created, or agreed to be created, by the Obligors in favour of the Lender to secure the due payment/repayment of the Outstandings by the Obligors to the Lender and/or the performance of the obligations under the Facility Documents by the Obligors.
- 1.2 The division of these TnCs into clauses, sub-clauses and paragraphs, and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of these TnCs.
- 1.3 References to any gender includes any other gender, the plural shall include the singular and vice versa.
- 1.4 Reference to any agreement, document, instrument, statute, enactment, ordinance, order, regulation etc. shall be construed to include a reference to the amendments, extensions, re-enactments, supplementals, restatements, novations and/or consolidations thereto from time to time.
- 1.5 Reference to the terms “person” or “persons” shall mean and include reference to any individual, sole proprietorship, unincorporated association/ organization, body corporate, company, partnership, Hindu Undivided Family, limited liability partnership, joint venture, Authority or trust or any other entity or organization and shall include all persons as defined under section 3 (23) of IBC and/or RERA.
- 1.6 Any reference to the terms Borrower, Guarantor, and/or Obligor shall be deemed to include all the Borrowers Guarantors and/or Obligors and unless repugnant to the context or meaning thereof, be deemed to include:
- 1.6.1 In case of a company or a limited liability partnership, its successors and permitted assigns,
- 1.6.2 In case of a partnership firm any or each of the partners and survivor(s) of them and the partners from time to time (both in their personal capacity and as partners of the firm) and their respective heirs, legal representatives, executors, administrators and permitted assigns, successors of the firm;
- 1.6.3 in case of a sole proprietorship and individual, respective heirs, administrators, executors and legal representatives of the person;
- 1.6.4 in case of a Hindu Undivided Family, the Karta and any or each of the adult members and their survivor(s) and his/her/their respective heirs, legal representatives, executors, administrators and permitted assigns;
- 1.6.5 in case of a Society, its governing body, successors and permitted assigns; and
- 1.6.6 in case of a Trust, the Trustees for the time and its successors and permitted assigns.
- 1.7 Save and except as specifically provided in the Facility Documents any determination with respect to the ‘materiality’ or ‘reasonability’ of any matter including of any event, quantity, degree, occurrence, circumstance, change, fact, information, document, authorisation, proceeding, act, omission, claim, breach, default or otherwise shall be made by the Lender in its sole and absolute discretion.
- 1.8 The words “include”, “including” and “in particular” shall be construed without limitation and as being by way of illustration only and shall not be construed as limiting the generality of any foregoing words;
- 1.9 All the Schedules, Annexures and Exhibits to the Facility Documents shall form an integral part of the relevant Facility Documents.
- 2. TERMS OF THE FACILITY**
- 2.1 The Lender is hereby authorized to make payment of the Facility directly to the Dealer on the Borrower’s behalf, which along with Interest on reducing balance basis as mentioned in the Facility Documents hereunder shall be Outstandings due by the Borrower to the Lender, to be repaid as per these terms and conditions under the Facility Documents.
- 2.2 The Borrower shall pay one time non-refundable upfront interest/ service charges / processing fee as applicable under the Facility Documents which upfront interest / service charges / processing fee may be deducted by the Lender at the time of disbursement of Facility to the Dealer.
- 2.3 The Obligors undertake and confirms that:
- 2.3.1 The Facility shall be repaid in Monthly Instalments in the manner as indicated in the Facility Documents by the Borrower. The Monthly Instalments amounts and all other amounts due and payable by the Borrower to the Lender from time to time shall be paid / repaid by the Borrower on the respective Due Date(s) in accordance with the Repayment Schedule.
- 2.3.2 If the Due Date(s) in respect of any amounts payable in respect of the Facility under the Facility Documents 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 shall be the Due Date for such payment.
- 2.4 The Borrower shall repay/pay the Facility and Interest (on reducing balance basis) in Monthly Instalments according to the Repayment Schedule as specified in the Facility Documents. The Borrower confirms having perused, understood the Lender’s method of calculating interest on reducing balance basis and Monthly Instalments as specified in the Facility Documents.
- 2.5 The Rate of Interest payable by the Borrower shall be subject to changes based on the changes in the monetary policies of RBI and other factors impacting the liquidity in the economy and the Obligors agree that the Lender shall have the right to increase or decrease the Rate of Interest payable. The Borrower also notes and acknowledges that the Lender is obliged to give effect to any revision of interest rates, whether upwards or downwards, on all existing advances/financial assistance. The Borrower understands that such increase or decrease of the rate of interest shall automatically form part of the Facility.
- 2.6 The Monthly Instalments shall automatically stand increased/ decreased by reason of increase/decrease in any rates, taxes, charges, imports, levies and monies whatsoever that are or may be levied on the Monthly Instalments or the transaction contemplated hereunder or are or may become payable by the Lender. Such increase in rates, taxes, charges, imposts, levies and monies as stated above shall automatically form part of the Facility.
