

UP TO USD 500,000
FACILITY AGREEMENT

Dated 25 April 2023

URMATT LTD.

as Borrower

with

BENEFICIAL RETURNS, LLC

as Lender

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THIS FACILITY AGREEMENT is dated 25 April 2023 and made between:

- (1) **URMATT LTD.**, a company duly organised and existing under the laws of Thailand having its registered office at 1000/30 PB Tower, 9 Floor, Sukhumvit 71 Road Khlong Tan Nuea, Vadhana, Bangkok, Thailand, as borrower (the "**Borrower**"); and
- (2) **BENEFICIAL RETURNS, LLC**, having its registered office at 261 Corbett Avenue, San Francisco, CA 94114 USA, as lender (the "**Lender**").

IT IS AGREED as follows:

SECTION 1 INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"Affiliate" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"APLMA" means the Asia Pacific Loan Market Association Limited.

"Authorisation" means:

- (a) an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation, lodgement or registration; or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a Governmental Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

"Availability Period" means the period from and including 1 May to and including 30 May of the same year of the date of this Agreement or the same year of any renewal date (as the case may be).

"Available Commitment" means the Lender's Commitment under the Facility minus:

- (a) the amount of its participation in any outstanding Loans under the Facility; and
- (b) in relation to any proposed Utilisation, the amount of its participation in any Loans that are due to be made under the Facility on or before the proposed Utilisation Date.

"Available Facility" means the aggregate for the time being of the Lender's Available Commitment.

"US Dollar" or **"USD"** means the lawful currency of the US.

"Business Day" means a day (other than a Saturday, Sunday or a public holiday) on which banks are open for general business in Bangkok and San Francisco.

"Change of Control Event" has the meaning given to that term in Clause 20.14 (*Change of Control*).

"Code" means the US Internal Revenue Code of 1986.

"Commitment" means the amount of USD 500,000 to the extent not cancelled, reduced or transferred under this Agreement.

"Confidential Information" means all information relating to the Borrower, the Finance Documents or a Facility of which the Lender becomes aware in its capacity as, or for the purpose of becoming, the Lender or which is received by the Lender in relation to, or for the purpose of becoming the Lender under, the Finance Documents or a Facility from either:

- (a) the Borrower or any of its advisers; or
- (b) the Lender, if the information was obtained by the Lender directly or indirectly from the Borrower or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by the Lender of Clause 31 (*Confidentiality*);
- (ii) is identified in writing or by email at the time of delivery as non-confidential by the Borrower or any of its advisers;
- (iii) is known by the Lender before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by the Lender after that date, from a source which is, as far as the Lender is aware, unconnected with the Borrower and which, in either case, as far as the Lender is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality;
- (iv) is independently developed by the Lender without reliance to the Confidential Information; or
- (v) is required to be disclosed by the applicable law or regulation of a stock exchange or regulatory authority or by the order or ruling of any court or administrative body of competent jurisdiction.

"Confidentiality Undertaking" means a confidentiality undertaking substantially in a recommended form of the APLMA or in any other form agreed between the Borrower and the Lender.

"Current Asset" means the total current assets as appeared on the audited or unaudited financial statements (as applicable) most recently delivered under Clause 17.1 (*Financial statements*).

"Current Liability" means the total current liabilities as appeared on the audited or unaudited financial statements (as applicable) most recently delivered under Clause 17.1 (*Financial statements*).

"Current Ratio" means a sum of Current Assets divided by Current Liabilities.

"Default" means an Event of Default or any event or circumstance specified in Clause 20 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any

determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"Deposit" means an amount equals to 1 per cent of the Total Commitment paid by the Borrower to the Lender upon signing of the term sheet dated 14 March 2023 between the Borrower and the Lender in respect of the financing under this Agreement.

"Disruption Event" means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; and
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
 - (i) from performing its payment obligations under the Finance Documents; or
 - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

"EBITDA" means earnings before interest, taxes, depreciation and amortisation as appeared on the audited or unaudited financial statements (as applicable) most recently delivered under Clause 17.1 (*Financial statements*), but excluding from the calculation unrealised foreign exchange and/or unrealised derivative gains/losses, gains/losses from reappraisal or disposal of assets and net realisable value items as appeared in the financial statements of the Borrower of the testing period.

"Equity" means the total shareholders' equity as appeared on the audited or unaudited financial statements (as applicable) most recently delivered under Clause 17.1 (*Financial statements*).

"Event of Default" means any event or circumstance specified as such in Clause 20 (*Events of Default*).

"Facility" means the working capital facility made available under this Agreement as described in Clause 2 (*The Facility*).

"Facility Office" means the office or offices notified by the Lender to the Borrower in writing or by email as the office or offices through which it will perform its obligations under this Agreement.

"FATCA" means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or

- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

"FATCA Deduction" means a deduction or withholding from a payment under a Finance Document required by FATCA.

"FATCA Exempt Party" means a Party that is entitled to receive payments free from any FATCA Deduction.

"FATCA FFI" means a foreign financial institution as defined in section 1471(d)(4) of the Code which, if the Lender is not a FATCA Exempt Party, could be required to make a FATCA Deduction.

"Finance Documents" means:

- (a) this Agreement;
- (b) a Utilisation Receipt;
- (c) a Utilisation Request;
- (d) each Guarantee; and
- (e) any other document designated as such by the Lender and the Borrower.

"Financial Indebtedness" means, without double counting, any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability (other than any liability in respect of a lease or hire purchase contract which would have been treated as an operating lease);
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market losses (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and

- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

"GAAP" means generally accepted accounting principles, standards and practices in Thailand as in effect from time to time.

"Governmental Agency" means any government or any governmental agency, semi-governmental or judicial entity or authority (including, without limitation, any stock exchange or any self-regulatory organisation established under law or regulation).

"Guarantee" means any guarantee agreement dated on or about the date of this Agreement given by each Guarantor in favour of the Lender in form and substance satisfactory to the Lender and

"Guarantees" means all of them.

"Guarantors" means the Thai Guarantor and the US Guarantor and **"Guarantor"** means any of them.

"Holding Company" means, in relation to a person, any other person in respect of which it is a Subsidiary.

"Indirect Tax" means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

"Initial Utilisation Date" means the first Utilisation Date.

"Interest Payment Date" means the last Business Day of the Interest Period.

"Interest Period" means, in relation to a Loan, each period determined in accordance with Clause 8 (*Interest*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*).

"Interest Service Coverage Ratio" means a sum of EBITDA divided by the amount of interest on the amount of scheduled principal repayment for the immediately succeeding 12-month period as appeared on the audited or unaudited financial statements (as applicable) most recently delivered under Clause 17.1 (*Financial statements*).

"Loan" means a loan made or to be made under this Agreement or the principal amount outstanding for the time being of that loan.

"Material Adverse Effect" means a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) or prospects of the Borrower taken as a whole;
- (b) the ability of the Borrower to perform its obligations under any Finance Document; or
- (c) the validity or enforceability of, or the rights or remedies of the Lender under, the Finance Documents.

"Maturity Date" means the date falling 330 days from the relevant Utilisation Date.

"New Lender" has the meaning given to that term in Clause 21 (*Changes to the Lender*).

"Obligors" means the Borrower and the Guarantors and **"Obligor"** means each and any one of them.

"Original Financial Statements" means the audited consolidated financial statements of the Borrower for the financial year ended December 2022.

"Party" means a party to this Agreement.

"Repayment Amount" means amount of the Loan repaid pursuant to Clause 6 (*Repayment*).

