

**FACILITIES AGREEMENT**  
**[LETTER OF CREDIT (INLAND/FOREIGN) , PACKING CREDIT, FBN, FBP, FBD**  
**AND RUPEE ADVANCE AGAINST EXPORT COLLECTION DOCUMENTS**  
**FACILITIES]**

THIS AGEEMENT is made at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ Two Thousand \_\_\_\_\_.

**BETWEEN**

**TJSB SAHAKARI BANK LTD.**, Scheduled Multi State Cooperative Bank registered under the Multi State Co-operative Societies Act 2002 vide registration number MSCS / CR/287/2008 and having its registered office at TJSB House, Plot No. B-5, Road No.2, Wagle Industrial Estate, Thane West , Maharashtra 400 604 and also carrying on business at its branch office at \_\_\_\_\_ hereinafter called “**the Bank**” (which term shall wherever the context require or admit, include its successor and Assigns) of the **One Part**,

**AND**

\_\_\_\_\_ hereinafter called “**the Borrower**”) of the **SECOND PART**.

The expression “the Borrower” shall, when the Borrower is

- a) an individual, include his or her heirs executors, administrators and permitted assigns,
- b) a firm, include the partners for the time being of the firm
- c) a company, or other body corporate, includes its successors and permitted assigns.
- d) a Joint and undivided Hindu Family or Joint Family firm include all its coparceners.
- e) an Association corporate or incorporate includes its successors and permitted assigns and all members and their respective heirs executors and permitted assigns.

In this unless the context and agreement otherwise implies the expressions defined hereunder shall have the respective meanings assigned to them.

- i) The Singular wherever used shall include plural and vice versa
- ii) The masculine gender used herein shall include feminine and/or neutral gender wherever applicable.

**WHEREAS**

By its Letter of Sanction No. \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter referred to as “**the sanction letter**”) , the Bank has at the request of the Borrower, sanctioned to the Borrower the following facilities of an amount aggregating Rs. \_\_\_\_\_/= (Rupees \_\_\_\_\_) (hereinafter referred to as “**the said facilities**”) on the terms and conditions set out therein including the special conditions as are stipulated in Schedule hereunder written.

**NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:**

**I. AMOUNT OF THE LOAN**

- (1) The Borrower agrees to borrow from the Bank and the Bank agrees to lend to the Borrower the following facilities, hereinafter referred to as “**the said facilities**”, of an amount aggregating Rs \_\_\_\_\_ (Rupees \_\_\_\_\_) on the terms and conditions herein set out including the special conditions as are stipulated in Schedule hereunder written.

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- (2) It is agreed between the Borrower and the said Bank that the disbursements of the said facilities shall be made wherever necessary in stages in accordance capital needs of the Borrower.

**II. SECURITY**

- (1) As security for repayment of the Principal amount of the said facilities together with interest compound interest and/or additional interest, further interest, premium on pre-payment or on redemption, liquidated damages, costs, charges, expenses and all other monies payable by the Borrower to the Bank as stipulated herein, the Borrower agrees to create the following mortgages and/or charges by way of hypothecation and/or pledge in favour of the Bank:

- (i) \_\_\_\_\_
- (ii) \_\_\_\_\_
- (iii) \_\_\_\_\_
- (iv) \_\_\_\_\_
- (v) \_\_\_\_\_

(b) Demand Promissory Note

- (2) The Borrower shall also furnish personnel guarantees of-  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

in the respect of the said facilities in such form as the Bank may desire.

- (3) Is the Bank is of the opinion that if at any time during the subsistence of the agreement the security provided by the Borrower has become inadequate to cover the Balance of the said facilities then outstanding or the security charged to the Bank gets any priority charge or encumbrance due to any statutory provisions thereby Bank losing its first charge on the security the Borrower shall provide and furnish t the Bank to its satisfaction such additional security as may be acceptable to the Bank to cover such Deficiency.