- 2.7 The Borrower shall not be entitled to any increase in the principal amount of the Facility by reason of any increase in the purchase price of the Products. However, in the event of any decrease in the purchase price of the Products, the Lender may in its discretion reduce the principal amount of the Facility.
- 2.8 The Lender shall give notice to the Borrower of any change in these terms and conditions under the Facility Documents, including the disbursement schedule, Interest, rates, service charges, repayment charges etc. The Lender shall ensure that changes in Interest rates and changes are effected only prospectively.
- 2.9 It is agreed that the Borrower alone is liable for all stamp duty payable on the Facility Documents. In the event in any judicial or other proceeding, any of the Facility Documents are found or held to be inadequately or inappropriately stamped or any plea to that effect is taken, the Borrower shall forthwith do the needful for ensuring that the document in question is adequately and appropriately stamped.
- 2.10 Interest shall be computed on the actual daily outstanding principal balance of the Facility on the basis of a 360 days’ year and actual number of days elapsed and compounded with monthly rests.
- 2.11 The Borrower shall be exclusively responsible for delivery of the Products from the Dealer / manufacturer / seller, as the case may be and the Lender shall not be liable for any delay in delivery or non-delivery of the Products and/or with respect to the quality condition, fitness, suitability or otherwise whatsoever of the Products.
- 2.12 If the entire amount of the Facility, subject to the terms of the Facility Documents, is not drawn by the Borrower within availability period from the date of first disbursement or if the Obligors have committed any Event of Default prior to the full disbursement of the Facility or if the Borrower has requested to the Lender in writing to reduce the sanctioned amount upto the amount disbursed by the Lender till the date of such request, then without prejudice to the rights and remedies of the Lender under the Facility Documents or otherwise in equity or in law, the aggregate amounts disbursed to the Borrower upto such date shall, at the discretion of the Lender, without any prior intimation to the Obligors, be deemed to be the Facility amount and the Lender shall not be required to advance any further amounts and the Instalments shall commence forthwith. In such case irrespective of the Facility amount as mentioned in the Facility Documents, the amounts advanced so far shall be deemed to be the Facility for the purpose of the Facility Documents.

3. REPAYMENT

- 3.1 The Borrower may repay / pay the monies in respect of the Facility to the Lender, in one bullet Monthly Instalment or in such number of Monthly Instalments as may be specified in the Facility Document, through any PI(s). The PI(s) issued by the Borrower in respect of the Facility may also be used by the Lender for any subsequent facilities availed by the Borrower from the Lender and all the provisions hereof shall apply thereto. The Lender may, in its sole discretion, require the Borrower to adopt or switch to any alternate mode of payment and the Borrower shall comply with such request, without demur or delay.
- 3.2 The payment/repayment of the Monthly Instalments shall commence and continue as per the Repayment Schedule. The Borrower shall issue in favour of the Lender the PI(s) as agreed with the Lender towards payment of the Monthly Instalments. Wherever required, the Borrower shall issue irrevocable instructions (in a form and substance satisfactory to the Lender) to the Borrower's bankers to ensure periodic payment to the Lender pursuant to the PI(s) issued by the Borrower. The failure of the Borrower's bank for any reason to so transfer any such amounts to the Lender shall tantamount to a failure by the Borrower to pay the amounts and shall constitute an Event of Default. The Borrower shall provide to the Lender a confirmation (in a form and substance satisfactory to the Lender) of the acceptance by the Borrower's bank of the above instructions.
- 3.3 Save and except with the prior written consent of the Lender, the Borrower shall not, under any circumstances, revoke or alter the instructions or cancel or issue stop-payment instructions with respect to the PI(s) issued or do or omit to do anything which may result in the Borrower's bank not transferring the amounts equal to the Monthly Instalments / amounts due under the Facility Documents to the bank account of the Lender on the relevant Due Date. Any attempt to do so shall be considered as an Event of Default.
- 3.4 If any amounts (not being the principal amount of the Facility or interest thereon) are outstanding for payment by the Borrower either under the Facility Documents or on account of Indebtedness of the Borrower, the Lender shall be entitled to encash the PI(s) for the satisfaction of such outstanding amounts notwithstanding that PI(s) have been issued for repayment of the principal amount of the Facility and/or interest thereon, and the Borrower shall continue to be indebted to the Lender for the Facility and/or interest, as the case may be.
- 3.5 Notwithstanding anything contained in the Facility Documents, and irrespective of the mode of payment selected by the Borrower in the Facility Documents, upon any default by the Borrower in payment of one or more Monthly Instalments on the Due Date pertaining to the Facility or any non-realisation of the Monthly Instalments on the Due Date by the Lender, the Lender shall be entitled, without prejudice to its other rights under the Facility Documents, to present and/or represent the PI(s), if any, issued by the Borrower in favour of the Lender in connection with the Facility. Irrespective of the mode of payment / date of payment, selected by the Borrower in the Facility Documents, the Lender shall be entitled to require the payment and/or collection of the Monthly Instalments and all other amounts comprising the Outstandings, by any other PI(s), if any, issued by the Borrower in favor of the Lender or utilizing any other mode or manner of payment or repayment of the Monthly Instalments and all other amounts comprising the Outstandings.
