

GENERAL TERMS AND CONDITIONS FOR BANKING FACILITIES

V2. 10-20

GENERAL TERMS AND CONDITIONS FOR BANKING FACILITIES
V2. 10-20 (THE "TERMS")

Definitions and interpretation

1. In these Terms, unless the context otherwise requires, capitalised terms used herein shall have the meanings given to them in the FOL and:
 - 1.1 **"Bank"** means First Abu Dhabi Bank PJSC;
 - 1.2 **"Borrower"** means the borrower named in the FOL;
 - 1.3 **"Finance Document"** means the FOL, these Terms, any document set out in Section B of the FOL and any other document designated as such by the Bank and the Borrower;
 - 1.4 **"FOL"** means the facility offer letter between the Bank and the Borrower to which these Terms relate;
 - 1.5 **"Material Adverse Change"** means a material adverse effect on or a material adverse change in:
 - (i) the business, operations, condition (financial or otherwise) or prospects of the Borrower;
 - (ii) the ability of the Borrower to perform or comply with its obligations under the Finance Documents;
 - (iii) the validity or enforceability or the effectiveness or ranking of any security interest granted or purported to be granted under the Finance Documents; or
 - (iv) the rights or remedies of the Bank under the Finance Documents.

Banking Facilities

2. The Borrower shall use each Facility only for the purpose specified for such Facility in the relevant FOL.
3. The Borrower shall repay the aggregate of all amounts advanced to it under a Facility at the end of its tenor or as otherwise specified in the FOL.

Interest and commission rates

4. Interest shall accrue daily on the amount utilised under a Facility at a rate equal to the higher of the percentage rate per annum specified in Section A of the FOL (the **"Interest Rate"**) or, if applicable, the Minimum Interest Rate and shall be paid by the Borrower at the end of each interest period or such other date as specified in Section A of the FOL.
5. The Bank shall be entitled to change the Interest Rate at any time during the tenor of the Facility and shall notify the Borrower of any change. If any interest is calculated by reference to LIBOR, the Borrower acknowledges that this shall include, but not be limited to the right of the Bank to change the Interest Rate at such time as: (a) the administrator of LIBOR publicly announces that it has ceased or will cease, to provide the LIBOR rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that LIBOR rate; or (b) if, in the opinion of the Bank, LIBOR is otherwise no longer appropriate for the purposes of calculating interest under the Facility, having regard to factors such as (but not limited to) any publications or statements which have been made by the regulatory supervisor for the administrator of LIBOR: (i) that LIBOR is no longer representative of the underlying market and economic reality it is intended to measure and representativeness will not be restored even if LIBOR continues to be published; or (ii) that such publication or statement has been made for the purposes of engaging in contractual triggers for fallbacks to LIBOR that are activated by pre-cessation announcements by such supervisor (howsoever described). Further, the Borrower acknowledges that if the Interest Rate is changed due to (a) or (b) of the foregoing, the Bank shall also be entitled to add such spread adjustment (which may be a positive or negative value or zero) that has been selected by the Bank after giving consideration to factors such as: (i) any selection or recommendation by the regulatory supervisor to the LIBOR administrator or the central bank to the LIBOR currency (or such working group or committee sponsored, chaired or constituted by such regulatory supervisor or central bank); and/or (ii) the evolving or then-prevailing market convention, for the calculation or determination of such adjustment spread for the replacement of such LIBOR with the alternative benchmark rate.
6. If any interest is calculated by reference to a screen rate and that screen rate is not available on or about noon on the last day of an Interest Period other than as a result of an event specified under clause 5 (a) or 5 (b), the relevant portion of the interest shall be calculated by reference to the rate notified by the Bank to the Borrower as soon as practicable, as the percentage rate per annum cost to the Bank of funding the relevant loan from whatever source it may reasonably select.
7. If any interest is calculated by reference to a screen rate and that screen rate is below zero, that screen rate shall be deemed to be zero.
8. Commission shall accrue daily on the amount utilised under a Facility at the percentage rate per annum specified in Section A of the FOL (the **"Commission Rate"**). The Commission Rate may be adjusted from time to time by the Bank giving written notice to the Borrower.
9. All interests, charges, commissions and all professional fees and/or costs incurred by the Bank in relation to the Finance Documents shall be debited to the Borrower's account with the Bank.

Other costs, expenses and indemnities

10. If the Borrower: (i) fails to pay any sum due and payable under the Finance Documents on its due date for payment; or (ii) causes any limits to be exceeded, interest shall accrue on such overdue or exceeding amount from the due date or the date the eligible limits have been exceeded up to the date of actual payment at the Default Rate specified in Section A of the

FOL. If no Default Rate is specified, the Borrower agrees to pay a rate 3% higher than the applicable rate specified for the relevant Facility in Section A of the FOL.

11. If the Bank is called upon to make a payment in connection with any Finance Document or the Bank becomes entitled to debit any of the Borrower's accounts under the terms of the Finance Documents and such payment or liability is incurred in a currency other than UAE Dirhams, the Bank may charge to any of the Borrower's accounts the UAE Dirham equivalent of such amount calculated at the Bank's spot rate of exchange for that currency at the time such payment is made or liability is incurred.