**III. REPAYMENT AND INTEREST**

1. The Borrower shall repay the said facilities for with on a demand in writing made by the Bank or at the expiry of 365 days from the date of the first withdrawal from the said facilities is renewed by the bank for a further period a such expiry.
2. The Borrower shall pay interest on the said facilities @ \_\_\_\_\_ % per annum and the same shall be applied and debited on a monthly/ quarterly basis and shall be paid on the first day of each month / quarter. All interest, which is not paid on the due date shall carry interest at the same rate computed from the respective due dates shall become payable upon the footing of compound interest with monthly quarterly rests. The rate of interest and the manner of application is subject to changes as per any Directive of the Reserve Bank of India or as may be determined by the Bank From time to time.
3. The Borrower agrees to pay additional interest @ 2% per annum over and above the rate of interest stipulated in clause 2 above on account of (i) Non submission of statement; and or (ii) failure to pay the principal amount of the said facilities on the due date thereof; and/or (iii) failure to maintain adequate security cover/margin and/or (iv) failure to pay interest.

4. The Borrower agrees that the interest rate applicable to the said facilities is as per any Directive of the Reserve Bank of India or as may be determined by the Bank in respect of packing credit / post shipment finance and it is subject to the condition that the dues under the said facilities are paid out of export proceeds realization. The Borrower agrees that in the event the dues under the said facilities are paid from amount other than out of export proceeds the commercial rate of interest shall be payable on said facilities from the date of availing the said facilities till its entire repayment to the Bank.
5. Any payment due and payable under this loan agreement and made by the Borrower shall be appropriated toward such dues in the following order, viz.,
  - (i) Cost, Charges, expenses and other monies.
  - (ii) interest in cost, charges and expenses and other monies;
  - (iii) Interest including additional interest, payable in term of this loan Agreement;
  - (iv) Further interest and liquidated damages and defaulted amounts;
  - (v) Repayment of the Principal amount due and payable under this Loan Agreement;

#### **IV. CONDITIONS TO BE FULFILLED BY THE BORROWER**

- 1 The obligation of the Bank to make disbursement of the Cash Credit shall be subject to the borrower complying with the following conditions to the satisfaction of the bank.
  - (i) Borrower shall have created in favour of the bank the security stipulated in article 2 above.
  - (ii) In case the Borrower is a company the Borrower shall have furnished to the Bank a certified true copy of a resolution of its shareholders under the Companies Act, 1956 (if so required) authorizing the borrowing as contemplated under this Loan Agreement and authorizing the execution of loan documents in favour of the Bank and creation of charge on the assets of the Borrower.
  - (iii) In case the Borrower is a company the Borrower shall have furnished to the Bank a certificate of its statutory auditors confirming that the borrowings of the Term Loan will not cause any borrowing limit binding on the Borrower to be exceeded.
  - (iv) The Borrower shall comply with the special conditions, if any, set out in Schedule hereunder written.

#### **V. REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants to the Bank as follows:

1. The Credit Application dated \_\_\_\_\_ is true and accurate in all material respects, is not misleading and does not omit any material fact, the omission of which would make any fact or statement therein misleading and the Credit Application shall be deemed to form part of the warranties herein contained.
2. The Borrower is in compliance in all respects with all law and regulations affecting its business and operations.
3. No event or circumstances is subsisting which constitutes (or with the giving of notice, lapse of time, determination of materiality or the fulfilment of any other applicable condition or any combination of the foregoing, might constitute) a default under any document which is binding on the borrower of any of its assets.
4. No litigation, arbitration, administrative or other proceeding is pending or threatened against the Borrower or its assets.
5. All insurances which are required to be maintained or effected by Borrower or any other person pursuant hereto are in full force and effect and no event or circumstances has occurred, nor has there been any omission to disclose a fact, which would in either case entitle any insurer to avoid or otherwise reduce its liability under any policy relating to the insurances.
6. The Borrower has obtained all authorizations under applicable Environmental laws and is and has been in compliance with all such authorizations and laws and there are circumstances that may at any time prevent or interfere with such compliance.
7. Except as otherwise disclosed to the Bank in writing or unless otherwise permitted by the Bank, there are no encumbrances subsisting or in existence on any of the Borrower's assets.