- 3.6 All PI(s) issued by the Borrower in favour of the Lender are for the purpose of discharge of the Outstandings that may be due to the Lender under the Facility and that the same are not proposed to be issued as and by way of a Security for any purpose whatsoever. The PI(s) are intended to be used at any time by the Lender as the Lender may consider fit and proper, to recover the Outstandings owed by the Borrower to the Lender, and the Borrower by executing the Application Form and other relevant Facility Documents, hereby unconditionally and irrevocably authorizes the Lender for the same.
- 3.7 The Borrower hereby unconditionally and irrevocably authorises the Lender to fill one or more of the PI(s) delivered to the Lender for an aggregate amount (including those pertaining to any other Facility availed by the Borrower) not exceeding the maximum amount due by the Borrower to the Lender under the terms of the Facility Documents without notice to Borrower in this behalf. In the absence of such authority having been given by the Borrower to the Lender, it would not have granted the Facility to the Borrower.
- 3.8 The Borrower hereby further agrees that the authority given by the Borrower to the Lender under the Facility Documents to fill in the details of the PI(s) including the amounts payable is as permitted under the provisions of Section 20 of the Negotiable Instruments Act, 1881 and the same does not amount to a material alteration of the PI(s) by the Lender. The Borrower has agreed and confirmed that in the event the acts of the Lender in filling the PI(s) as aforesaid are construed by any court, tribunal, authority or other person or forum, judicial, quasi-judicial, non-judicial, governmental, semi-governmental or non-governmental to be an alteration within the meaning of the Negotiable Instruments Act, 1881:
 - 3.8.1 The Borrower has provided the Borrower's consent for such an alteration and that by reason of such alteration, the Payment Instrument shall/ should not be construed to be void or otherwise unenforceable and the Borrower hereby unconditionally agrees and accepts to honour such Payment Instruments when presented for payment; and
 - 3.8.2 The Borrower has confirmed that such alteration is made to record the common intention of the Lender and Borrower, which common intention is to fill in the Payment Instruments with the amounts due by the Borrower to the Lender and to present the same for payment on such dates as the Lender may in its absolute and sole discretion decide.
- 3.9 If the Lender for any reason modifies the amount of the Monthly Instalments, the Borrower shall issue fresh Payment Instruments / instructions to the Borrower's bank to ensure that the amount of the modified Monthly Instalment is transferred to the Lender under PI(s) and the Borrower shall provide the Lender with proof of these instructions and the acceptance thereof by the Borrower's bank. Failure to provide such fresh instructions shall be considered as an Event of Default by the Borrower.
- 3.10 In case of any failure to receive the Monthly Instalments or any other amounts due, through the electronic clearing system (debit) for any reason whatsoever as specified by the Borrower, the Lender shall, irrespective of the mode of payment selected by the Borrower in the Facility Documents, be entitled to require the payment and/or collection of the Monthly Instalments / other amounts, or the Payment Instruments, if any, submitted by the Borrower, by means of electronic clearing system (debit). The Lender may adopt the aforesaid process by itself or through such other person permitted for the same.
- 3.11 Credit for payments by any method will be given only on realisation or on the relative Due Date(s) whichever is later. The acceptance by the Lender of any payment which is less than the full Monthly Instalment or other amounts due and owing at such time shall not constitute a waiver of the Lender's right to receive payment in full at such time or at any subsequent time or a waiver of any other right whatsoever of the Lender under the Facility Documents or Applicable Law.
- 3.12 The Borrower shall promptly issue fresh PI(s), as and when requested by the Lender, if the PI(s) submitted by the Borrower to the Lender are exhausted or about to exhaust or if the Lender is facing any difficulty / impediment for any reason whatsoever in presenting such PI(s) or if required at any time by the Lender at its sole discretion.
- 3.13 The Lender shall not in any way be responsible for delay, omission, or neglect in encashment, damage or loss of any PI(s) for any reasons whatsoever, and shall not be liable to the Obligors in this respect.
- 3.14 The Borrower may, subject to prior approval by the Lender, be permitted to swap / exchange the PI(s) issued to the Lender with alternate PI(s) is subject to payment to the Lender of the charges as set out the Facility Documents.
- 3.15 In the event of dishonour of any PI(s) issued by the Obligors, the Obligor shall be liable to a flat charge separately for each dishonour of PI(s) so issued by the Obligors ("**Dishonour Charges**") as specified in the Facility Documents. In case of dishonouring / non-payment on the second presentation, a further charge would be levied. The levy of Dishonour Charges is without prejudice to the rights of the Lender under the Facility Documents or Applicable Law.
