

GENERAL TERMS AND CONDITIONS FOR TERM LOAN FACILITIES

V2. 10-20

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V2. 10-20 (THE "TERMS")

1. DEFINITIONS

In these Terms, unless the context otherwise requires, capitalised terms used herein shall have the meanings given to them in the Facility Letter and:

"**Bank**" means First Abu Dhabi Bank PJSC.

"**Borrower**" means the borrower named in the Facility Letter.

"**Business Day**" means in respect of a loan denominated in UAE Dirham a day on which banks are open for business in the UAE, in respect of a loan denominated in US Dollar or Pound Sterling, the UAE and London, and in respect of a loan denominated in euro, the UAE and Frankfurt.

"**Facility Letter**" means any facility letter for term loans between the Bank and the Borrower that applies these Terms.

"**Finance Documents**" means the Facility Letter, these Terms, the Security Documents and any other document designated as such by the Bank and the Borrower.

"**Group**" means the Borrower and each of its subsidiaries if the Borrower is a legal person, or the Borrower and any company controlled by the Borrower if the Borrower is a natural person.

"**Illegality Event**" means it becomes or could become unlawful in any jurisdiction for the Bank to perform any of its obligations under any Finance Document or it becomes or could become unlawful for any affiliate of the Bank for the Bank to do so.

"**Secured Asset**" means any asset which is secured to the Bank under any Security Document.

"**Security Documents**" means any security and guarantee documents listed under Clause 3 (*Security and Guarantees*) of the Facility Letter and any other documents executed to guarantee and/or secure any part of the Facility.

2. THE FACILITY

(a) The Bank agrees to make the Facility available to the Borrower during the Availability Period, subject to these Terms and the Facility Letter.

(b) The Borrower shall apply all amounts borrowed by it under the Facility towards the Purpose.

3. CONDITIONS PRECEDENT TO MAKING LOANS

The Bank shall be under no obligation to make any loan unless:

(a) the Bank has received all of the Conditions Precedent specified in the Facility Letter in form and substance satisfactory to it; and

(b) no default is continuing or would occur as a result of making such loan.

4. REQUESTING LOANS

(a) Each request for a loan is irrevocable.

(b) The Bank may reject any request for a loan if: (i) no commitment fee is specified in the Facility Letter; (ii) the outstanding amount after disbursement will exceed the Facility limits; and/or (iii) if the requested disbursement date is not a business day within the Availability Period.

5. REPAYMENT, PREPAYMENT AND CANCELLATION

(a) The Borrower must repay the loans made to it on the relevant Repayment Date and in the relevant Repayment Amount, without set-off or counterclaim.

(b) The Borrower may not re-borrow any part of the Facility which is repaid or prepaid.

(c) The unutilised amount of the Facility will be automatically cancelled at the end of the Availability Period.

(d) Voluntary Prepayment

(i) The Borrower may on not less than 10 business days' prior written notice, prepay any part of any loan on the date specified in such notice, along with the Prepayment Fee (if demanded by the Bank).

(ii) Any notice of prepayment shall be irrevocable.

(iii) Any prepayment of the loan shall be applied by the Bank to reduce the Borrower's repayment obligations in inverse order of maturity.

(e) Voluntary Cancellation

The Borrower may on not less than 10 business days' prior and irrevocable written notice, cancel any part of the available Facility.

(f) Mandatory Prepayment – Illegality Event

If an Illegality Event occurs, the Bank may notify the Borrower that:

(i) the Borrower must prepay each loan; and

(ii) the Facility is cancelled.

(g) Mandatory Prepayment – Change of Control (not applicable if the Borrower is a natural person)

(i) If there is a change of control of the Borrower or any person or group of persons acting in concert gains control of the Borrower:

A. the Borrower shall promptly notify the Bank upon becoming aware of that event;

B. the Bank shall not be obliged to make a loan; and

- C. the Bank may cancel the Facility and declare all outstanding loans, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Facility will be cancelled and all such outstanding loans and amounts will become immediately due and payable.
- (ii) For the purpose of paragraph (i) and the definition of Group above:
 - A. **"control"** means the power to direct the management and policies of an entity, whether through the ownership of voting capital, by contract or otherwise; and
 - B. **"acting in concert"** means acting together under an agreement or understanding (whether formal or informal).
- (h) **Restrictions**
 - (i) The Borrower shall not repay or prepay any part of any loan except on the last day of the applicable Interest Period or as otherwise required by this Clause 5. The Borrower must pay to the Bank the Bank's cost of funds if any loan is repaid or prepaid otherwise than on the last day of any Interest Period, together with all unpaid interest accrued on the amount prepaid.
 - (ii) Any prepayment made under this Clause 5, shall be made together with all unpaid interest accrued on the amount prepaid.