8. The Borrower is not in default or in arrears in payment of any statutory dues under State or Central Acts and Rules there under such as sales tax, income tax, professional tax, service tax, ESI contribution, Provident Fund contribution, state or central excise duties etc. and that the list herein is not exhaustive and conclusive.

**VI. COVENANTS TO BE OBSERVED BY THE BORROWER DURING THE CURRENCY OF THE SAID FACILITIES**

- 1 The Borrower shall utilize the said facilities for its working capital needs only.
- 2 The Borrower agrees that it shall insure and keep insured all its Properties and assets with such insurance company or insurance companies as the Bank may approve and for such value and such risks as the Bank may require, for full replacements value of such properties and assets. The policy or policies of insurance shall be drawn up with the Bank clause and the original insurance policy or policies shall be deposited by the Borrower with the Bank.
- 3 The Borrower shall during the continuance of these presents keep  
A minimum margin as below:  
  
\_\_\_\_\_
- 4 The borrower shall not affect any change in the constitution or management of the borrower without prior written permission of the bank. The Bank shall have the right to make a visit without any notice to the borrower's premises and offices whenever necessary during the currency of the Said Facilities.
- 5 The borrower shall promptly furnish to the Bank duly verified and certified stock and/or Debtors and/or creditors statements at such interval as the Bank may desire and deliver to the Bank, its duly audited annual accounts, in any event, within four months from the close of its accounting year. The Borrower shall also deliver to the Bank, as soon as the same are available and in any event within \_\_\_ days of the end of each quarter it's audited, or as the case may be, un audited accounts for that quarter.
- 6 The Borrower shall deliver to the Bank, copies of all notices of default termination, or material claim or material demand made against it or by it under any project document or otherwise and notify the Bank about any action or event pertaining to or having the effect of revocation, repudiation denial or cancellation of any authorization.
7. The Borrower shall notify the Bank of any material which the Borrower may suffer due to any event, circumstances or act of God. The Borrower shall also notify the bank of any action or steps taken or legal proceedings started by or against it in any court of law for its winding up, dissolution, administration or re-originations or for the appointment of a receiver administrator, administrative receiver, trustee or similar officer of the Borrower or of any or all of its assets.
8. The Borrower shall notify to the Bank forthwith on receipt by the Borrower any notice or claim made by any State or Central Government Department about the claim, demand, requisition etc., about the defaulted amount or for amount in arrears and claimed.

**VII. EVENTS OF DEFAULT**

- Notwithstanding anything contained herein the Borrower hereby agrees & covenants that the Bank may by a notice in writing suspend or even terminate further disbursement of the said facilities and/or call upon the Borrower forthwith to repay entire balance amount of the whole of the principal amount of the Cash Credit together with interest, compound interest, penal interest and all other sums due, payable outstanding or in arrears notwithstanding the period or schedule of repayment on the happening of any of the following events;
- (a) if the principal moneys remains unpaid upon the due date for payment thereof;
  - (b) if any interest remains unpaid and in arrears after the same shall have become due whether demanded or not;
  - (c) The Borrower commits any breach or default in the performance or observance of this Agreement and/or the security documents or any other terms or conditions relating to the facilities / loan.
  - (d) If default shall have occurred in any covenant, conditions or agreement on the part of the Borrower;

- (e) If the borrower enters into any arrangement or composition with its creditor or commits any act of insolvency;
- (f) If execution or distress be enforced or lived against the whole or any part of the Borrowers Property;
- (g) If a receiver is appointed in respect of the whole or any part of the Property of the Borrower;
- (h) If the Borrower shall take or permit to be taken any action or proceeding whereby any of its property shall or may be assigned or in any manner transferred or delivered to any receiver, assignee, liquidator or other person whether appointed by the Borrower or by any court of law, whereby such property shall or may be distributed amongst the creditor of the Borrower.
- (i) If the Borrower ceases or threatens to cease, to carry on its business;
- (j) If any circumstance occurs which is prejudicial to or impairs, imperils or depreciates or is likely to prejudicially or adversely affect in any manner the capacity of the Borrower to repay the said facilities;
- (k) If the Borrower commits any breach or default of any of the undertaking given by in to the bank or fails to comply within a reasonable time after being called upon to do so any of the requisition of the Bank in that behalf.
- (l) If any change in the Borrower's constitution of management set up has taken place which in the opinion in the Bank (which will be final and binding on the Borrower) would adversely affect the conduct of the borrower's business or the Borrowers financial condition or the efficiency of the Borrower.
- (m) If an extraordinary situation shall make it improbable that the Borrower will be able to perform its obligations under these presents.