- 3.16 In the event that the Borrower does not deliver to the Lender PI(s) in respect of all the Monthly Instalments payable by the Borrower to the Lender in settlement of the Outstandings under the Facility Documents at the same time and chooses to do so in instalments, the Borrower shall at least 6 (six) months prior to the date on which the last PI(s) already delivered by the Borrower to the Lender becomes due for payment, deliver to the Lender the next set of PI(s) in respect of balance Monthly Instalments payable by the Borrower to the Lender in settlement of the Outstandings to the Lender under the Facility Documents.
- 3.17 In this regard the Borrower hereby also irrevocably nominates, constitutes and appoints the Lender (acting through any of its officers and/or agents) as the true and lawful attorney for the Borrower or on its behalf and its cost and risk to do, execute and perform all or any of the following acts, deeds, matters and things that is to say: -
 - 3.17.1 To appoint or engage any agent, courier agencies, correspondent banks for ensuring safe holding of PI(s) and having the same picked up, processed and cleared at the Borrowers' risks and costs;

- 3.17.2 Generally to do, perform and execute all acts, deeds, matters and things relating to or concerning or touching the repayment of the Facility;
- 3.17.3 For the better doing, performing and executing all the matters and things aforesaid, the Borrower hereby further grants unto the said Lender full power and authority to substitute and appoint in its place and stead on such terms as it may think fit one or more attorney(s) to exercise for the Borrower as the Borrower's attorney(s) any or all the powers and authorities hereby conferred, to revoke any such appointments and to substitute or appoint any other person(s) in place of such attorney(s) as Lender may from time to time think fit;
- 3.17.4 The Borrower has also agreed to ratify and confirm all and whatsoever that the Lender shall do or cause to be done in or about the premises by virtue of the powers herein given.
- 3.18 The authority and powers given to the Lender under the Facility Documents is for a consideration and is irrevocable under Section 202 of the Indian Contract Act, 1872 and such authority/power shall survive the death/winding up/dissolution of the Borrower. Further, the Borrower undertakes to honour all the PI(s) when presented for payment by the Lender and not to take any steps, which in any way are likely to affect the payment thereunder to the Lender.
- 3.19 The Borrower shall not withhold or delay payment of any Monthly Instalments in case on any dispute or difference of any nature whatsoever between the Borrower and the manufacturer/Dealer and the Lender shall be entitled to present the PI(s) to the Lender on the respective Due Date.
- 3.20 The Borrower shall bear all interest tax, service tax, all other imposts, duties (including stamp duty and relevant registration and filing charges and taxes of any description whatsoever) as may be levied from time to time by the Government or other authority and all other costs and expenses whatsoever (including but not limited to any costs and expenses incurred by the Lender and its representatives and consultant(s) in connection with the applications for, and the grant and repayment of, the Facility.
- 3.21 The Lender shall be entitled to adjust the advance Monthly Instalments and/or security deposit/initial payment made by the Borrower and as more specifically described in Facility Documents hereunder towards any outstanding amount in such manner and at such time as the Lender may determine in its sole discretion.
- 3.22 In respect of any delayed payments, without prejudice to all other rights of the Lender under the Facility Documents:
- 3.22.1 the Lender shall have the right at its option to recover additional interest from the Borrower as described in the Facility Documents; and
- 3.22.2 In the case of an arrangement for financing under any scheme of direct deduction of the Monthly Instalments from the salary of the Borrower, the Additional Interest shall apply in case of delay/default in payment to the Lender, even if the Monthly Interest has been deducted from the salary of the Borrower by the employer.
- 4. PREPAYMENT**
- 4.1 The Borrower shall not, without the prior written approval of the Lender (which approval may be given subject to such terms and conditions as may be stipulated by the Lender including payment of minimum prepayment amount, prepayment premium or discounted interest and/or any other charges, plus applicable interest tax or other statutory levy), prepay the outstanding principal amount of the Facility in full or in part, before the Due Date.
- 4.2 In case of any prepayment made by the Borrower, the Repayment Schedule may be amended/alterd by the Lender in its sole and absolute discretion.