6. **INTEREST AND DEFAULT INTEREST**

- (a) The Borrower shall pay interest on each loan on the last day of the Interest Period for that loan at a rate equal to the higher of the Interest Rate or if applicable, the Minimum Interest Rate.
- (b) Any Interest Period relating to a loan that would otherwise extend beyond the Final Repayment Date shall end on the Final Repayment Date.
- (c) If any interest is calculated by reference to LIBOR, the Borrower acknowledges 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.
- (d) 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 6(c) under (a) or (b), the relevant portion of the Interest Rate shall be 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.
- (e) 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.
- (f) If the Borrower fails to pay an amount payable under the Finance Documents on its due date, the Borrower shall pay interest on such unpaid amount at the rate of 3% over the applicable Interest Rate or such other rate as specified in the Facility Letter, which will accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment).

7. **INTEREST PERIODS**

- (a) Each Interest Period for a loan will start on the date that loan is made or (if already made) on the last day of its preceding Interest Period.
- (b) Prior to determining the Interest Rate for a loan, the Bank may by notice to the Borrower shorten an Interest Period for any loan to ensure that:
 - (i) there are sufficient loans (with an aggregate amount equal to or greater than the Repayment Amount) which have an Interest Period ending on a Repayment Date for the Borrower to make the Repayment Amount due on that Repayment Date; and/or
 - (ii) all loans have an Interest Period ending on the same calendar date.

8. **BUSINESS DAY CONVENTION AND CALCULATIONS**

- (a) When any payment or Interest Period under the Finance Documents would otherwise be due or end on a day which is not a Business Day, the due date for payment or end date for such Interest Period shall be postponed to the next Business Day in that calendar month (if there is one) or the preceding business day (if there is not).

- (b) All interest and fees payable under the Finance Documents shall accrue from day to day and be calculated on the basis of a 360 day year.

9. **TAXES**

(a) **Tax Gross-Up**

All payments made or to be made by the Borrower under any Finance Document shall be made 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.

(b) **Tax Indemnity**

The Borrower shall, within 3 business days of demand, pay to the Bank an amount equal to the loss, liability or cost which the Bank determines will be or has been (directly or indirectly) suffered for or on account of tax by the Bank in respect of a Finance Document, other than taxes imposed under UAE law to the extent they are calculated by reference to net income received or receivable (but not any sum received or receivable) by the Bank.

(c) **Value Added Taxes**

All amounts payable under the Finance Documents to the Bank are exclusive of value added tax ("**VAT**"). Accordingly, the Borrower must pay to the Bank (in addition to and at the same time as any payment under the Finance Documents) an amount equal to the amount of any VAT payable in connection with that payment.

10. **UNDERTAKINGS**

(a) **Information Undertakings:** The Borrower shall:

- (i) **Financial Statements (only applicable if the Borrower is not a natural person):** deliver to the Bank:
 - A. within 180 days after the end of each of its financial years, the audited consolidated financial statements of the Borrower for that financial year prepared in accordance with generally accepted accounting principles and audited by a certified auditor acceptable to the Bank; and
 - B. within 30 days after the end of each of its financial half years, the unaudited consolidated financial statements of the Borrower for that financial period.
- (ii) **General and Financial Information:** deliver to the Bank such other information about the business and financial condition of any Obligor as the Bank may require. The Bank shall have the right, on reasonable notice to examine the Borrower's books of account and shall also have access to the Borrower's business premises and any warehouses for periodic inspection at reasonable times, and at the risk and cost of the Borrower.
- (iii) **Litigation/Arbitration:** promptly advise the Bank of any circumstances, litigation, arbitration, judicial, quasi-judicial or any administrative proceedings which might result in an event of default under Clause 11 (*Events of Default*).
- (iv) **Al Etihad Credit Bureau:** agree and authorise 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.

(b) **General Undertakings:** The Borrower undertakes that each Obligor shall:

- (i) **Authorisations:** 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 its jurisdiction of incorporation.
- (ii) **Compliance with laws and regulations:** comply with legal and regulatory obligations to which it is subject, including (without limitation) those relating to 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.
- (iii) **Pari Passu Ranking:** 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.

(c) **Negative Undertakings:** The Borrower undertakes that each Obligor shall:

- (i) **Negative Pledge:** not permit to subsist any security over any of its Secured Assets other than any lien arising by operation of law or under the Security Documents.
- (ii) **Disposals:** not (and not permit any member of the Group 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.
- (iii) **Legal status and change of business:** not make any change to its legal status, unless the Borrower is a natural person, and not make any substantial change to the general nature of its business, or the business of the Group taken as a whole, from that carried on at the date of the Facility Letter.

11. **EVENTS OF DEFAULT**

(a) Each of the following shall be an event of default:

- (i) **Non Payment:** any Obligor fails to pay any sum under any Finance Document at the time, and in the manner specified in any Finance Document unless the failure to pay is caused by an administrative or technical error and payment is made within 5 business days of the due date.
- (ii) **Non Compliance:** any Obligor fails to comply with any term of the Finance Documents (other than those referred to in paragraph (i) above) and, if such failure is capable of remedy, such failure remains unremedied for 10 days after the earlier of written notice being given to the Borrower by the Bank and such Obligor becoming aware of such failure.
- (iii) **Cross Default:** if:
 - A. any financial indebtedness of any member of the Group is not paid when due or becomes due and payable prior to its specified maturity or any creditor or creditors become entitled to declare any such indebtedness due and payable prior to its specified maturity as a result of an event of default (howsoever described);
 - B. any commitment to make financial indebtedness available to any member of the Group is cancelled or suspended or declared to be capable of being cancelled or suspended by a creditor as a result of an event of default (howsoever described); or
 - C. any creditor of any member of the Group becomes entitled to declare any financial indebtedness of that member of the Group due and payable prior to its specified maturity as a result of an event of default (however described),
- (iv) **Insolvency:** if:
 - A. any member of the Group is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its financial indebtedness;
 - B. the value of any member of the Group's assets is less than its liabilities (taking into account contingent and actual liabilities); or
 - C. a moratorium is declared in respect of the any member of the Group's financial indebtedness.
- (v) **Insolvency Proceedings:** if (except in respect of a solvent liquidation or reorganisation approved by the Bank of a member of the Group other than the Borrower) any corporate action, legal proceedings or other procedure or step is taken in respect of any member of the Group in relation to:
 - A. the suspension of payments, moratorium of financial indebtedness, winding up, dissolution, administration or reorganisation;
 - B. a composition, assignment or arrangement with any creditor;
 - C. the appointment of a liquidator, receiver, administrator or similar officer of it or any of its revenues and assets; or
 - D. enforcement of any security over its assets,
 (or any step analogous to (A) to (D) is taken in any jurisdiction).
- (vi) **Creditors' process:** any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any member of the Group and is not discharged within 30 days.
- (vii) **Illegality:** if at any time it becomes unlawful or illegal for any Obligor to perform or comply with any of its obligations under the Finance Documents.
- (viii) **Secured Assets:** an Obligor assigns or transfers any of the Secured Assets to any person or entity or there is a material deterioration of the value of the Secured Assets.
- (ix) **Material Adverse Change:** an event occurs or circumstance arises which results in or is likely to result in, in the opinion of the Bank, a material adverse change in:
 - A. the business, operations, condition (financial or otherwise) or prospects of the Group taken as a whole;
 - B. the ability of any Obligor to perform or comply with its obligations under the Finance Documents;
 - C. the validity or enforceability or the effectiveness or ranking of any security granted or purported to be granted under any Finance Document; or
 - D. the rights or remedies of the Bank under the Finance Documents.
- (b) Upon the occurrence of an event of default and at any time thereafter, the Bank may:
 - (i) declare the outstanding amount of each loan immediately due and payable whereupon such outstanding amount and each loan shall become payable together with accrued interest thereon and any other sums owed to the Bank under the Finance Documents or declare each loan to be due and payable on demand of the Bank;
 - (ii) declare any unutilised portion of the Facility to be cancelled whereupon the same shall be cancelled and the Facility Amount reduced to zero; and/or
 - (iii) invoke all legal remedies available including, without limitation, enforcement of any Security Documents.

12. **COMPLIANCE**

- (a) 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:
 - (i) 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;

- (ii) duty of care that the Bank owes to the Borrower or anyone else; or
- (iii) economic, financial or trade sanctions or embargoes.

- (b) The Borrower agrees that the Bank may take whatever action it considers appropriate 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.
- (c) The Borrower agrees to take all such steps as the Bank may require in order to enable the Bank to comply with its legal and regulatory requirements as set out above.
- (d) 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.

13. FURTHER ASSURANCE

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.

14. SET OFF

The Borrower irrevocably authorises the Bank to apply any credit balance to which the Borrower is entitled in any account of the Borrower with the Bank towards the satisfaction of any sum due and payable from the Borrower to the Bank under the Finance Documents. The rights of the Bank under this Clause 14 shall be without prejudice to, and in addition to, any rights of set-off, combination or consolidation of accounts, lien or other rights to which it is at any time otherwise entitled in any jurisdiction relevant to the Borrower.

15. NOTICES

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 mentioned in the Facility Letter (or such other address or email address as a party may from time to time notify to the other) and shall be deemed to have been delivered when left at that address or actually received.

16. CHANGES TO THE PARTIES

- (a) The Borrower shall not assign or transfer any of its rights, benefits and obligations under the Finance Documents.
- (b) 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.
- (c) 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.

17. FEES, COSTS, EXPENSES AND CURRENCY INDEMNITY

- (a) The Borrower shall pay to the Bank the fees and commissions set out under Clause 2 (*Fees*) of the Facility Letter.
- (b) The Borrower shall on demand of the Bank reimburse the Bank for all costs, expenses (including legal fees) and stamp, registration and other taxes incurred by it in connection with the negotiation, preparation, execution, preservation and enforcement of any of its rights under the Finance Documents.
- (c) If the Bank is called upon to make a payment under or 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 the currency of that account, the Bank may charge to any of the Borrower's accounts the 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.

18. RECORDS

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.

19. CONFLICT

If there is any conflict between these Terms and the Facility Letter, the terms of the Facility Letter shall prevail.

20. LAW AND JURISDICTION

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 the 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).

21. WAIVER OF IMMUNITY

The Borrower waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction (to the full extent permitted by 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 (only applicable if the Borrower is a legal person):

Signature: _____

Signature: _____

Name: _____

Name: _____

Date: _____

Date: _____

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