"Repayment Date" means the last Business Day of the relevant months specified in the table set out in Schedule 3 (*Repayment Schedule*).

"Security" means a mortgage, charge, pledge, lien, business security, encumbrance or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Subsidiary" means, in relation to any company or corporation, a company or corporation:

- (a) which is controlled, directly or indirectly, by the first mentioned company or corporation;
- (b) more than half of the issued equity share capital of which is beneficially owned, directly or indirectly, by the first mentioned company or corporation; or
- (c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and, for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

"Tax" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"Thai Guarantor" means Mr Arvind Narula, a Thai citizen holding Thai identification card number 3100900111821 issued on 6 October 2015 and residing at 39/197, Natakorn Park Juristic, Nichda Thani, Nonthaburi Thailand 11120.

"Total Commitment" means at any time the aggregate of the Commitment, being USD 500,000 as at the date of this Agreement.

"Total Loan" means:

- (a) prior to the repayment of the Loan pursuant to Clause 6 (*Repayment*), the aggregate of the Loan utilised before the expiry of the Availability Period; and
- (a) after the repayment of the Loan pursuant to 6 (*Repayment*), the aggregate of all Loans minus the Repayment Amount.

"Unpaid Sum" means any sum due and payable but unpaid by the Borrower under the Finance Documents.

"US" means the United States of America.

"US Guarantor" means Edward Rodden a US citizen holding US identification card number 520049574 issued on 11 July 2014 and residing at 535 Seacliff Drive, Aptos, California 95003 U.S.A.

"US Tax Obligor" means the Borrower:

- (a) which is resident for tax purposes in the US; or
- (b) some or all of its payments under the Finance Documents are from sources within US for US federal income tax purposes.

"Utilisation" means a utilisation of the Facility.

"Utilisation Date" means the date of a Utilisation, being the date on which the Loan is to be made.

"Utilisation Receipt" means a receipt substantially in the form set out in Part II of Schedule 2 (*Request*).

"Utilisation Request" means a notice substantially in the form set out in Part I of Schedule 2 (*Request*).

1.2 Construction

(a) Unless a contrary indication appears, any reference in this Agreement to:

- (i) the **"Borrower"**, any **"Guarantor"**, the **"Lender"** or any **"Party"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
- (i) **"assets"** includes present and future properties, revenues and rights of every description;
- (ii) the **"control"** of one person (the **"first person"**) by another person (the **"second person"**) or the first person being **"controlled"** by the second person means that the second person (whether directly or indirectly and whether by the ownership of share capital, the possession of voting power, contract or otherwise) has the power to appoint and/or remove all or the majority of the members of the board of directors or other governing body of the first person or otherwise controls or has the power to control the affairs and policies of the first person;
- (iii) a **"Finance Document"** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerously) or replaced and includes any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other agreement or instrument;
- (iv) **"guarantee"** also includes an indemnity and any other obligation (whatever called) of any person to pay, purchase, provide funds (whether by the advance of money, the purchase of or subscription for shares or other securities, the purchase of assets or services or otherwise) for the payment of, indemnify against the consequences of default in the payment of, or otherwise be responsible for, any indebtedness of any other person (and **"guaranteed"** shall be construed accordingly);
- (v) **"including"** shall be construed as **"including without limitation"** (and cognate expressions shall be construed similarly);
- (vi) **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

- (vii) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality) or two or more of the foregoing;
 - (viii) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (ix) a provision of law is a reference to that provision as amended or re-enacted from time to time; and
 - (x) a time of day is a reference to Bangkok time.
- (b) Section, Clause and Schedule headings are for ease of reference only.
 - (c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice or certificate given under or in connection with any Finance Document has the same meaning in that Finance Document, notice or certificate as in this Agreement.
 - (d) A Default (other than an Event of Default) is **"continuing"** if it has not been remedied or waived and an Event of Default is **"continuing"** if it has not been waived.

SECTION 2
THE FACILITY

2. THE FACILITY

2.1 The Facility

Subject to the terms of this Agreement, the Lender makes available to the Borrower a working capital facility in USD in an aggregate amount equal to the Total Commitment.

2.2 The Lender's rights

The Lender may exercise or enforce its rights under the Finance Documents.

3. PURPOSE

3.1 Purpose

The Borrower shall apply all amounts borrowed by it under the Facility towards the payment of its purchases of dry-season paddy from farmers for processing and sale.

3.2 Monitoring

The Lender is not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

(a) The Borrower may not deliver a Utilisation Request unless the Lender has received an executed copy of this Agreement and an executed copy of each Guarantee in form and substance satisfactory to the Lender. The Lender shall notify the Borrower promptly upon being so satisfied.

(b) The Borrower may not deliver any subsequent Utilisation Request unless:

- (i) the Loan has been fully repaid or prepaid;
- (ii) the Borrower has submitted a reborrowing request to the Lender not less than 30 days prior to the commence date of any Interest Period; and
- (iii) a prior written consent of the Lender with respect to the reborrowing request is obtained.

4.2 Further conditions precedent

The Lender will only be obliged to comply with Clause 5.4 (*Lender's participation*) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) no Default (except paragraph (c) of Clause 20.6 (*Insolvency*)) has occurred and is continuing or would result from the proposed Utilisation;
- (b) all representations and any other representations expressed to repeat on such date in the Finance Document to be made by the Borrower (except the representation under Clause 16.9 (*No default*) which is in connection with paragraph (c) of Clause 20.6 (*Insolvency*)) are true and correct in all respects; and
- (c) no material adverse change has occurred and is continuing in respect of the Borrower.

4.3 **Conditions subsequent**

The Borrower shall procure to the Lender all of the documents and other evidence listed in Schedule 1 (*Conditions Subsequent*) in form and substance satisfactory to the Lender no later than 3 May 2023.

SECTION 3 UTILISATION

5. UTILISATION

5.1 Delivery of a Utilisation Request

Subject to Clause 4 (*Conditions of Utilisation*), the Borrower may utilise the Facility by delivery to the Lender of a duly completed Utilisation Request not later than three Business Days (or such shorter period as may be agreed by the Lender) prior to the proposed Utilisation Date.

5.2 Completion of a Utilisation Request

(a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

- (i) the proposed Utilisation Date is a Business Day within the Availability Period;
- (ii) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*);
- (iii) the proposed first Interest Period complies with Clause 8 (*Interest*); and
- (iv) it specifies the account and bank to which the proceeds of the Utilisation are to be credited.

(b) Only one Loan may be requested in each Utilisation Request.

(c) Only one Utilisation can be made during the Availability Period.

(d) The Initial Utilisation Date shall occur no later than 30 May 2023.

5.3 Currency and amount

(a) The currency specified in a Utilisation Request must be USD.

(b) The amount of the proposed Loan must be equal to the Available Facility.

5.4 Lender's participation

If the conditions set out in Clause 4 (*Conditions of Utilisation*) and Clause 5.1 (*Delivery of a Utilisation Request*) to Clause 5.3 (*Currency and amount*) have been met, the Lender shall make the Loan available in an amount stipulated in the Utilisation Request by the Utilisation Date through its Facility Office.

5.5 Receipt for Utilisation

(a) On the date of submission of each Utilisation Request, the Borrower shall provide and deliver to the Lender a copy of the duly completed and executed Utilisation Receipt for the proposed Utilisation.

(b) The Borrower shall deliver the original of the duly completed and executed Utilisation Receipt to the Lender promptly after it has received the Loan drawn under each Utilisation Request and in any event within each Utilisation Date.