- 5. REPRESENTATION AND WARRANTIES**
- 5.1 Each Obligor hereby represents and warrants to the Lender on a continuing basis that:
- 5.1.1 Each Obligor is duly organized, validly existing and in good standing under the laws of India and has the legal right and full power and all authorisations to enter into the Facility Documents, and perform all transactions contemplated therein;
- 5.1.2 The Obligations are a legal, valid, binding and enforceable debt and terms against the Obligors and their estate and effects;
- 5.1.3 No encumbrance, lispendens, lien or other encumbrance or legal dispute of any nature on the Obligors or the whole or any part of the property offered as the Security;
- 5.1.4 No Default or Material Adverse Change has occurred or is subsisting;
- 5.1.5 The execution and performance by the Obligors of the Facility Documents to which they are a party do not in conflict with or result in any violation or breach of or default under any provision of any Applicable Law or its constitutional documents;
- 5.1.6 Neither any of the Obligors nor any of its directors/partners has been declared to be a wilful defaulter. In the event of a person having being identified as a wilful defaulter, the Obligors shall take expeditious and effective steps for removal of such person from directorship/partnership;
- 5.1.7 All information provided by the Obligors are true, accurate and complete and all projections provided by the Obligors have been prepared on the basis of latest information and on the basis of reasonable assumptions;
- 5.1.8 No Obligor enjoys immunity against any legal action or proceeding under any Applicable Law or otherwise;
- 5.1.9 None of the Obligors is in breach of any material agreement to which it is a party including without limitation any agreement entered into with a bank/financial institution/lender, the term material agreement being one which could, in the opinion of the Lender, prejudice any of the rights of the Lender under any Facility Document;
- 5.1.10 The Borrower shall ensure timely payments of the Monthly Instalments to the Lender and ensure that the Payment Instruments issued towards payment of the Monthly Instalments are honoured on presentation. It is duty of the Borrower to ensure that his bank account has sufficient funds at all times to ensure the payment of Monthly Instalments and his bank account has been debited towards the Monthly Instalments and in case of his account not been so debited the, Borrower shall be obliged to inform the Lender in this regard within 3 (three) days from the Due Date of such Monthly Instalment;
- 5.1.11 Not do or suffer any act or thing whereby the Products may be detained or taken in execution under legal process, nor by any public authority or government department;
- 5.1.12 Not use or permit the use of the Products for any purpose not permitted by the terms of the insurance policy, not do or permit to be done any act or thing which might render the insurance invalid;
- 5.1.13 Pay and bear all taxes, rates, duties, charges and other imposts and obligations, existing as well as in future, in respect of the Products and the transaction hereunder;
- 5.1.14 Permit the Lender and its representatives at all reasonable times to inspect, view and examine the state and condition of the Products and the documents relating thereto and/or to Produce the same for inspection to the Lender or its representative at a place designated by the Lender;
- 5.1.15 To do all such things and execute all such writing as the Lender may require from time to time for duly or more perfectly securing the repayment of the Facility;
- 5.1.16 Not pledge, attempt to pledge or sell or attempt to sell, encumber, transfer or part with possession of the Products, nor in any manner deal with the Products, or do or omit to do anything which would impair the Lender's security over the Products;
- 5.2 The Obligors hereby agree, confirm and acknowledge that it is on the basis of the representations and warranties hereinabove and the terms of the Facility Documents that the Lender has agreed to make available the Facility to the Borrower.
- 6. SECURITY**
- 6.1 The Facility together with all interests, costs, fees and expenses and all other monies payable under the Facility Documents or any other moneys due from time to time from the Borrower to the Lender in whatsoever capacity, shall be secured by way of a first and exclusive charge by way of hypothecation of the Products in favour of the Lender and in the form and manner/acceptable to the satisfaction of the Lender.
- 6.2 Upon full and final payment by the Obligors to the Lender of the Outstandings to the satisfaction of the Lender, the Lender shall release the Security in favour of the Obligors or such other person as the Obligors may request.
- 7. EVENTS OF DEFAULT**
- 7.1 Each of the following shall be an event of default (each an "Event of Default"):
- 7.1.1 An Obligor committing default in payment of the Outstandings on or before the respective Due Dates;

- 7.1.2 Breach by an Obligor of any of the undertakings, covenants, terms and/or conditions etc. of the Facility Documents and/or any of the declaration, representation and/or warranty etc. provided by the Obligors found to be or becoming untrue, misleading, incorrect or false in any respect whatsoever;
- 7.1.3 Commitment of any fraud by an Obligor;
- 7.1.4 Any representation, warranty and/or statement made, or information provided, in, under and/or pursuant the Facility Documents is found to be incorrect or misleading;
- 7.1.5 Demise or permanent disablement of an Obligor;
- 7.1.6 It becomes unlawful for the Obligors to perform its obligations under the Facility Documents or in the event the Lender reaches a conclusion that the Borrower is unable to perform its obligations under the Facility Documents;
- 7.1.7 The insolvency, failure in business, commission of an act of insolvency, general assignment for the benefit of creditors, suspension of payment or the threat of suspension of payment by the Borrower to any creditors, filing of any petition for bankruptcy by or against the Borrower and the same not being withdrawn within 15 (Fifteen) days of being admitted;
- 7.1.8 Any other event/circumstance specified herein or in any other Facility Document to be an Event of Default;
- 7.1.9 If Default howsoever described occurs under any other agreement or document relating to any Indebtedness of the Borrower with the Lender or if any other lenders of the Borrower including financial institutions or banks with whom the Borrower has entered into agreements for financial assistance have recalled its/their assistance or any part thereof;
- 7.2 The decision of the Lender as to whether or not an Event of Default has occurred shall be final and binding upon the Obligors.
