

# General lending terms & conditions

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## **General lending terms and conditions**

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## Glossary of terms

Capitalised terms within the General Lending Terms and Conditions shall have the same meaning assigned to them below:

### Definitions

Annual Percentage Rate of Charge (APRC)	<p>It is shown as a percentage (%) and is calculated on the basis prescribed by Law. It reflects the total cost of borrowing, including fees, over the entire term of the Facility.</p> <p>If there is a change in the interest rate, term of the Facility, number of repayments, the repayment amount, the amount of credit made available, or the introduction, or revision of specific charges, the APRC would be revised accordingly.</p> <p>Without prejudice to the above, the APRC excludes charges (e.g., insurance premia) payable to persons other than us in connection with your Facility.</p>
Agreed Drawdown Date	<p>Refers to the date specified in your Sanction Letter by when you can draw yet unutilised balances in full or through partial payments from your Facility without incurring any additional commitment fee. Following the expiry of this date, the unutilised funds are still available for you subject to a commitment fee.</p>
Bank Appointed Architect (BAA)	<p>An architect who is appointed by us to evaluate the property being purchased and/or secured in favour of the Bank.</p>
Bank Base Rate (BBR)	<p>A variable interest rate set by us and used as a reference for lending products.</p>
Borrower (you, your)	<p>Refers to You (both in the singular and plural form) as the person or business who is receiving a Facility from us under the terms and conditions of the Sanction Letter.</p>
Drawdown	<p>The process of accessing funds from your Facility. The Drawdown can be disbursed in full or through partial payments.</p>
Drawdown End Date	<p>This refers to the date by when you can draw yet unutilised balances in full or through partial payments from your Facility, subject to a commitment fee. Unless an extension is requested by you and approved by us, no further yet unutilised balances can be drawn from your Facility beyond the drawdown end date.</p>
EIB	<p>Refers to the European Investment Bank (EIB) which is the European Union's bank.</p>
EIF	<p>Refers to the European Investment Fund which is part of the European Investment Bank (EIB) Group.</p>
EU	<p>Refers to European Union.</p>
Event of Default	<p>If you are found to be in breach of an event of default, the Bank is entitled to call-in the Facility and demand full payment of the outstanding liability. For further details, kindly refer to the section titled Events of Default in the General Lending Terms and Conditions.</p>
Facility	<p>A loan or other credit facilities provided by us to you under the terms and conditions stipulated in your Sanction Letter.</p>
Final Deed (of sale)	<p>It is the publication of a contract of purchase for a property published in the acts of a Notary Public.</p>

Fixed Interest Rate	An unchanging rate charged on a facility. It might apply during the entire term of the loan or for just part of the term, but it remains the same throughout a set period even when the underlying benchmark interest rate such as the BBR or index changes.
General Hypothec	A general hypothec attaches to all the property, movables, and immovables, present and future owned by you.
Guarantee	A Guarantee is a written undertaking made for a defined amount by a third party (the guarantor) to be jointly and several liable for your debt or default.
Interest Rate Calculation	The interest charged on your Facility is based on the Actual/360 basis which is calculated by dividing the annual interest rate by 360 and multiplying that amount by the days in the month.
Lender, Bank, we, us, our	APS Bank plc (C2192), whose registered address is APS Centre, Tower Street, Birkirkara, BKR 4012, and anyone we transfer and/or assign any of our rights and obligations to or who takes over our company.
Loan Term (Duration)	The length of the loan, or the length (duration) of time it takes for the said loan to be paid off completely when the borrower is making regularly scheduled payments. These loans can either be short-term, medium-term, or long-term, and the time it takes to pay off debt from the loan can be referred to as the loan's duration.
Payment of Premia of Insurance Policies	The amount of money you pay for any insurance policy under your name, which has been requested to be pledged against the Facility by us, according to the Sanction Letter.
Pledge	A 'Pledge' is a type of security for the fulfilment of the payment of a debt to which the Bank has a preferential right of enforcement.
Relevant Party	Relevant Party shall mean that body or entity which is indicated in the Sanction Letter and to which you have agreed to permit the Bank to disclose information about the Facility.
Repayment	Determines the monthly amount due by you to us. It is made up of capital and interest depending on the amount you have borrowed, which depends on the applicable credit interest rate and the term of the Facility, as initially agreed in the Sanction Letter.
Sanction Letter	A legally binding document made between you and us, indicating the terms of the Facility, made available to you which includes but is not limited to the General Lending Terms and Conditions, the Bank's Tariff of Charges, and any other documents that might become applicable from time to time. The Sanction Letter may be amended by subsequent letters of amendment.
Service Account	Any demand deposit account held under your name(s) with us, either 'solely' or 'jointly' which will be used to debit the relative fees, expenses and the on-going repayments as agreed in the Sanction Letter.
Special Hypothec	A Special Hypothec attaches to a particular one or more immovable property owned by you.
Special Privilege	A Special Privilege attaches to a particular one or more immovable property owned by you. It confers upon the Bank a preferential right of preference over other creditors according to the nature of the debt.
Variable Interest Rate	An interest rate charged on a facility that might fluctuate over time as it is based on an underlying benchmark interest rate such as the BBR or index that changes periodically.