5.6 Cancellation of Commitment

The Commitment which, at that time, is unutilised shall be immediately cancelled at the end of the Availability Period and the Lender is entitled to forfeit the Deposit.

SECTION 4

REPAYMENT, PREPAYMENT AND CANCELLATION

6. REPAYMENT

- (a) The Borrower shall repay the Loans in five consecutive instalments on each Repayment Date in accordance with the table set out in Schedule 3 (*Repayment Schedule*), provided that the first Repayment Date of Loans shall occur on the date falling 210 days from the Initial Utilisation Date.
- (b) The Borrower may reborrow from the Lender, in accordance with the terms of this Agreement.

7. PREPAYMENT AND CANCELLATION

7.1 Illegality

If, at any time, it is or will become unlawful in any applicable jurisdiction for the Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in the Loan:

- (i) the Lender shall promptly notify the Borrower upon becoming aware of that event;
- (ii) upon the Lender notifying the Borrower, the Available Commitment will be immediately cancelled; and
- (iii) the Borrower shall repay the Loan on the last day of the Interest Period for the Loan occurring after the Lender has notified the Borrower or, if earlier, the date as mutually agreed by the Parties (being no earlier than the last day of any applicable grace period permitted by law) without any prepayment or cancellation fee.

7.2 Voluntary prepayment

The Borrower may, if it gives the Lender not less than 30 days' (or such shorter period as the Lender may agree) prior notice, prepay the whole or any part of the Loan any time after the date falling six months from the relevant Utilisation Date (but, if in part, being an amount that reduces the Loan by a minimum amount of USD 50,000, and if greater, an integral multiple amount of USD 10,000).

7.3 Restrictions

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 (*Prepayment and cancellation*) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid, without premium or penalty.
- (c) The Borrower may reborrow, in accordance with the terms of this Agreement, the Facility which is fully repaid or prepaid.
- (d) The Borrower shall not repay or prepay all or any part of the Loan or cancel all or any part of the Commitment except at the times and in the manner expressly provided for in this Agreement.
- (e) If all or any part of the Loan is repaid or prepaid, an amount of the Total Commitment (equal to the amount of the Loan which is fully repaid or prepaid) will be subsequently reinstated on the date of repayment or prepayment in full occurs.

SECTION 5
COSTS OF UTILISATION

8. INTEREST

8.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is 9 per cent per annum.

8.2 Payment of interest

The Borrower shall pay accrued interest on each Loan on each Interest Payment Date.

8.3 Default interest

- (a) If the Borrower fails to pay any amount (other than interest) including fees payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which is the sum of 5 per cent and the rate which would have been payable if the unpaid amount had, during the period of non-payment, constituted a Loan in the currency of the unpaid amount for successive Interest Periods, each of a duration selected by the Lender. Any interest accruing under this Clause 8.3 shall be immediately payable by the Borrower monthly in arrear or on earlier demand by the Lender.
- (b) Any interest which is overdue for one year or more will be compounded on the date that is the first anniversary of the last day of the Interest Period to which such overdue unpaid interest relates and such overdue and unpaid interest shall be added to the principal amount owing and the whole shall bear interest at the rate specified in this Clause 8.3.

9. INTEREST PERIODS

9.1 Interest Periods

- (a) The Interest Period of the Loan shall be a period of 30 days, provided that the first Interest Period shall commence on the relevant Utilisation Date and end on the date falling 30 days from the relevant Utilisation Date and the immediately subsequent Interest Period shall commence on the date falling 31 days from the relevant Utilisation Date and end on the date falling 60 days from the relevant Utilisation Date.
- (b) Each Interest Period (subsequent to the first Interest Period of the Loan) shall commence on the date immediately falling after the end of the previous Interest Period and end on the date falling 30 days from the commencement date of the same Interest Period.
- (c) An Interest Period for the Loan shall not extend beyond the relevant Maturity Date.

10. FEES

10.1 Loan fee

- (a) The Borrower shall pay to the Lender (by deducting from the Deposit) a loan fee of USD 5,000 (being 1 per cent of the Total Commitment) on the Initial Utilisation Date.
- (b) The Borrower shall pay to the Lender a loan fee at the rate of 0.5 per cent of the Total Commitment on each Utilisation Date of the relevant reborrowing.

SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

11. TAX GROSS UP AND INDEMNITIES

11.1 Definitions

(a) In this Clause 11:

"Tax Credit" means a credit against, relief or remission for, or repayment of any Tax.

"Tax Deduction" means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

"Tax Payment" means an increased payment made by the Borrower to the Lender under Clause 11.2 (*Tax gross-up*) or a payment under Clause 11.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 11 a reference to "determines" or "determined" means a determination made in the absolute discretion of the person making the determination.

11.2 Tax gross-up

(a) All payments to be made by the Borrower to the Lender under the Finance Documents shall be made free and clear of and without any Tax Deduction, unless the Borrower is required to make a Tax Deduction, in which case the sum payable by the Borrower (in respect of which such Tax Deduction is required to be made) shall be increased to the extent necessary to ensure that the Lender receives a sum net of any deduction or withholding equal to the sum which it would have received had no such Tax Deduction been made or required to be made.

(b) The Borrower shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Lender accordingly.

(c) If the Borrower is required to make a Tax Deduction, the Borrower shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(d) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower shall deliver to the Lender the payment evidence reasonably satisfactory to the Lender that the Tax Deduction has been made or (as applicable) any appropriate payment has been paid to the relevant taxing authority.

11.3 Tax indemnity

(a) Without prejudice to Clause 11.2 (*Tax gross-up*), if the Lender is required to make any payment of or on account of Tax on or in relation to any sum received or receivable under or in connection with the Finance Documents (including any sum deemed for the purposes of Tax to be received or receivable by the Lender whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against the Lender, the Borrower shall (within five Business Days of demand by the Lender) promptly indemnify the Lender which suffers a loss or liability as a result against such payment or liability, together with any interest, penalties, costs and expenses payable or incurred in connection therewith, provided that this Clause 11.3 shall not apply to:

- (i) any Tax imposed on and calculated by reference to the net income actually received or receivable by the Lender (but, for the avoidance of doubt, not including any sum deemed for the purposes of Tax to be received or receivable by the Lender but not actually receivable) by the jurisdiction in which the Lender is incorporated;
 - (ii) to the extent a loss, liability or cost is indemnified for by an increased payment under Clause 11.2 (*Tax gross-up*);
 - (iii) any Tax imposed on and calculated by reference to the net income of the Facility Office of the Lender actually received or receivable by the Lender (but, for the avoidance of doubt, not including any sum deemed for the purposes of Tax to be received or receivable by the Lender but not actually receivable) by the jurisdiction in which its Facility Office is located;
or
 - (iv) a FATCA Deduction required to be made by a Party.
- (b) The Lender intending to make a claim under paragraph (a) above shall notify the Borrower of the event giving rise to the claim.

11.4 **Tax Credit**

If the Borrower makes a Tax Payment and the Lender determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) the Lender has obtained and utilised that Tax Credit,

the Lender shall pay an amount to the Borrower which the Lender determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Borrower.