- 7.3 **Lien and Cross Default:** Any default by the Obligors or by any Affiliates of the Obligors or any entity related to or connected with the Obligors under any agreement, arrangement, guarantee, and/or under any of its/their Indebtedness (whether actual or contingent, or whether primary or collateral, or whether joint and/ or several), with the Lender or its subsidiaries/fellow subsidiaries/Affiliates/any other entity forming part of Tata Group, shall constitute an Event of Default under the Facility and vice-versa. The Lender, its Affiliates and entities/persons in the Tata Group shall have a paramount lien and right of set-off on/against all other, present as well as future monies, securities, deposits of any kind and nature, all other assets and properties belonging to the Obligors' credit (whether held singly or jointly with any other person), which are deposited with/under the control of the Lender/ its Affiliates and/or entities/persons in the Tata Group pursuant to any contract entered/to be entered into by the Obligors in any capacity, notwithstanding that such deposits may not be expressed in the same currency as the Indebtedness. The Lender, its Affiliates and entities/persons in the Tata Group shall be entitled and authorized to exercise such right of lien and set-off against all such amounts/assets/properties for settlement of the Outstandings with or without any further notice to any Obligor. In this regard, any discharge given by the Lender to its Affiliates and/or entities/persons in the Tata Group shall be valid and binding on the Obligors. It shall be the Obligors' sole responsibility and liability to settle all disputes/objections with such joint account holders. If so required, the Lender its Affiliates and entities/persons in the Tata Group shall be well within its rights to exercise the right of set-off against the money lying in the joint account(s) or in any deposit/bond/other assets held jointly, for settlement of Outstandings. Further, the Obligors hereby authorize the Lender to make payments to the Lender's Affiliates and/or entities/persons in the Tata Group, for any amounts owed by an Obligor to such Affiliates of the Lender and/or entities/persons in the Tata Group, out of any excess moneys received/recovered by the Lender from the Obligors.
- 8. CONSEQUENCE OF EVENT OF DEFAULT**
- 8.1 Without prejudice to or affecting or diluting the rights of the Lender under the Facility Documents or under any Facility Documents, if a Default occurs or is outstanding, the Lender may at any time with immediate effect by a notice in writing to any of the Obligors:
- 8.1.1 declare all Outstandings due, owing or outstanding (whether or not then otherwise due) under the Facility as being immediately due and payable or otherwise payable on demand; and/or
- 8.1.2 require the obligors to surrender to the Lender or its representatives, the Products financed by the Lender and the Lender shall be entitled to dispose off the same and adjust the proceeds against the Outstandings. If there is any deficit, the same shall be made good to the Lender by the Borrower. Without prejudice to the foregoing and in addition thereto, the Lender shall also remain entitled to encash the Payment Instruments referred to herein above until all Outstandings payable under the Facility Documents are fully paid.
- 8.2 The Lender shall not in any way be liable / responsible, by reason or exercise or non-exercise of any rights and remedies available to the Lender as aforesaid;
- 8.3 If any one (or more) Events of Default shall have occurred, then the Lender shall, in addition to the various rights and remedies of the Lender referred to in the clauses above, be irrevocably entitled and authorized to contact and require the Borrower's employers to make deduction/s from the salary/wages payable by the employer to the Borrower and to remit the Monthly Instalments to the Lender until all the Outstandings from the Borrower to the Lender is/are completely discharged. The deductions shall be of such amounts, and to such extent, as the Lender may communicate to (and instruct) the Borrower's employers. The Borrower shall not have, or raise/create, any objections to such deductions. No law or contract governing the Borrower and/or the Borrower's employer prevents or restricts in any manner the aforesaid right of the Lender to require such deduction and payment by the Borrower's employer to the Lender. Provided, however that in the event the said amounts so deducted are insufficient to repay the Outstandings to the Lender in full, the unpaid amounts remaining due to the Lender shall be paid by the Borrower in such manner as the Lender may in its sole discretion decide and the payment shall be made by the Borrower accordingly.
- 8.4 The Lender shall be entitled, at the sole risk and cost of the Borrower, to engage one or more person(s) to collect the Outstandings and the Lender may (for such purposes) furnish to such person(s) such information, facts and figures pertaining to the Borrower as the Lender deems fit. The Lender may also 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 Lender deems fit.