## Expenses

The following are the fees that may be applicable to your Facility as listed in the Bank's prevailing Tariff of Charges. All fees are subject to change at the Bank's sole discretion and any future change shall supersede the fee quoted hereunder and/or in the Sanction Letter. You are invited to consult the Bank's Tariff of Charges available on our website [www.apsbank.com.mt](http://www.apsbank.com.mt) or request a copy thereof from one of our branches.

Administration Fee	A one-time payment is applicable when you request a change or an urgent release of security. This fee also becomes applicable when letters/chasers are sent to you which may relate but are not limited to loan arrears/excesses, perfection of securities and lack of provision of required documentation.
Bank-appointed Architect Fee	This is a one-time payment applicable when a Bank's-appointed architect (BAA) is required to inspect and value the property you are purchasing and/or hypothecating to confirm that such property satisfies the Bank's requirements. This fee is incurred during the assessment phase of your lending application but can also be incurred during other periods depending on your case.
Bank-appointed Energy Assessor Fee	This one-time payment is only applicable to lending applications relating to energy-efficient properties. In such cases an energy assessor, appointed by the Bank, conducts a residential property valuation on the property you are planning to purchase and/or hypothecate in favour of the Bank before we proceed to grant you the Facility. This takes place to confirm that the property being bought/hypothecated satisfies the Bank's requirements in terms of energy-efficiency.
Booking Fee	This is a one-time payment per application charged on lending products to 'book' the fixed interest rate for a fixed period. In such cases, we are providing you with an interest rate that will remain the same for a defined period irrelevant of how the market performs throughout the agreed term. The Booking Fee is charged at application stage.
Commitment Fee	The Agreed Drawdown Date stipulates the date by when all borrowed funds are to be utilised by you. A fee per annum will become applicable on the unutilised portion of the Facility following the lapse of the Agreed Drawdown Date. Any unutilised funds would remain available for disbursement subject to the commitment fee, until the Drawdown End Date. Any requests for extensions beyond this date may be considered and will be subject to a fee.
Early Repayment Fee	This fee will be applicable in a 'Fixed Interest Rate Home Loan' (FIRHL) facility when you either fully repay the facility or have the relative debit balance reduced by more than 30% of the sanctioned home loan limit within the first three (3) years from first loan drawdown or make prepayments equivalent to more than six (6) repayment instalments during the currency of the fixed interest rate period.
Encroachment Fee	This fee is applicable whenever your account is overdrawn beyond any approved overdraft limit (where the account is said to be "in excess").
Facility Drawdown Fee	This is applicable whenever you withdraw unutilised funds made available to you in your loan account.
Insufficient Funds Fee	This fee is applicable when there are no available funds to cover the repayment amount in your 'Service Account'.