11.5 **Stamp taxes**

The Borrower shall:

- (a) pay all stamp duty, registration and other similar Taxes payable in respect of any Finance Document; and
- (b) within five Business Days of demand, indemnify the Lender against any cost, loss or liability the Lender incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

11.6 **Indirect tax**

- (a) All amounts set out or expressed in a Finance Document to be payable by any Party to the Lender shall be deemed to be exclusive of any Indirect Tax. If any Indirect Tax is chargeable on any supply made by the Lender to any Party in connection with a Finance Document, that Party shall pay to the Lender (in addition to and at the same time as paying the consideration) an amount equal to the amount of the Indirect Tax.
- (b) Where a Finance Document requires any Party to reimburse or indemnify the Lender for any costs or expenses, that Party shall also at the same time pay and indemnify the Lender against all Indirect Tax

incurred by the Lender in respect of the costs or expenses to the extent that the Lender determines that it is not entitled to credit or repayment in respect of the Indirect Tax.

11.7 **FATCA Information**

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
- (i) confirm to that other Party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party;
 - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
 - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige the Lender to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
- (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- (e) If the Borrower is a US Tax Obligor, or the Lender reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, the Lender shall, within ten Business Days of:
- (i) where the Borrower is a US Tax Obligor and the Lender is the original Lender, the date of this Agreement;
 - (ii) where the Borrower is a US Tax Obligor on an assignment or transfer date of rights and/or obligations of the Lender and the Lender is a New Lender, the relevant assignment or transfer date of rights and/or obligations of the Lender to a New Lender;
 - (iii) the date a new US Tax Obligor accedes as a Borrower; or

(iv) where the Borrower is not a US Tax Obligor, the date of a request from the Lender, supply to the Borrower:

- (i) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
 - (ii) any withholding statement or other document, authorisation or waiver as the Lender may require to certify or establish the status of the Lender under FATCA or that other law or regulation.
- (f) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Borrower pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, the Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrower unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Borrower).

11.8 **FATCA Deduction**

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment.

12. **INCREASED COSTS**

12.1 **Increased costs**

- (a) The Borrower shall, within five Business Days of demand by the Lender, pay the Lender the amount of any Increased Costs incurred by the Lender as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement. The terms "**law**" and "**regulation**" in this paragraph (a) shall include any law or regulation concerning capital adequacy, prudential limits, liquidity, reserve assets or Tax.

- (b) In this Agreement, "**Increased Costs**" means:

- (i) a reduction in the rate of return from the Facility or on the Lender's overall capital (including as a result of any reduction in the rate of return on capital brought about by more capital being required to be allocated by the Lender, but excluding any reduction in the rate of return on account of tax on its overall net income);
- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by the Lender to the extent that it is attributable to the undertaking, funding or performance by the Lender of any of its obligations under any Finance Document or any participation of the Lender in the Loan or Unpaid Sum.

12.2 **Increased cost claims**

- (a) If the Lender intends to make a claim pursuant to Clause 12.1 (*Increased costs*), it shall notify the Borrower of the event giving rise to the claim.
- (b) The Lender shall, as soon as practicable after a demand by the Borrower, provide a certificate confirming the amount of its Increased Costs.

13. **OTHER INDEMNITIES**

13.1 **Currency indemnity**

- (a) If any sum due from the Borrower under the Finance Document (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (i) making or filing a claim or proof against the Borrower; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Borrower shall as an independent obligation, within five Business Days of demand, indemnify the Lender against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to the Lender at the time of its receipt of that Sum.

- (b) The Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

13.2 **Other indemnities**

The Borrower shall, within five Business Days of demand, indemnify the Lender against any cost, loss or liability incurred by the Lender as a result of:

- (a) the occurrence of any Default;
- (b) any information produced or approved by the Borrower in connection with the Facility being or being alleged to be misleading and/or deceptive in any respect;
- (c) any enquiry, investigation, subpoena (or similar order) or litigation with respect to the Borrower or with respect to the transactions contemplated or financed under the Finance Documents;
- (d) a failure by the Borrower to pay any amount due under a Finance Document on its due date;
- (e) funding, or making arrangements to fund, a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by the Lender alone);
- (f) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower;
- (g) investigating any event which it reasonably believes is a Default;
- (h) interpreting or invoking any provision of any Finance Document; or

- (i) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

14. **MITIGATION BY THE LENDER**

14.1 **Mitigation**

- (a) The Lender shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 11 (*Tax gross up and indemnities*) or Clause 12 (*Increased costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
- (b) Paragraph (a) above does not in any way limit the obligations of the Borrower under the Finance Documents.

14.2 **Limitation of liability**

- (a) The Borrower shall promptly indemnify the Lender for all costs and expenses reasonably incurred by the Lender as a result of steps taken by it under Clause 14.1 (*Mitigation*).
- (b) The Lender is not obliged to take any steps under Clause 14.1 (*Mitigation*) if, in its opinion (acting reasonably), to do so might be prejudicial to it.

15. **COSTS AND EXPENSES**

15.1 **Transaction expenses**

The Borrower shall, within five Business Days of demand, pay the Lender the amount of all costs and expenses (including legal fees and out-of-pocket expenses) incurred by the Lender in connection with the negotiation, preparation, printing, execution and delivery of:

- (a) this Agreement and any other documents referred to in this Agreement; and
- (b) any other Finance Documents executed after the date of this Agreement.

15.2 **Amendment costs**

If the Borrower or the Lender requests an amendment, waiver or consent, the Borrower shall, within five Business Days of demand, reimburse the Lender for the amount of all costs and expenses (including legal fees and out-of-pocket expenses) incurred by the Lender in responding to, evaluating, negotiating or complying with that request or requirement.

15.3 **Enforcement costs**

The Borrower shall, within five Business Days of demand, pay to the Lender the amount of all costs and expenses (including legal fees and out-of-pocket expenses) incurred by the Lender in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

SECTION 7

REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

16. REPRESENTATIONS

The Borrower makes the representations and warranties set out in this Clause 16 to the Lender on the date of this Agreement.

16.1 Status

- (a) It is a corporation, duly incorporated and validly existing and, where applicable, in good standing under the law of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted.
- (c) It is not a FATCA FFI or a US Tax Obligor.

16.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document are legal, valid, binding and enforceable obligations.

16.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (howsoever described) under such agreement or instrument.

16.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents and the transactions contemplated by those Finance Documents.

16.5 Validity and admissibility in evidence

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents and transactions contemplated thereby;
- (b) to make the Finance Documents legal, valid, enforceable and admissible in evidence in its jurisdiction of incorporation; and
- (c) to enable it to carry on its business,

have been obtained, complied with, or effected and are in full force and effect, or will be timely obtained, complied with, or effected as and when required.

16.6 Governing law and enforcement

- (a) The choice of Thai law as the governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation.

- (b) Any judgment obtained in Thailand in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation.

16.7 **Deduction of Tax**

It is not required under the law applicable where it is incorporated or resident or at the address specified in this Agreement to make any deduction for or on account of Tax from any payment it may make under any Finance Document.

16.8 **No filing or stamp taxes**

- (a) Under the law of Thailand, it is not necessary that any of the Finance Documents be filed, recorded or enrolled with any court or other authority of Thailand other than for the purposes of the stamp duty for this Agreement.
- (b) It has paid or will pay when due any stamp duty, registration or similar tax on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents.

16.9 **No default**

- (a) No Event of Default is continuing or might reasonably be expected to result from the making of any Utilisation.
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or to which its assets are subject which might have a Material Adverse Effect.