The Borrower agrees that the decision of the Bank as to whether any of the aforesaid events or circumstances has occurred shall be final conclusive and binding on the Borrower.

## **VIII DISCLOSURE OF CREDIT INFORMATION**

1. That the borrower hereby agree as a pre-condition of the said facilities given to the borrower by the Bank that in case Borrower commits default in the repayment of Said facilities/ advances or in the repayment of interest thereon or any of the agreed installment of the said facilities on due dates, the Bank and / or the Reserve Bank of India will have an unqualified right to disclose or publish the name of the borrower company / firm / unit and its directors / partners / proprietors as defaulter/s in such manner and through such medium as the Bank or RBI in their absolute discretion may think fit.
2. The borrower understand that as a pre-condition, relating to grant of the Said facilities/ advances/ other non-fund based credit facilities to Borrower's, the Bank, requires the borrowers consent for the disclosure by the Bank of, information and data relating to the borrowers, of the credit facilities availed of / to be availed, by the borrowers, obligations assumed / to be assumed, by the borrowers, in relation thereto and default, if any, committed by the borrowers, in discharge thereof.

Accordingly, the borrowers hereby agree and give consent for the disclosure by the Bank of all or any such :

- i) Information and data relating to the borrowers;
- ii) The information or data relating to any said facilities availed of / to be availed, by the borrowers, and
- iii) Default, if any, committed by the borrowers, in discharge of the borrowers such obligation, as the Bank may deem appropriate and necessary, to disclose and furnish to Credit Information Bureau (India) Ltd., and other agency authorized in this behalf by RBI.

The borrowers declare that the information and data furnished by the borrowers to the Bank are true and correct.

The borrowers undertake that:

- i) The Credit Information Bureau (India) Ltd., and any other agency so authorized may use, process the said information and data disclosed by the Bank in the manner as deemed fit by them; and
- ii) The Credit Information Bureau (India) Ltd., and any other agency so authorized may furnish for consideration, the processed information and data or products thereof prepared by them, to Banks/financial institutions and other credit grantors or registered users, as may be specified by the Reserve Bank of India in this behalf.

The Borrower hereby agrees that the Bank may also issue notice in the news paper in English or Marathi or any other language if he defaults in repayment of the Term Loan as per repayment schedule of principal amount and interest thereon as the case may be.

## **IX SECURATISATION**

The Borrower agrees that, in case of any default committed on my/our part, in repayment of said facilities and if the Bank initiates any action under SARFAESI Act,2002 for enforcement of security charged to the Bank in such case, the borrower undertake to handover peaceful and vacant possession thereof and shall also extend full cooperation in enforcing the asset charged to the Bank.

## **X ASSIGNMENT AND TRANSFER**

The Bank shall have a right to sell or transfer (by way of assignment, securitization, or otherwise) whole or part of the said facilities outstanding amounts which include principal amount, interest, additional interest, penal interest, further interest and liquidated damages, costs, charges, expenses, collection charges and other monies under the said facilities or any other rights and obligations of the Bank under this Agreement or any other documents pursuant hereto to any person/entity in a manner or under such terms and conditions as the Bank, may decide in its sole discretion without reference to or intimation to the Borrower.

The Borrower expressly agrees, in the event of sale or transfer as aforesaid, to accept such person to whom the said facilities is sold or transferred as his lender and make the repayment of the said facilities to such person.

The Borrower shall not be entitled to directly or indirectly assign his rights or obligations under this Agreement in part or in whole to any person.