Legal Fees applicable to Claims on Insurance Policies	In the event of your demise, a one-time payment is applicable when the Bank files a claim on your insurance policy pledged in its favour for settlement of the outstanding facility.
Legal Fees applicable to Deeds of Conservation of Special Privilege	This fee is applicable upon the publication of a deed of conservation of privilege and the registration thereof at the Public Registry and/or the Land Registry, in cases where the Bank financed the development and/or the completion of the property secured in its favour.
Legal fees applicable to Deeds of Loan, Overdraft and Acknowledgement of Debt	Legal fees in connection with the signing of the hypothecary deed of borrowing and/or constitution of debt will be applicable when the final deed has been published. Registration expenses for the application of the title and Bank charge at the Land's Registry and updating of Public and/or Lands Registry searches expenses, incurred by the Bank after the signing of the hypothecary deed of borrowing, will be debited to your account.
Legal Fees applicable to Deeds of Waiver, Subrogation, Postponement, Cancellation, Reduction	This one-time payment becomes applicable whenever there is a waiver, subrogation, postponement, cancellation, or reduction of hypothecary security.
Legal Fees applicable to the Periodic interpretation of searches (every 8 years)	A fee is applicable once every eight (8) years from the initial registration of the contract to ensure that the Bank's security is still in place.
Legal Fees applicable to the Renewal of hypothecs (every 30 years)	This fee (including Public and/or Land Registry charges) are applicable every thirty (30) years from the date of first registration of hypothecs to renew of the Bank's hypothecary and/or privileged charges registered in the Public Registry and/or Land Registry.
Management Fee	A one-time payment is applicable whenever there is a change in the Sanction Letter or a change in the Facility repayment terms.
Penalty Interest Fee	This fee is applicable when you have irregular excesses on your overdraft, encroachments, or loan repayment arrears without a justifiable reason.
Processing Fee	This is a one-time payment per application covering our administrative costs of processing your lending application. Applicable Processing Fees may vary depending on the type of facility being granted to you. The Processing Fee is charged at application stage.
Progress Report Fee	Regular reports on the progress of the property development are required, subject to a fee, in cases where the Bank is financing such development. These are to be obtained by the Bank's-Appointed Architect (BAA), to ensure that the property development is in line with the set time schedules and budgets, which were pre-set by the architect's estimate of works approved initially by the Bank.
Renewal Fee	An annual recurring fee may be applicable to revolving credit facilities such as overdrafts, or other facilities without a specific duration, covering our administrative costs of renewing your banking facility.
Special Guarantee Fee	A fee becomes applicable when you are issued with a Special Guarantee or require a renewal, amendment, or upon an urgent request.
Temporary facilities and Authorised Excesses Fee	A one-time payment is applicable per request for temporary facilities and authorised excesses. An additional charge is applicable if the temporary facility becomes permanent.

## 1. Our agreement

You are bound by these General Lending Terms and Conditions and any specific terms and conditions indicated in your Sanction Letter applicable to your Facility, that shall apply at all times and as may be amended from time to time.

If any of these General Lending Terms and Conditions differ from the specific terms and conditions specified in the Sanction Letter, the specific terms and conditions will prevail.

These General Lending Terms and Conditions will apply until all your facilities have been repaid in full. Some conditions will continue to apply even after your facilities have been closed.