16.10 **No misleading information**

- (a) Any factual information provided by or on behalf of the Borrower to the Lender in connection with the Facility or any Finance Document on or before the date of this Agreement was true, accurate and complete in all material respects as at the date it was provided or as at the date (if any) at which it is stated and was not misleading in any respect.
- (b) Any financial projections or forecasts provided by or on behalf of the Borrower to the Lender have been prepared on the basis of recent historical information and on the basis of reasonable assumptions, and were true, accurate and complete in all material respects as at the date they were provided or as at the date (if any) at which they were stated.
- (c) Nothing has occurred or been omitted from the information provided to the Lender as at the date it was provided and no information has been given or withheld as at the date it was provided that results in the information, forecasts or projections provided to the Lender being untrue or misleading in any material respect.

16.11 **Financial statements**

- (a) Its financial statements most recently supplied to the Lender (which, at the date of this Agreement, are its Original Financial Statements) were prepared in accordance with the applicable laws and regulations of Thailand and GAAP consistently applied.
- (b) Its financial statements most recently supplied to the Lender (which, at the date of this Agreement, are its Original Financial Statements) give a true and fair view of (if audited) or fairly represent (if unaudited) its financial condition and operations for the period to which they relate.

- (c) There has been no material adverse change in its business or financial condition since the date of the Original Financial Statements.

16.12 Pari passu ranking

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

16.13 No proceedings pending or threatened

- (a) No litigation, arbitration, or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against it.
- (b) No judgment or order of a court, arbitral body or agency which might reasonably be expected to have a Material Adverse Effect has (to the best of its knowledge and belief) been made against it.

16.14 No winding-up

It has not taken any corporate action nor have any other steps been taken or legal proceedings have started or (to the best of its knowledge and belief) threatened against it for its winding-up, dissolution, administration or reorganisation or for the appointment of receiver, administrator, or similar officer of it or of any of its assets or revenues.

16.15 Authorised signatories

Any person specified as an authorised signatory of the Borrower under Schedule 1 (*Conditions Subsequent*) is authorised to sign the Finance Documents, and all documents and notices (including the Utilisation Request).

16.16 No immunity

None of the Obligors nor any of its respective assets is entitled to immunity on the grounds of sovereignty or otherwise from any legal action or proceedings (including suit, attachment prior to judgment, execution or other enforcement).

16.17 Tax

- (a) All Tax returns required to have been filed by it or on its behalf under any applicable law have been filed when due and contain the information required by applicable law to be contained in them.
- (b) The Borrower has paid when due all Taxes required to be paid by it under applicable law, other than any Taxes being contested by it in good faith and in accordance with the relevant procedures under the applicable law.

16.18 Disclosure of material facts

No Obligor is aware of any material facts or circumstances which have not been disclosed to the Lender and which might, if disclosed, have adversely affected the decision of a person considering whether or not to make loan facilities of the nature contemplated by the Finance Documents available to the Borrower.

16.19 Repetition

All representations are deemed to be made by the Borrower by reference to the facts and circumstances then existing on each day on the date of each Utilisation Request, each Interest Payment Date and each Repayment Date.

17. INFORMATION UNDERTAKINGS

The undertakings in this Clause 17 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

17.1 Financial statements

The Borrower shall supply to the Lender:

- (a) as soon as the same become available, but in any event within 180 days after the end of each of its financial years, its audited consolidated financial statements for that financial year;
- (b) as soon as the same become available, but in any event within 30 days after the end of each quarter of each of its financial years (for avoidance of doubt, including after the end of the fourth quarter), its unaudited but reviewed consolidated financial statements for that financial quarter;
- (c) as soon as the same become available, but in any event on or before 31 January of each year, the updated personal financial statement of each Guarantor for that financial year; and
- (d) as soon as the same become available, but in any event on or before 31 January and 31 July of each year, an impact report to be prepared by the Borrower for the previous six-month period prior to the date of the impact report, summarising, *inter alia*:
 - (i) the number of rice farmers that are suppliers to the Borrower;
 - (ii) the total tonnage and value of organic rice purchased by the Borrower;
 - (iii) the number of employees of the Borrower;
 - (iv) the aggregate compensation and benefits of said employees; and
 - (v) their demographic makeup,

such report shall be in form and substance satisfactory to the Lender in all respects.

17.2 Compliance Certificate

- (a) The Borrower shall supply to the Lender, with each set of financial statements delivered pursuant to paragraph (a) of Clause 17.1 (*Financial statements*), a compliance certificate setting out (in reasonable detail) computations as to compliance with Clause 18 (*Financial covenants*) as at the date as at which those financial statements were drawn up.
- (b) Each compliance certificate shall be signed by the authorised signatory(ies) of the Borrower.

17.3 Requirements as to financial statements

- (a) Each set of financial statements delivered by the Borrower pursuant to Clause 17.1 (*Financial statements*) shall be certified by the authorised signatory(ies) of the Borrower and the Guarantors (as the case may be) as giving a true and fair view of (in the case of any such financial statements which are audited) or fairly representing (in the case of any such financial statements which are unaudited) its financial condition and operations as at the end of and for the period in relation to which those financial statements were drawn up.

- (b) The Borrower shall procure that each set of financial statements delivered pursuant to Clause 17.1 (*Financial statements*) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements of the Borrower, as applicable.

17.4 Information: miscellaneous

The Borrower shall supply to the Lender:

- (a) all documents dispatched by the Borrower to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;
- (b) promptly upon becoming aware of them, the details of any dispute, litigation, arbitration or administrative proceedings which are current, threatened or pending against the Borrower;
- (c) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against the Borrower and which might have a Material Adverse Effect;
- (d) promptly, such further information regarding the financial condition, accounting, business and operations of the Borrower or the performance of obligations by the Borrower under the Finance Documents as the Lender may reasonably request;
- (e) promptly, notice of any change in authorised signatory(ies) or corporate seal (if any) of the Borrower, to the extent that such changes affect the Borrower's ability to perform its obligations under the Finance Documents, signed by an authorised director accompanied by specimen signatures of any new authorised signatories and specimen of new seal (if any);
- (f) promptly, all updated constitutional documents of the Borrower after any amendment or variation; and
- (g) promptly, such further information upon reasonable request of the Lender as may be required to satisfy its regulatory obligation or regulatory requirement in connection with the transactions contemplated under the Finance Documents.

17.5 Notification of Default

- (a) The Borrower shall notify the Lender in writing or by email of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly upon a request by the Lender, the Borrower shall supply to the Lender a certificate signed by its authorised signatory(ies) on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

17.6 "Know your customer" checks

If:

- (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
- (b) any change in the status of the Borrower after the date of this Agreement; or
- (c) a proposed assignment or transfer by the Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Lender (or, in the case of paragraph (c) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Lender (or, in the case of the event described in paragraph (c) above, on behalf of any prospective new Lender) in order for the Lender or, in the case of the event described in paragraph (c) above, any prospective new Lender to carry out and be satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

18. **FINANCIAL COVENANTS**

18.1 **Financial conditions**

The Borrower shall maintain:

- (a) the Current Ratio of not less than 1.5 times; and
- (b) the Interest Service Coverage Ratio of not less than 1.5 times.

18.2 **Financial testing**

- (a) The financial covenants set out in Clause 18.1 (*Financial conditions*) shall be tested on a quarterly basis by reference to the latest available consolidated financial statements delivered under Clause 17.1 (*Financial statements*).
- (b) The Borrower shall provide the Lender a compliance certificate under Clause 17.2 (*Compliance Certificate*) setting out the result, figure, method and calculation basis of the financial ratios.