- 8.5 The Borrower expressly recognizes and accept that the Lender shall without prejudice to its rights to perform such activities itself or through its office employees be entitled and has full power and authority so to do to appoint one or more third parties ("Recovery Service Providers") as the Lender may select and to delegate to such party all or any of its functions, rights and powers under these Terms and Conditions relating to the administration of the Facility including the rights and authority to receive on behalf of the Lender from the Borrower all dues and unpaid Monthly Instalments and other amounts due from the Borrower under these Terms and Conditions to perform and execute all lawful acts, deeds, matters and things connected therewith and incidental thereto including sending notices, contacting the Borrower, receiving Payment Instruments from the Borrower. For the purposes aforesaid or for any other purposes at the discretion of the Lender, the Lender shall be entitled to disclose to such third parties all necessary or relevant information pertaining to the Borrower and the Facility and the Borrower hereby consent to such disclosure by the Lender. Notwithstanding what is contained herein the Borrower expressly accepts and authorizes the Lender (and / or any such third party as the Lender may select) to contact third parties (including the family members of the Borrower) and disclose all necessary or relevant information pertaining to the Borrower and the Facility and the Borrower hereby consents to such disclosure by the Lender (and / or any such third party as the Lender may select).
- 8.6 Although, Borrower has/have given demand promissory note for the Facility, in case of Default, Borrower will be liable to repay to the Lender the Facility along with Interest mentioned in the Facility Documents from the date of Default till actual payment.
- 8.7 In case of death of Borrower, the demand promissory note given by the Borrower will be invoked against his/her/its legal heir/ successor(s).
- 8.8 In case the net sale proceeds, after deducting all costs, charges and expenses incurred by the Lender are not sufficient to meet in full, the Outstandings payable to the Lender, the Obligors shall make good and pay such deficiency to the Lender.
- 9. FACILITY FORECLOSURE**
- At the request of the Borrower, the Lender may foreclose the Facility. If the foreclosure is sought 6 (six) months after the Disbursement of the Facility the Lender may not charge foreclosure charges. However, the Lender may charge foreclosure charges @4% of principal outstanding as on the date, if Facility is sought to be foreclosed by the Borrower before 6 (six) months from the date of Disbursement. The Lender, however, will use reducing balancing rate/method for the arrival of principal outstanding amount outstanding on foreclosure date.

10. DISCLOSURE

The Obligors expressly authorise/consent to the Lender, its various service providers or agents, including for marketing, collections and recovery agents to contact the Obligors telephonically, through e-mails, telephones, messages, SMS, Whatsapp or other applications or otherwise even if the names of the Obligors appear in the Do Not Call or Do Not Disturb Register to inform the Obligors about the marketing schemes, various financial and/or investment products and/or offerings of other services, Outstandings under the Facility Documents or any other aspect pertaining to any facilities availed or to be availed by the Obligors. The Obligors also expressly declare that such e-mails, telephonic calls, messages, SMS, Whatsapp messages etc. from the tele-callers, agents and/or service provider of the Lender and its associates, affiliates and/or group companies will not cause any inconvenience to them and/or their family members. The Obligors expressly and irrevocably consents that for any claim against the service providers, the Lender shall not be liable and the claim of the Obligors (or any of them) on this account shall be against the service providers and/or tele-callers. The Obligors agree to the use of e-mails, messages, SMS, Whatsapp and/or other applications for communication or sharing of information or documents, agree to abide by the terms and conditions of such applications and agree to the risks associated with such applications or sharing of information through them. The Obligors hereby also provide consent to the Lender to carry out the KYC and other requisite checks by such processes as may be permissible under Applicable Law including authentication/verification of documents or details submitted for KYC purpose, accessing and procuring data from databases maintained by statutory or other Authority.

11. RECORDS OF FACILITY

The Lender shall maintain or cause to be maintained in accordance with its usual practice, electronic/computerised accounting systems at its office, evidencing the amounts disbursed and due under the Facility Documents and such computer generated/maintained certificate/statement/accounts from the Lender's electronic terminals shall not be contested by the Obligors and the entries made therein shall be conclusive evidence of the existence and amounts of the obligations of the Obligors and amounts realised, recovered and expended including in any legal action or proceedings arising out of or in connection with the Facility Documents and the Obligors shall not contest the same.

12. MISCELLANEOUS

- 12.1 The Outstandings, shall not be revoked or cancelled or affected by the death or insolvency of the Borrower, and the Lender shall so long as the whole (or any part) of the Outstandings remain outstanding/payable to the Lender, be entitled to act upon and enforce all of its rights against the legal heirs, executors of the deceased Borrower, pursuant to, and in accordance with, these Terms and Conditions and the Facility Documents executed by the Borrower and/or any other persons to/in favour of the Lender.
- 12.2 In case the Lender recalls the Facility upon/after the occurrence of an Event of Default, and the Borrower requests the Lender to accept part payment/s of the Outstandings and to permit the Borrower to continue repaying the Monthly Instalments in future, the Lender may entertain/accept such requests upon such further terms and conditions as the Lender may think fit and proper in its sole discretion. Any decision taken by the Lender not to allow such request/s of the Borrower shall be final and binding on the Borrower.