## 2. General conditions

- 2.1 You acknowledge that we issue the Facility/ies based on your representations and/or information provided to us. Consequently, if any event occurs or circumstance arises which, may reasonably affect the performance of all or any of your obligations stipulated in the Sanction Letter, then, or at any time thereafter, we have the right to amend, withdraw or cancel the Sanction Letter by giving notice thereof by a simple letter and this without prejudice to any other right which we may have highlighted in the Sanction Letter.
- 2.2 You shall keep the Bank updated should there be any change in circumstances, your financial position and any other relevant personal information that may have an impact on your Facility, repayment ability together with certain eligibility benefits and allowances offered by us in relation to the granted Facility and any change of address to ensure that the communication between the Bank and yourself/ves is not interrupted in any manner during the course of your Facility/ies.
- 2.3 The Bank reserves the right to ask for any information on the conduct of the account/s and other related matters at such frequency as is deemed necessary.
- 2.4 You are to provide to the Bank all and any financial information as the Bank may, in its discretion and at such frequency as deemed necessary, demand from you on the conduct of the account/s and of your business.
- 2.5 If the Facility is being granted to you and another party (jointly) by us, then both yourself and the other party are jointly and severally liable for the Facility.
- 2.6 You confirm that the information provided to the Bank is true, complete, and up-to-date and hereby authorise the Bank to make the necessary investigations about the validation and correctness of the information provided by you.
- 2.7 You undertake:
  - a. not to commit any irregularity or fraud,
  - b. to comply with eligibility criteria attached to the Sanction Letter,
  - c. to comply with all laws and regulations of the EU to which you may be subject, and the breach of which may adversely impact the performance of the agreement or prejudice the interest of the Bank, the EU, EIB and the EIF.
  - d. to comply with the relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and tax fraud to which you may be subject.
- 2.8 The Bank expects you to invariably comply with all applicable legislation, regulations, and practices regarding the protection of the environment from pollution and / or any hazardous act. Moreover, although you may not be aware of any circumstances that may prevent you from meeting your environmental responsibility, you undertake to keep yourself updated to meet such obligations.
- 2.9 We shall process personal data submitted in connection to your Sanction Letter and, where applicable, your existing account/s information for the purposes of the Facility granted in your Sanction Letter, as well as for the lawful purposes explained in the Bank's Data Privacy Policy and in full compliance with applicable data protection legislation as indicated in the same Privacy Policy.

- 2.10 For further information on how your personal data is processed and your data protection rights (where applicable to you as a natural person) please see the Bank's Data Privacy Policy which may be accessed at any time from this link: [www.apsbank.com.mt/gdpr](http://www.apsbank.com.mt/gdpr) and is also available in printed form on request, as well as any condensed version thereof, either or both of which may have previously been provided to you.
- 2.11 The Bank may disclose your information, including but not limited to outstanding balances and interest owed on such Facility/ies to guarantor/s, surety/ies and/or pledgor/s indicated in your Sanction Letter and to third parties (if applicable) as provided in the Bank's Data Privacy Policy, which disclosure shall be limited to the security being granted.
- 2.12 You shall compensate us by any other payment as it may reasonably require in respect of each cost or reduction in return relating to the Facility which shall be consequent upon compliance by the Bank with, any future requirement of law or governmental fiscal or monetary authority and any fees which may be introduced from time to time by any legislation.
- 2.13 You shall indemnify the Bank against all losses, claims, damages, costs, or any other liability which the Bank might incur in relation to your Sanction Letter, including the Events of Default.
- 2.14 Central Credit Register

On 15 February 2016, the Central Bank of Malta (CBM) issued Directive No. 14 relating to the establishment of a new Central Credit Register, which will be maintained and operated by the CBM. This Register will record details of all such information as required by the Directive provided by credit institutions where any credit exposure at individual Facility level exceeds €5,000 as at the end of each month. The primary objective of the Register is to facilitate the development of a sounder credit market, which should ultimately lead to an enhanced financial stability environment. In terms of this Directive, all credit institutions and the Malta Development Bank are legally obliged to provide to the CBM all such information on a monthly basis, with effect from April 2016. You are therefore informed that as from that date, information related to all your credit facilities in excess of €5,000 will be made available to the CBM for inclusion in the Central Credit Register. The credit facilities reportable for the purposes of this Register include loans, overdrafts, payment commitments, credit cards and other credit lines which are deemed to represent a credit exposure. Access to the Register, which will be operated through a fully auditable system, will be strictly limited to credit institutions, the Malta Development Bank, credit reference agencies (for the issuance of credit scores) and other institutions indicated in Annex 1 of the Directive, whilst customers themselves, or their lawful representatives, may also request to exercise the right to have an extract of the information held on them on the Register.