19. **GENERAL UNDERTAKINGS**

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

19.1 **Authorisations**

The Borrower shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Lender of,

any Authorisation required under any law or regulation to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

19.2 **Compliance with laws**

The Borrower shall comply in all respects with all laws (including environmental law) to which it may be subject if failure so to comply would impair its ability to perform its obligations under the Finance Documents.

19.3 **Negative pledge**

- (a) The Borrower shall not create or permit to subsist any Security over any of its assets.
- (b) Paragraph (a) above do not apply to:
 - (i) any Security created prior to the date of this Agreement;

- (ii) any Security created in ordinary course of business of the Borrower;
- (iii) any lien or preferential right arising by operation of law; and
- (iv) any Security created with prior written consent of the Lender.

19.4 Disposals

- (a) The Borrower shall not 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 any asset.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal:
 - (i) made in the ordinary course of business (including made in accordance with contractual obligations and which would not give rise to a Material Adverse Effect);
 - (ii) of assets in exchange for other assets comparable or superior as to type, value and quality and for a similar purpose;
 - (iii) of assets which have become worn out or obsolete; or
 - (iv) made in accordance with prior written consent of the Lender.

19.5 Merger

The Borrower shall not enter into:

- (i) any amalgamation;
- (ii) demerger; or
- (iii) merger which the Borrower is not the surviving entity,

which results in the change of the general nature or scope of business of the Borrower from that carried out at the date of this Agreement.

19.6 Change of business

The Borrower shall procure that no substantial change is made to the general nature or scope of its business from that carried out at the date of this Agreement.

19.7 Insurance

The Borrower shall maintain insurances on and in relation to its business and assets with reputable underwriters or insurance companies against those risks and to the extent usually insured against by prudent companies located in the same or similar location and carrying on a similar business.

19.8 Borrower's equity

The Borrower shall not reduce, cancel or repurchase any of its share capital.

19.9 Access

The Borrower shall ensure that the Lender, or their representatives, agents and consultants have, upon their reasonable request and at the cost of the Borrower, access during normal business hours of the Borrower to the premises, offices, books and records of the Borrower and its projects.

19.10 Pari passu ranking

The Borrower shall ensure that at all times any unsecured and unsubordinated claims of the Lender against it under the Finance Documents rank at least *pari passu* with the claims of all its

other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

19.11 Application of FATCA

The Borrower shall, as soon as practicable and in any event within five Business Days after it becomes a FATCA FFI or a US Tax Obligor, notify the Lender of its status as a FATCA FFI or a US Tax Obligor.

19.12 Anti-Bribery and Corruption Laws and Money Laundering Laws

(a) The Borrower shall:

- (i) conduct its business in compliance with all applicable anti-bribery and corruption laws and money laundering laws;
- (ii) ensure that its employees, representatives or other persons, in acting on behalf of the Borrower, conduct its business in compliance with all applicable anti-bribery and corruption laws and money laundering laws; and
- (iii) maintain systems, controls, policies and procedures designed to promote and achieve ongoing compliance with all applicable anti-bribery and corruption laws and money laundering laws.

(b) The Borrower shall not directly or indirectly use the transaction proceeds for any purpose that would breach any all applicable anti-bribery and corruption laws and money laundering laws.

19.13 Loans and guarantees

(a) The Borrower shall not make or allow to subsist any loans, grant any credit or give or allow to remain outstanding any guarantee or indemnity to or for the benefit of any person or otherwise voluntarily assume any liability, whether actual or contingent, in respect of any obligation of any person.

(b) Paragraph (a) above shall not apply to any loan or guarantee granting or giving (as the case may be) in accordance with prior written consent of the Lender.

19.14 Financial Indebtedness

(a) The Borrower shall not incur or permit to remain outstanding any Financial Indebtedness.

(b) Paragraph (a) above does not apply to:

- (i) any Financial Indebtedness incurred pursuant to any Finance Document;
- (ii) any Financial Indebtedness incurred by the Borrower in the principal amount subsisting at the date of this Agreement and disclosed to the Lender in writing or by email prior to the date of this Agreement; or
- (iii) any Financial Indebtedness incurred with the prior written consent of the Lender.

19.15 Guarantee

The Borrower shall procure that:

- (a) subject to the limitation under Thai law, the Thai Guarantor shall, among other things, guarantee to the Lender the due, complete, punctual and unconditional payment and performance of 100 per cent of all liabilities and obligations (both actual and contingent and whether incurred solely or jointly or in any other capacity whatsoever) owing or incurred by the

Borrower to the Lender, whether present or future and whether by acceleration or otherwise, incurred under or in connection with the Facility Agreement and other relevant Finance Documents; and

- (b) the US Guarantor shall, among other things, guarantee to the Lender the due, complete, punctual and unconditional payment and performance of up to 50 per cent of all liabilities and obligations (both actual and contingent and whether incurred solely or jointly or in any other capacity whatsoever) owing or incurred by the Borrower to the Lender, whether present or future and whether by acceleration or otherwise, incurred under or in connection with the Facility Agreement and other relevant Finance Documents.

20. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 20 is an Event of Default (save for Clause 20.16 (*Acceleration*)).

20.1 Non-payment

The Borrower does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by:
 - (i) administrative or technical error; or
 - (ii) a Disruption Event; and
- (b) payment is made within three Business Days of its due date.

20.2 Financial covenants

Any requirement of Clause 18 (*Financial covenants*) is not satisfied.

20.3 Other obligations

- (a) Any Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 20.1 (*Non-payment*)) and Clause 20.2 (*Financial covenants*).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 30 days of the earlier of (A) the Lender giving notice to the Borrower and (B) the Borrower becoming aware of the failure to comply.

20.4 Misrepresentation

Any representation or statement made or deemed to be made by any Obligor in the Finance Documents or any other document delivered by or on behalf of the relevant Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

20.5 Cross default

- (a) Any Financial Indebtedness of any Obligor is not paid when due or, if longer (as agreed in writing or by email by the relevant creditor(s)), within any applicable grace period.
- (b) Any Financial Indebtedness of any Obligor is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

- (c) Any commitment for any Financial Indebtedness of any Obligor is cancelled or suspended by a creditor of such Obligor as a result of an event of default (however described).
- (d) Any creditor of any Obligor becomes entitled to declare any Financial Indebtedness of any Obligor due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) No Event of Default will occur under this Clause 20.5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than an aggregate amount of USD 25,000 per Interest Period.

20.6 **Insolvency**

- (a) The Borrower is or is presumed or deemed to be 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 (excluding the Lender in its capacity as such) with a view to rescheduling any of its indebtedness.
- (b) Each Guarantor:
 - (i) is or is deemed for the purpose of any applicable law to be unable to pay any his debts as they fall due or bankrupt, suspends making payments on any of his debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of his creditors (excluding the Lender in its capacity as such) with a view to reschedule any of his indebtedness;
 - (ii) admits an inability to pay his debts as they fall due; or
 - (iii) commits an act of bankruptcy.
- (c) The value of the assets of the Borrower is less than its liabilities, based on the most recent financial statement of the Borrower (without double counting), taking into account contingent and prospective liabilities.
- (d) A moratorium is declared in respect of any indebtedness of the Borrower.

