

- Customer's agent or broker or any other person appointed by the Customer in accordance with the Delivery Instruction in the form set out in Schedule 4 hereof and the cost of delivery shall be borne by the Customer, unless otherwise agreed by the Parties hereto.
- 2.1.6 **Sale Transaction Concluded via Telecommunication**  
 In the event that the Sale Transaction is to be executed and/or concluded, fully or partially, via telephone conversation or any other means of telecommunication as agreed by the Parties, the following requirements shall be observed:  
 (i) the telephone conversation or any such telecommunication must be recorded;  
 (ii) if the Bank's Offer For Sale and/or the Customer's Acceptance are to be executed or concluded via telephone conversation or any other means of telecommunication, such Sale Offer and/or Acceptance shall be concluded in accordance with Schedule 2 and 3 respectively and the Sale Transaction shall be deemed completed. The Parties shall be confirmed in writing, as soon as practicable by sending a confirmation of the Bank's Offer For Sale and/or Customer's Acceptance in the form set out in Schedule 5 and 6 respectively.
- 2.2 **Passing of Title and Assumption of Risk**
- 2.2.1 The Commodity will be sold to the Customer on an "as is where is" basis and the customer shall have the right to inspect the commodity before accepting the Bank's Offer for Sale. Upon the completion of the Sale Transaction and the Customer is deemed to have inspected the Commodity, the title and ownership of the Commodity together with all of its rights, interest, benefits and liabilities shall immediately be transferred to the Customer.
- 2.2.2 Where the Commodity is purchased by the Bank from a dealer the Customer shall be entitled to all warranties relating to the same and the Bank shall not be deemed to give the Customer any warranty in respect of the same.
- 2.2.3 In any event if the Customer wishes for the Bank to store or keep the Commodity on his behalf such Commodity shall be kept by the Bank at the Customer's risk and cost save and except if the losses or damage to the Commodity are due to the Bank's negligence and wilful misconduct.
- 2.3 **Restriction on the Sale Transaction**  
 Each Sale Transaction shall be subject to Available Trading Limit.
3. **PAYMENT OF THE BANK SALE PRICE**  
 The Customer shall pay the Bank Sale Price to the Bank in the manner set out in the Bank's Offer for Sale hereto.
4. **UTILISATION OF COMMODITY**  
 The Customer may utilise the Commodity in any manner as he may deem fit.
5. **SECURITY DEPOSIT**  
 By way of security for the payment of the Bank Sale Price the Customer shall deposit with the Bank the sum as stated in the Bank's Offer for Sale hereto. The Security Deposit shall be maintained at that sum throughout the tenure of the Facility and the Bank shall be entitled without any notice to the Customer to make payments out of the same in the event that any instalment payment of the Bank Sale Price shall be in arrears. In the event the amount of the Security Deposit shall fall below the stated amount the Customer shall immediately upon notification by the Bank pay into the Security Deposit account an amount sufficient to bring the level of the amount to the required amount. Provided always that the Bank shall not utilise the Security Deposit for any purpose otherwise as stated above.
6. **MANNER OF PAYMENTS**
- 6.1 **Payment of Bank Sale Price**  
 The Customer shall pay each instalment of the Bank Sale Price due promptly and in full without any prior notice from the Bank in the manner set out in the Bank's Offer for Sale.
- 6.2 **Right to Deduct**  
 In the event the Customer fails to pay any instalment of the Bank Sale Price on due date the Bank shall be entitled to deduct from the Security Deposit the amount of which shall be equivalent to the defaulted instalment(s).
- 6.3 **Failure to Pay**  
 If the Customer shall fail to pay any one or more of the instalments in the manner aforesaid and shall continue to make such default for a period of fourteen (14) days after a notice of demand has been issued by or on behalf of the Bank for such payment to be made then the entire balance of the Bank Sale Price shall become due and payable immediately. If the said amount is not paid as aforesaid, the Bank shall be entitled to take such action(s) as it may deem appropriate, including the institution of legal proceedings, to recover the amount due.
7. **LATE PAYMENTS**  
 Any instalment due under this Agreement, which is not paid on the due date, shall be deemed to be a late payment. If any of the instalment or the entire balance of the Bank Sale Price shall be required to be recovered through any process of law or otherwise, the Customer shall pay (in addition to the instalments then due and payable) the Bank's solicitors' fees (on a Solicitor and Client basis) and any other fees and expenses incurred in respect of such collection.
8. **EARLY SETTLEMENT AND REBATE (IBRA)**
- 8.1 **Early Settlement**  
 The Customer may at any time after the completion of each Sale Transaction pay the entire amount of the Bank Sale Price or any part thereof then owing to the Bank as the Bank may in its absolute discretion accept.
- 8.2 **Rebate (IBRA)**  
 If the Customer settles the Bank Sale Price in full or the balance thereof remaining due and payable sooner than the last instalment date, the Bank may at its absolute discretion grant to the Customer a rebate of such an amount as the Bank may determine on the date of payment.
9. **REPRESENTATIONS AND WARRANTIES**
- 9.1 **Customer's Representatives and Warranties**  
 The Customer represents and warrants to and for the benefit of the Bank:-
- (a) **Status**  
 That he has the legal capacity to enter into this Agreement and that he is not an undischarged bankrupt and no bankruptcy order or notice or any like order or process has been served on him or to the best of his knowledge threatened against him;
- (b) **Proceedings**  
 That no litigation, arbitration or administrative proceeding or claim are pending or threatened against him in any court of law and no disciplinary or similar proceedings have been taken or to his knowledge contemplated against him; and
- (c) **Information**  
 That the information furnished by the Customer for the purpose of this Agreement to the best of his knowledge and belief do not contain any untrue statement or omit to state any fact the omission of which makes any statements made therein in the light of the circumstances under which they are made is misleading.
- (d) **Restriction On Selling Of Commodity**  
 The Customer warrants that he shall not re-sell the Commodity, which has been sold, to the Customer by the Bank to the original supplier or the Bank.
- 9.2 **Bank's Representations And Warranties**  
 The Bank represents and warrants to and for benefit of the Customer:-
- (a) **Commodity**  
 That the Bank is the legal and beneficial owner of the Commodities and has title to the Commodities which, aforesaid the subject matter of each of a Sale Transaction and the Bank shall indemnify the Customer against any costs or liability arising out of any breach of this representation.
- (b) **No Encumbrances**  
 The Bank warrants that pending delivery of the Commodity to the Customer it will not trade or deal in the Commodity (other than upon the Customer's instruction) or create any charge or encumbrance thereon or grant to any third party any right or interest in the Commodity, and the Bank will indemnify the Customer for any breach of this covenant.
- (c) **Restriction On Selling Of Commodity**  
 The Bank warrants that it shall not sell to the Customer a Commodity which has been bought previously from the Customer or from a supplier or dealer of which the Customer is holding thirty per centum (30%) of its shares.