- 2.15 Complaints are to be made verbally or in writing. You can file a complaint in any of the following ways.
- Fill in our Feedback Form at [www.apsbank.com.mt/feedback](http://www.apsbank.com.mt/feedback)  
If there are any supporting documents you would like to add, the Feedback Form also allows you to add attachments.
  - Call our Customer Support Centre on (+356) 21226644 Monday to Saturday (not including public holidays) between 8am and 8pm.
  - Speak to a representative in person at any of our branches.
  - Write to:  
Voice of the Customer  
APS Bank plc  
APS Centre  
Tower Street  
Swatar, BKR 4012  
Malta
  - Email us at: [voc@apsbank.com.mt](mailto:voc@apsbank.com.mt)



If you are still not satisfied with how we deal with your complaint or feedback, you can refer your complaint to the Arbiter for Financial Services.

- Write to:                               The Office of the Arbiter for Financial Services  
N/S in Regional Road,  
Msida MSD 1920  
Malta
- Call (Freephone):               80072366 or (+356) 21249245
- Email:                                    [complaint.info@financialarbiter.org.mt](mailto:complaint.info@financialarbiter.org.mt)
- Website:                                [www.financialarbiter.org.mt](http://www.financialarbiter.org.mt)

- 2.16 Within the initial fourteen (14) days from (a) the date of signature; or (b) the date the Bank receives the present Sanction Letter signed by you, whichever is the earlier, you shall be entitled to withdraw from the present Facility. If you opt to exercise this right, you are required to inform the Bank in writing of your decision. Any such communication should be addressed to the Branch Manager issuing your Sanction Letter and sent not later than the last day of the fourteen (14) day period referred to earlier on. Communications received undated shall be deemed to have been sent to the Bank on the day of receipt. Any amount drawn down shall become repayable to the Bank and interest thereon shall run at the rate stipulated within your Sanction Letter. The total amount outstanding shall have to be repaid within thirty (30) days from notification being received by the Bank. If the thirty (30) day period is exceeded, the Bank shall consider you to be in default. When you are obliged to take out an insurance policy, you are advised to read carefully the wording of the policy so as to determine whether you are allowed a similar right to withdraw therefrom.
- 2.17 In case of termination of the Facility/ies, we reserve the right to use any credit balance on other accounts held by you, whether separately or jointly, to reduce the debit balance of the account, without prior notification.
- 2.18 We reserve the right to sell, transfer or assign any of our rights and obligations under these General Lending Terms & Conditions and your Sanction Letter.
- 2.19 No delay or failure by the Bank in exercising any right or remedy will be taken to mean or take effect as a waiver or release of that right or remedy. The Bank will always be entitled to exercise all its rights and remedies unless it has expressly waived them in writing.
- 2.20 If at any time any one or more of these Conditions is or becomes invalid, illegal, or unenforceable in any respect, the validity, legality, or enforceability of the remaining Conditions shall remain valid and unaltered.
- 2.21 These General Lending Terms and Conditions, your Sanction Letter and any non-contractual obligations arising from or in connection therewith shall be governed by and construed in accordance with the Laws of Malta.
- 2.22 You and the Bank submit to the non-exclusive jurisdiction of the Maltese Courts. You waive any objection to the Maltese Courts on grounds of inconvenient forum or otherwise as regards proceedings in connection with your Sanction Letter and agree that a judgement or order of such a Court shall be conclusive and binding on you and may be enforced against you in the Courts of any other jurisdiction.
- 2.23 You recognise that your Sanction Letter may be subject to the exercise of powers by the resolution authority under Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, that may affect its enforceability, including the write-down and conversion powers and the suspension powers and you agree to be bound by their effect.
- 2.24 At any time you may request the Bank to provide you with a statement of account indicating the repayments affected and the interest calculated on daily outstanding debit balances of the Facility. The statement will not be issued at a charge.