20.7 **Insolvency proceedings**

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, provisional supervision, rehabilitation or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower;
 - (ii) a composition or arrangement with any creditor of the Borrower or an assignment for the benefit of creditors generally of the Borrower or a class of such creditors;
 - (iii) the appointment of a liquidator, receiver, planner, plan administrator, administrative receiver, compulsory manager, provisional supervisor or other similar officer in respect of the Borrower or any of its assets; or
 - (iv) enforcement of any Security over any assets of the Borrower,or any analogous procedure or step is taken in any jurisdiction.
- (b) Any of the following occurs in respect of any Guarantor:

- (i) a certificate is issued for the summary of administration of the estate of any Guarantor;
- (ii) any Guarantor enters into any composition, scheme, individual voluntary arrangement or other arrangement with the creditors of that Guarantor, or an interim order made is in relation to that Guarantor;
- (iii) any person presents a petition or files documents with a court or any registrar for the bankruptcy of any Guarantor;
- (iv) a bankruptcy order is made against any Guarantor or any Guarantor is otherwise adjudicated bankrupt; or
- (v) a receiver, receiver and manager, judicial manager, trustee in bankruptcy, nominee, supervisor, official manager or similar person is appointed in respect of any Guarantor or any asset of that Guarantor,

or any other analogous procedure or step is taken in any jurisdiction.

20.8 **Condition of Guarantor**

Any Guarantor dies or in the reasonable judgment of the Lender becomes unsound mind or by reason of any illness or incapacity becomes incapable of managing its own affairs or becomes a patient under any mental health legislation or a protection order is made against that Guarantor.

20.9 **Creditors' process**

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of the Borrower.

20.10 **Unlawfulness**

It is or becomes unlawful for the Borrower to perform any of its obligations under the Finance Documents.

20.11 **Repudiation**

The Borrower repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

20.12 **Material adverse change**

The Lender determines that a Material Adverse Effect exists or has occurred.

20.13 **Cessation of business**

- (a) The Borrower ceases to carry on all or a material part of its business.
- (b) The Borrower suspends all or a material part of its business, unless:
 - (i) the suspension is for the purpose of scheduled maintenance of the relevant assets; or
 - (ii) the suspension does not cause a Material Adverse Effect.

20.14 **Change of Control**

- (a) A Change of Control Event occurs.
- (b) In this Clause 20.14, "**Change of Control Event**" means an occurrence when Mr Arvind Narula do not or cease to:

- (i) own the majority of the beneficial interest in entire issued share capital of the Borrower and carrying majority voting rights in a shareholders' meeting of the Borrower; and/or
- (ii) management control in the Borrower..

20.15 Finance Documents

Any of the Finance Documents or any material part thereof fails to remain in full force and effect or shall be declared by any lawful and competent authority to be voided, invalid or shall be repudiated or frustrated by any party.

20.16 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Lender may, by notice to the Borrower:

- (a) cancel the Total Commitment whereupon they shall immediately be cancelled;
- (b) declare that all or part of the Loans, together with all accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or
- (c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Lender.

SECTION 8
CHANGES TO PARTIES

21. CHANGES TO THE LENDER

21.1 Assignments and transfers by the Lender

(a) Subject to this Clause 21, the Lender (the "**Existing Lender**") may :

- (i) assign any of its rights; or
- (ii) transfer by novation any of its rights and obligations,
under the Finance Documents to another person (the "**New Lender**").

(b) No consent from any Obligor is required for any assignment or transfer by the Existing Lender pursuant to this Clause 21.

21.2 Disclosure of information

Subject to Clause 31 (*Confidentiality*), the Lender may disclose as it deems necessary to any of its Affiliates and any other person:

- (a) to (or through) whom that Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this Agreement;
- (b) with (or through) whom the Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to this Agreement; or
- (c) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation.

This Clause 21.2 supersedes any previous agreement relating to the confidentiality of information.

22. CHANGES TO THE BORROWER

The Borrower may not (and the Borrower shall procure that the other Obligor shall not) assign any of its or his rights or transfer any of its or his rights or obligations under the Finance Documents unless the Borrower or such other Obligor has obtained a prior written consent from the Lender.

SECTION 9
THE LENDER

23. CONDUCT OF BUSINESS BY THE LENDER

No provision of this Agreement will:

- (a) interfere with the right of the Lender to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige the Lender to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige the Lender to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

SECTION 10
ADMINISTRATION

24. PAYMENT MECHANICS

24.1 Manner of Payments

- (a) On each date on which any Obligor or the Lender is required to make a payment under a Finance Document, the Borrower or the Lender shall (and the Borrower shall procure such other Obligor to) make the same available to the Lender or the Borrower, as the case may be, (unless a contrary indication appears in a Finance Document) for value in USD on the due date at the time and in such funds specified by (i) the Borrower or other Obligor and (ii) the Lender.
- (b) Payment shall be made to such account in the principal centre of the country of that currency and with such bank as the Lender, in each case, specifies or any other account the Parties may agree.

24.2 Partial payments

- (a) If the Lender receive a payment that is insufficient to discharge all the amounts then due and payable by any Obligor under the Finance Documents, the Lender shall apply that payment towards the relevant Obligor's obligations under the Finance Documents in the following order:
 - (i) **first**, in or towards payment pro rata of any accrued interest or fee due but unpaid under the Finance Documents;
 - (ii) **secondly**, in or towards payment of any principal due but unpaid under this Agreement; and
 - (iii) **thirdly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Lender may vary the order set out in paragraphs (a)(i) to (a)(iii) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by the Borrower.

24.3 No set-off by any Obligor

The Borrower agrees (and the Borrower shall procure that the other Obligor shall agree) that all payments to be made by any Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

24.4 Business Days

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement, interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

25. SET-OFF

Upon the occurrence of Event of Default, the Lender may set off any matured obligation due from the Borrower under the Finance Documents (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may

convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

26. NOTICES

26.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing or by email and, unless otherwise stated, may be made by fax or letter.

26.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is that identified with its name below, or any substitute address or fax number or department or officer as the Party may notify to the other Parties by not less than five Business Days' notice.

26.3 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

- (i) if by way of fax, when received in legible form; or
- (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 26.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with the Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

26.4 Notification of address, fax number and telex number

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 26.2 (*Addresses*) or changing its own address or fax number, the Lender shall notify the other parties.

26.5 Electronic communication

(a) Any communication or document to be made or delivered by one Party to another under or in connection with the Finance Documents may be made or delivered by electronic mail or other electronic means (including by way of posting to a secure website) if those two Parties:

- (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
- (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

(b) Any such electronic communication or delivery as specified in paragraph (a) above to be made between the Borrower and the Lender may only be made in that way to the extent that those two

Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication or delivery.

- (c) Any such electronic communication or document as specified in paragraph (a) above made or delivered by one Party to another will be effective only when actually received (or made available) in readable form and in the case of any electronic communication or document made or delivered by a Party to the Lender only if it is addressed in such a manner as the Lender shall specify for this purpose.
- (d) Any electronic communication or document which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. or on a day which is not a working day in the place in which the Party to whom the relevant communication or document is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following working day in that place. For this purpose, working days are days other than Saturdays, Sundays and bank holidays.
- (e) Any reference in a Finance Document to a communication being sent or received or a document being delivered shall be construed to include that communication or document being made available in accordance with this Clause 26.5.

26.6 English language

Any notice or other documents given or provided under or in connection with any Finance Document must be in English or Thai. In the event that any documents provided in both Thai and English and there is any discrepancy between them, English document shall prevail unless the document is a constitutional, statutory or other official document which requires to be prepared or issued in Thai.

27. CALCULATIONS AND CERTIFICATES

27.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by the Lender are prima facie evidence of the matters to which they relate.

27.2 Certificates and determinations

Any certification or determination by the Lender of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

27.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days.

28. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

29. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

30. **AMENDMENTS AND WAIVERS**

Any term of the Finance Documents may be amended or waived only with the consent of the Lender and the Borrower and any such amendment or waiver will be binding on all Parties.