- 12.3 Delay in exercising or omission to exercise any right, power or remedy accruing to the Lender upon any default or otherwise under the Facility Documents shall not impair any such right, power or remedy or shall not be construed to be a waiver thereof or acquiescence in such default, nor shall the action or inaction of the Lender in respect of any default or any acquiescence by it in any default affect or impair any right, power or remedy of the Lender in respect of any other default. The rights of the Lender under the Facility Documents may be exercised as often as necessary, and are cumulative and not exclusive of their rights under the Applicable Law and may be waived only in writing at the Lender's sole discretion.
- 12.4 The Facility Documents shall operate as a letter of continuity in favour of the Lender, to be enforceable for the repayment of the Outstandings and/or all sums remaining unpaid under the Facility now or hereafter, pursuant to the Facility Documents (as may be amended and modified from time to time) together with Interest, and other charges and all other costs, charges and expenses which may be or become payable in connection therewith.
- 12.5 In the event the Borrower fails to pay Outstandings when due, and the Lender commences legal proceedings to recover such sum, the Borrower will further pay the Lender all advances, charges, cost and expenses including legal fees, incurred or paid by the Lender in exercising any right, power or remedy conferred under the Facility Documents (or in the enforcement thereof) and all such sums shall become a part of the Indebtedness secured hereunder and shall be paid to the Lender by the Borrower immediately and without any delay or demur.
- 12.6 The Borrower undertakes that each of his/her/its obligations under the Facility Documents is independent and severable from the rest. If any obligation is found not enforceable by a court of law, for any reason, the Borrower shall continue to remain bound by the other obligations stipulated herein.
- 12.7 The Borrower acknowledges that the rate of Interest, Additional Interest, service charges and other charges payable and or agreed to be paid by the Borrower under the Facility Documents are reasonable and acceptable to the Borrower.
- 12.8 Any notice, demand, statement or communication by the Lender to the Obligors:
 - 12.8.1 Any notice or communication shall be deemed to have been sufficiently served if delivered by hand or addressed by registered A.D. post at the address mentioned in the Facility Documents and such service shall be deemed to have been effected in case of delivery by hand on the date on which it is delivered and in case of delivery by registered A. D. post on the expiry of the 4th day from such posting.
 - 12.8.2 A certificate by an officer of the Lender that the notice was posted or served, as the case may be, shall be final, conclusive and binding on the Obligors.
 - 12.8.3 In the event of any failure by the Obligors to notify the Lender in writing of any changes on his/her/their contact address or details, service of a notice/correspondence specified in the Facility Documents shall be deemed to be proper and sufficient service on the Obligors irrespective of whether or not such notice shall be returned "unserved" to the Lender.
- 12.9 The Borrower expressly agrees that any Marketing Service Provider / Dealer of the Products, by or through whom this transaction may have been introduced, negotiated or conducted shall not be deemed to be an agent of the Lender and that the Lender shall not be liable for any representations or statements made by such service provider / Dealer to the Borrower.
- 12.10 The contents of these Terms and Conditions were read out, explained and interpreted to the Borrower in their respective vernacular language.
- 12.11 The Borrower expressly and irrevocably consents that for any claim against the Dealer/ manufacturer, the Lender shall not be liable and the claim of the Borrower on this account shall be against the Dealer/ manufacturer.
- 12.12 The Borrower acknowledge that the contents of these Terms and Conditions have been fully explained to and understood by him at the time of availing the Facility.
- 12.13 A copy of these Terms and Conditions is being delivered to the Borrower and the Borrower affirms the receipt of the same.
- 12.14 The Obligors consent to the Lender disclosing and/or making available to RBI, any agencies, bureaus (including credit information companies specified by the RBI or otherwise), Affiliates of the Lender, and its holding company viz Tata Capital Limited, and other persons, any information and/or data.

13. ARBITRATION

If any dispute, difference or claim arises between any of the Obligors and the Lender in connection with the Facility or as to the interpretation, validity, implementation or effect of the Facility Documents or as to the rights and liabilities of the parties under the Facility Documents or alleged breach of the Facility Documents or anything done or omitted to be done pursuant to the Facility Documents, the same shall be settled by arbitration to be held in Mumbai/Delhi/Kolkata/Chennai as may be decided by the Lender in accordance with the Arbitration and Conciliation Act, 1996, or any statutory amendments thereto and shall be referred to a sole arbitrator to be appointed by the Lender. The award of the arbitrator shall be final and binding on all parties concerned. The arbitration proceedings shall be in English language. Cost of arbitration shall be borne by the Borrower.

14. GOVERNING LAW AND JURISDICTION

The Facility Documents are governed by and shall be construed in accordance with the laws of India. Subject to the provisions of Clause 13 above, any suit, petition, reference or other filing permitted or required to be made pursuant to the Arbitration and Conciliation Act, 1996 in respect of the matters arising out of the Facility Documents including, without limitation, a petition for appointment of an arbitrator or arbitrators under Section 11 of the Arbitration and Conciliation Act, 1996 shall be instituted only in competent courts at Mumbai/Delhi/Kolkata/Chennai as may be decided by the Lender.