- XI** Any notice by way of request demand or otherwise hereunder may be given by the Bank to the Borrower or any part of the individuals constituting the Borrower personally or may be left at the then or last known place of business or residence of the Borrower or any of such individuals addressed to the Borrower or any of such individuals or may be sent by post to the Borrower or any of such individuals addressed as aforesaid and if sent by post it shall be deemed to have been given at the time when it would be delivered in due course of post and in proving such notice when given by post it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by the Bank's Manager or its representative that the envelope was so posted shall be conclusive.
- XII** The Borrower hereby agrees to pay to the Bank all out of pocket expenses and other incidental and ancillary expenses including legal advisers fees incurred or suffered by the bank in connection with the negotiation execution or carrying into effect or enforcing all or any of the rights arising out of an incidental to these presents or in relation to the investigation of title of the Borrowers lands buildings etc. the execution

of the Loan Agreement and other documents and completion of attendant formalities and to assert or to defend the rights of the Bank under these presents and/or other documents or otherwise.

- XIII** The Borrower shall keep proper books of account of its business and the Borrower shall permit the Bank or any person appointed for that purpose by it to examine such books at all reasonable times and make such copies of extracts there from as the Bank may think fit.
- XIV** The Borrower agrees and declares that for enforcing this Agreement or any of the securities created in favour of the Bank against him, Court/s, Arbitrator/s, Tribunal/s or any other Competent Authority at Thane or any other place administratively suitable to the Bank shall have exclusive jurisdiction and the Borrower hereby submit to the same.

**SCHEDULE**

(Special Conditions)

1. The Borrower shall always store separately the hypothecated goods meant for the export and given as security for packing credit / post shipment finance so as to be distinct and separate from the other goods and shall place a board on this said shed or on such other place where the hypothecated goods meant and intended for exports may for the time being be stored with the words "Packing Credit" goods hypothecated to the TJSB SAHAKARI BANK LTD" and the said hypothecated goods shall be hold by the Borrower as agent and in trust for the Bank. The borrower shall keep a separate account and stock book in respect of such hypothecated goods and shall send statements as prescribed at periodical intervals of the purchases made and goods utilised for the purpose of manufacturing finished goods.
2. The Borrower agrees that in the event he fails or is unable to export the goods for which he had availed packing credit / post shipment finance from the Bank under this agreement the hypothecation charge created by him on the goods hypothecated for packing credit limit shall get automatically extended also on all his movable assets including book debts and receivables in favour of Bank as a security.

\_\_\_\_\_

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\_\_\_\_\_

**IN WITNESS WHEREOF** the parties hereto have executed these presents the day, month a year first hereinabove written.

- (i) (Where the signatory is a (Company)
- The Common Seal of the withinnamed )
- \_\_\_\_\_ was affixed )
- hereto pursuant to the resolution passed )
- by the Board of Directors in the )
- presence of Shri \_\_\_\_\_ and )
- Shri \_\_\_\_\_, Directors )
- Of the Company and Mr. \_\_\_\_\_ )
- Being the person authorized for the )
- purpose who have signed these presence )
- in the presence of ..... )

(ii) (Where the signatory is a Partnership firm)  
 Signed and delivered by the said \_\_\_\_\_ )  
 through the hand of its Partners )  
 Mr. \_\_\_\_\_ )  
 Mr. \_\_\_\_\_ )  
 Mr. \_\_\_\_\_ )  
 and Mr. \_\_\_\_\_ )  
 in the presence of ..... )

(iii) (Where the signatory is a Proprietorship firm)  
 Signed and delivered by )  
 Shri \_\_\_\_\_ )  
 in the presence of ..... )

(iv) Where the Signatory is an individual  
 Signed and delivered by the within named )  
 Shri \_\_\_\_\_ )  
 in the presence of .....

(v)Where the signatory is an HUF )  
 Signed and delivered by )  
 Shri \_\_\_\_\_ as Karta of )  
 .....(HUF) for himself )  
 and on behalf of all co-parcenors )  
 in the presence of ..... )

SIGNED AND DELIVERED )  
 By the within named Bank )  
**TJSB Sahakari Bank Ltd** )  
 By the hand of \_\_\_\_\_ )  
 In the presence of )