31. **CONFIDENTIALITY**

31.1 **Confidential Information**

The Lender agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 31.2 (*Disclosure of Confidential Information*), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information until the earlier of the relevant Maturity Date and the date it ceases to be the Lender.

31.2 **Disclosure of Confidential Information**

The Lender may disclose:

- (a) to its head office or any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors and partners such Confidential Information as the Lender shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing or by email of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents and to any of that person's Affiliates, and professional advisers;
 - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or the Borrower and to any of that person's Affiliates, and professional advisers;
 - (iii) appointed by the Lender or by a person to whom paragraph (b)(i) or (b)(ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;

- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
- (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (vii) who is a Party; or
- (viii) with the consent of the Borrower;

and in each case, the Lender shall procure that such Confidential Information may be disclosed as the Lender shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii) and (b)(iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
- (B) in relation to paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information; or
- (C) in relation to paragraphs (b)(v) and (b)(vi) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Lender, it is not practicable so to do in the circumstances.

32. **ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the Parties in relation to the obligations of the Parties under the Finance Documents and supersedes any previous agreement, whether written or oral, in respect of the transaction under This Agreement.

33. **COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

SECTION 11
GOVERNING LAW

34. GOVERNING LAW

This Agreement and all non-contractual obligations arising out of or in connection with this Agreement are governed by Thai law.

35. ENFORCEMENT

35.1 Jurisdiction of Thai courts

- (a) The courts of Thailand have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including any dispute relating to any non-contractual obligation arising from or in connection with this Agreement and any dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**").
- (b) The Parties agree that the courts of Thailand are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 35 is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
CONDITIONS SUBSEQUENT

1. Obligors

- (a) A copy of the affidavit, memorandum of association and articles of association of the Borrower.
- (b) A copy of the resolutions of the board of directors of the Borrower:
 - (i) approving the terms of, and the transactions contemplated by, the Finance Documents and resolving that it execute the Finance Documents;
 - (ii) authorising a specified person or persons to execute the Finance Documents on its behalf; and
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request and Utilisation Receipt) to be signed and/or despatched by it under or in connection with the Finance Documents.
- (c) To the extent any person authorised to execute the Finance Documents as referred to in paragraph (b) above is not an authorised director of the Borrower, the original or a certified true and correct copy of the power of attorney issued by the requisite authorised director(s) of the Borrower which empowers and authorises such person to execute the Finance Documents.
- (d) A specimen of the signature of each person authorised by the resolutions and power of attorney referred to in paragraph (b) and (c) above, respectively.
- (e) A specimen of the company's seal of the Borrower.
- (f) A certified true and correct copy of a valid identification card and household certificate or passport (in case of foreigner) of each relevant person authorised by the resolutions and power of attorney referred to in paragraph (b) and (c) above, respectively.
- (g) A certified true and correct copy of a valid identification card or passport of each Guarantor.
- (h) A certificate of an authorised signatory(ies) of each Obligor certifying that each copy document relating to it or him specified in this Schedule 1 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

2. Other documents and evidence

- (a) A copy of the Original Financial Statements.
- (b) Evidence that the fees, costs and expenses then due from the Borrower pursuant to Clause 10 (*Fees*) and Clause 15 (*Costs and expenses*) have been duly paid or will be duly paid by the Initial Utilisation Date.
- (c) Evidence showing that all stamp duty in relation to the Finance Documents have been duly paid.

SCHEDULE 2
REQUEST
PART I
UTILISATION REQUEST

From: Urmatt Ltd. as Borrower
To: Beneficial Returns, LLC as Lender
Dated: [_____]

Dear Sirs

Urmatt Ltd. – USD 500,000 Facility Agreement dated [_____] (the "Facility Agreement")

1. We refer to the Facility Agreement. This is a Utilisation Request. Terms defined in the Facility Agreement shall have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
2. We wish to borrow a Loan on the following terms:
Proposed Utilisation Date: [_____] (or, if that is not a Business Day, the next Business Day)
Amount: USD [_____]
Purpose: [_____]
3. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) of the Facility Agreement is satisfied on the date of this Utilisation Request.
4. The proceeds of this Loan should be credited to the [current/savings] account number [_____].
5. This Utilisation Request is irrevocable.

Yours faithfully

URMATT LTD.

By: _____
Name: _____
Title: _____

PART II
UTILISATION RECEIPT

From: Urmatt Ltd. as Borrower
To: Beneficial Returns, LLC as Lender
Dated: [_____]

Dear Sirs

Urmatt Ltd. – USD 500,000 Facility Agreement dated [_____] (the "Facility Agreement")

We refer to the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this Utilisation Receipt unless given a different meaning in this Utilisation Receipt.

We, Urmatt Ltd., acknowledge receipt of the Utilisation of USD [_____] made on [_____] and agree that this receipt is conclusive evidence of receipt by us of the Utilisation.

Yours faithfully

URMATT LTD.

By: _____
Name: _____
Title: _____

SCHEDULE 3
REPAYMENT SCHEDULE

No.	Repayment Date	Principal Repayment (USD)	Interest Payment (USD)	Repayment Instalment (USD)
1	The date falling 30 days from the relevant Utilisation Date	0.00	3,750.00	3,750.00
2	The date falling 60 days from the relevant Utilisation Date	0.00	3,750.00	3,750.00
3	The date falling 90 days from the relevant Utilisation Date	0.00	3,750.00	3,750.00
4	The date falling 120 days from the relevant Utilisation Date	0.00	3,750.00	3,750.00
5	The date falling 150 days from the relevant Utilisation Date	0.00	3,750.00	3,750.00
6	The date falling 180 days from the relevant Utilisation Date	(0.00)	3,750.00	3,750.00
7	The date falling 210 days from the relevant Utilisation Date	98,511.21	3,750.00	102,261.21
8	The date falling 240 days from the relevant Utilisation Date	99,250.04	3,011.17	102,261.21
9	The date falling 270 days from the relevant Utilisation Date	99,994.42	2,266.79	102,261.21
10	The date falling 300 days from the relevant Utilisation Date	100,744.38	1,516.83	102,261.21
11	The date falling 330 days from the relevant Utilisation Date	101,499.96	761.25	102,261.21

EXECUTION: This Agreement has been executed by the duly authorised representatives of the parties to it on the date first mentioned above.

THE BORROWER
URMATT LTD.

Address: 1000/30 9 Fl. Sukhumvit 71 Road
Klong Tan Nuea, Vadhana,
Bangkok 10110

Telephone No: +66 27130214-15

Fax No: +66 27130243

Attention: Mr Praveen Kumar

By:



Name:

Mr Arvind Narula

Title:

Chief Executive Officer and Director



THE LENDER

BENEFICIAL RETURNS, LLC

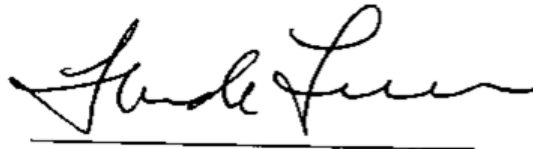
Address: 261 Corbett Avenue, San Francisco
CA 94114 USA

Telephone No: +1 415 994 6668

Email: ted@beneficialreturns.com

Attention: Mr Ted Levinson

By:

A handwritten signature in black ink, appearing to read "Theodore Levinson", written over a horizontal line.

Name: Mr Theodore Levinson

Title: Chief Executive Officer