General undertakings

12. The Borrower undertakes:
- 12.1 **Authorisations:** to comply with and keep in full force and effect any authorisations required for it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability and admissibility in evidence of the Finance Documents in the UAE;
 - 12.2 **Compliance with laws and regulations:** to comply with all legal and regulatory obligations to which it is subject, including (without limitation) those relating to the prevention of bribery, corruption, fraud, money laundering and terrorist activity and the provision of financial and other services to persons or entities which may be subject to sanctions;
 - 12.3 **Pari Passu Ranking:** to ensure that its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally;
 - 12.4 **Negative Undertakings:** not to permit to subsist any security over any of its assets that are secured in favour of the Bank other than any lien arising by operation of law or any security granted in accordance with the terms of the Finance Documents;
 - 12.5 **Disposals:** not to enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, transfer or otherwise dispose of all or any substantial part of its assets; and
 - 12.6 **Change of Ownership:** to ensure that no substantial change to its ownership, control or legal status is made, unless the Borrower is a natural person, or any steps are taken to alter the liability of the Borrower to the Bank.
13. The Borrower shall indemnify the Bank against all liabilities, losses, damages, costs and expenses (including legal costs) incurred in connection with the enforcement of, or the preservation of any rights under, the Finance Documents (the "Indemnity"). This Indemnity shall be additional to any other credit support or security the Bank may hold and shall extend to any extensions, renewals or amendments of any Facility or Finance Document.
14. The Borrower shall, at its own cost and expense, promptly execute, or procure that any third party executes, all documents that the Bank may reasonably require to perfect, protect, maintain or exercise any of its rights, powers and remedies in connection with the Finance Documents.

Information undertakings

15. The Borrower undertakes to deliver to the Bank the following information which shall be true, correct and complete in all material respects, unless the Borrower is a natural person, in which case only paragraphs 15.4 and 15.5 shall apply:
- 15.1 annual financial statements prepared in accordance with internationally accepted accounting standards within 120 days of the end of its financial year;
 - 15.2 unaudited financial statements within 60 days of the end of the first half of its financial year;
 - 15.3 any change in the constitutional documents of the Borrower or any material change in the ownership of the Borrower;
 - 15.4 promptly following its commencement, any litigation, arbitration, judicial, quasi judicial or any administrative proceedings by or against the Borrower which if adversely determined might have a Material Adverse Change; and
 - 15.5 such other information concerning the business and financial affairs of the Borrower as the Bank may reasonably request from time to time.

The Bank's compliance obligations

16. Nothing in these Terms will oblige the Bank to do, or refrain from doing, anything that might, in the Bank's opinion, amount to a breach of any:
- 16.1 law or order of any competent court or other authority having jurisdiction over the Borrower, the Bank or any of the Bank's subsidiaries or affiliates;
 - 16.2 duty of care that the Bank owes to the Borrower or anyone else; or
 - 16.3 economic, financial or trade sanctions or embargoes.
17. The Borrower agrees that the Bank may take all action required to meet any obligations, either in the UAE or elsewhere, relating to the prevention of bribery, corruption, fraud, money laundering and terrorist activity and the provision of financial and other services to persons or companies who may be subject to sanctions (whether in the form of economic, financial or trade sanctions or embargo or otherwise). This may include, but is not limited to, the freezing of funds in an account, investigating and intercepting payments into and out of any account (particularly in the case of international transfers of funds) and investigating the source of or intended recipient of any funds. It may also include making enquiries to establish whether a person is subject to sanctions. This may delay the carrying out of the Borrower's instructions or the receipt of cleared funds.

18. The Borrower agrees to take all steps required in order to enable the Bank to comply with its legal and regulatory requirements as set out above.
19. The Borrower acknowledges that the Bank may report any suspicious or illegal activities or transactions to the competent authorities whether in the UAE or elsewhere.

Uncommitted nature of the Facilities

20. Subject to any other provision of the Finance Documents, the Bank shall be entitled, at its sole discretion, with immediate effect to:
 - 20.1 suspend and/or cancel any part of the Facilities;
 - 20.2 ask for additional security;
 - 20.3 demand immediate repayment of any part of the Facilities (together with any accrued interest and all other amounts payable thereunder);
 - 20.4 enforce any security granted to it by the Borrower and/or any other person in relation to the Borrower's obligations under the Finance Documents;
 - 20.5 in relation to any Trade Facility or any other contingent liability, the Bank may, at any time, cancel or amend any unutilised portion of any Trade Facility. In relation to any drawn Facilities, the Bank may, by written demand, require the Borrower to find alternative banking facilities within 30 days. If the Borrower is unable to find alternative banking facilities, at the end of the 30 day notice period, the Borrower agrees to provide security over cash for the full amount of the contingent liability or some other form of security that is acceptable to the Bank in its sole discretion; or
 - 20.6 exercise any of its rights under the Finance Documents.

Facility review

21. The Facilities are subject to review by the Bank on the review date stated in the FOL or at any other time that the Bank may determine (each a "**Review Date**"). Following a review, the Bank may at its discretion maintain, reduce or decide to offer increased Facilities to the Borrower and may make other changes to the Facilities. If the Bank decides to increase the Facilities or make other changes to the Facilities, it will send a revised FOL to the Borrower who may accept or reject the revised FOL at its sole discretion. For the avoidance of doubt, the existing FOL shall remain valid until the acceptance of the revised FOL. If the Borrower does not accept the revised FOL, the existing Facilities may be terminated by the Bank subject to a notice period of 2 months or such other period agreed with the Borrower. Upon termination, all amounts outstanding and payable under the Facilities shall become due and payable.

Set-off

22. The Bank shall have the right, at any time, to combine any of the accounts in its books in the name of the Borrower, at whichever of its branches such account is located and at whatever time those balances are credited and in whatever currency such account is denominated.
23. The Bank may, at any time, without prior notice to the Borrower:
 - 23.1 set-off any credit balance against any part of the Borrower's indebtedness to the Bank. If the obligations are in different currencies, the Bank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off;
 - 23.2 set-off any debt due to the Borrower against any outstanding Facilities;
 - 23.3 hold as security for the indebtedness all monies, stocks, and things whatsoever deposited with the Bank by the Borrower (whether for safekeeping or otherwise) or held by the Bank for collection for the Borrower; and
 - 23.4 sell in such manner as the Bank shall deem fit and at the cost of the Borrower all such monies, stocks and things to discharge any part of the indebtedness.

Other provisions

24. If the Bank receives a payment for application against amounts due under the Finance Documents that is insufficient to discharge all the amounts then due and payable by the Borrower under the Finance Documents, the Bank shall apply that payment towards the due but unpaid obligations of the Borrower under the Finance Documents in the following order:
 - 24.1 first, in or towards payment of any unpaid fees and expenses incurred by the Bank;
 - 24.2 secondly, in or towards payment of any accrued interest;
 - 24.3 thirdly, in or towards payment of any principal due but unpaid under any Facility; and
 - 24.4 fourthly, in or towards payment of any other sum due but unpaid under the Finance Documents.
25. All payments made or to be made by the Borrower under any Finance Document shall be made without set-off or counterclaim and free and clear of and without deduction for any present or future taxes, levies, duties, imposts, deductions, charges or withholding levied by any competent authority against any party hereto or any holder of any instrument made available or issued under any Finance Document (a "**Tax Deduction**") unless such Tax Deduction is required to be made by law. If any Tax Deduction is required to be made by law, the amount of the payment due from the Borrower shall be increased by an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
26. The Borrower agrees that, in the absence of manifest error, the Bank's records shall be the sole and conclusive evidence of the sums due and payable to the Bank.
27. The Borrower hereby agrees and authorises the Bank, on an unconditional and continuous basis, to obtain, disclose and exchange information with Al Etihad Credit Bureau and any other relevant host or supplier of credit information.

28. Any communication to be made under the Finance Documents shall be delivered by courier or email to the other party at the address or email address notified to the other from time to time and shall be deemed to have been delivered when left at that address or actually received.
29. If there is any conflict between these Terms and the terms of the FOL, the terms of the FOL shall prevail.
30. The Borrower shall, promptly on demand by the Bank, pay to the Bank any break costs determined by the Bank to be attributable to any part of any monies made available to the Borrower being paid by the Borrower on any day other than the date required under the FOL, together with any costs of unwinding any interest rate or foreign exchange swaps entered into by the Bank in relation to the relevant Facility to which the amount paid relates.
31. The Borrower shall not assign or transfer any of its rights, benefits and obligations under the Finance Documents.
32. The Bank may assign any of its rights or transfer by novation any of its rights and obligations under the Finance Documents with the consent of the Borrower, unless the assignment or transfer is to an affiliate of the Bank or made at a time when an event of default is outstanding. The consent of the Borrower to an assignment or transfer must not be unreasonably withheld or delayed. The Borrower will be deemed to have given its consent five business days after the Bank has requested it unless consent is expressly refused by the Borrower within that time.
33. The Finance Documents shall be governed by and construed in accordance with the laws of the Emirate of Abu Dhabi and the federal laws of the UAE as applied in the Emirate of Abu Dhabi. The Borrower irrevocably submits to exclusive jurisdiction of the courts of the Emirate of Abu Dhabi. Furthermore, the Borrower agrees that nothing shall prevent the Bank from taking any proceedings before any courts (whether in the Emirate of Abu Dhabi or otherwise).
34. The Borrower waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction (to the full extent permitted by the laws of such jurisdiction).

The Borrower confirms to have read, understood and agreed on the above Terms.

Borrower's Name: _____

For and on behalf of the Borrower (if the Borrower is a legal person):

Signature: _____

Signature: _____

Name: _____

Name: _____

Date: _____

Date: _____

(Company Stamp)
(If the Borrower is a company)