2.25 You undertake to reimburse the Bank's legal fees and other expenses in connection with the perfection or continuation of security for your Facility.

### 3. Additional conditions for opening and maintaining facilities

3.1 The Bank reserves unto itself the right to lay down such terms and conditions for the repayment of the Facility/ies over a specified period of time. Furthermore, the Bank reserves the right to change, vary or add to the said terms and conditions (including the interest rate, term, security requirements, fees and charges) for collateral, legal, regulatory, administrative or market reasons or upon the occurrence of any one of the Events of Default. The Bank will give you reasonable pre-notification accordingly.

3.2 As movements in the Bank's Base Rate will result in a variation in the final debit interest rates applicable to your Facility the Bank, may, at its sole discretion, require to adjust:

- a. The amount of your Facility instalments; or
- b. The number of repayment instalments within the original term of the Facility; or
- c. The amount of the last repayment instalment.

3.3 In the event that the Bank decides to amend the repayment arrangement stipulated above and as mentioned under the repayment section within the Sanction Letter, the Bank will inform you of any such change, including the amount of your Facility instalments to be made after the new borrowing rate takes effect and the revised number of repayment instalments, on paper or another durable medium before the change takes effect. As a result of a variation in the final debit interest rates, you hereby authorise the Bank to amend the repayment obligation on your behalf to service the new Facility commitment in line with the notice period, as stipulated in your Sanction Letter.

3.4 You hereby authorise the Bank to open a Service Account and agree that your income/salaries be directly credited or deposited to this account held with the Bank and instruct the Bank to debit this Service Account with the Facility repayments and payment of premia of insurance policies pledged in favour of the Bank and payments of ground rent (if applicable). In default of payment of insurance premia, you hereby authorize the Bank to debit any of your Accounts having a credit balance and reimburse the Bank, without prior notification. In the event that the above-mentioned account does not contain sufficient funds, the Bank reserves the right to debit any other account held by you with the Bank. For the avoidance of doubt and dispute, in the event the Facility/ies is/are in joint names, the Bank reserves the right to debit any account held in the sole name of any one of you, without prior notification.

You hereby agree that the Bank is authorised to transfer funds from your Account/s holding sufficient funds to your Savings Account/Term Deposit Account to be pledged in favour of the Bank as security for your Facility/ies. These transfers may be affected from Account/s held in your joint and/or sole name.

Additionally, the Bank shall also be authorised to deposit funds/proceeds originating from a waiver/cancellation in permanent reduction/full settlement of your Facility/ies into your Account/s.

3.5 For administrative purposes, the Bank reserves the right to have more than one bank account in your name for the handling of the Facility and shall be authorized to effect transactions to same during the course thereof to record the repayments of the Facility. If the Facility is accounted for in more than one account, the balance shall be considered as a single debit balance. The transfer of the Facility balance from one account to another shall not constitute a novation.

3.6 We have the right, at any time and without giving you notice, to set off any debit balance on your account against any credit balance you have in another account with us in line with the conditions outlined in these Conditions.

3.7 We reserve the right to process repayments against uncleared deposits on a case-by-case basis. However, such instances do not establish a precedent or obligation on us to permit similar repayments in the future, and we retain the discretion to deny such transactions.

- 3.8 You understand and acknowledge that, if applicable, the Bank is relying, amongst others, on your debts/receivables for the proper operation, including the repayment of the Facility. Consequently, you undertake not to factor, discount, pledge or in any other way transfer, assign or charge your current and future invoices, debts, or receivables without the Bank's prior written consent.
- 3.9 You shall have the right to discharge your obligations under your Sanction Letter, in full or in part, before the lapse of the agreed term. In this regard, you are entitled to repay any amount outstanding on the loan account ahead of schedule, with any such repayment being applied first against interest charged and then against the actual capital amount drawn. Early repayment may attract any additional fees and can result in a reduction of the total costs of the present Facility. Repayments may also be affected at an accelerated rate at your option.
- 3.10 The amendments to the VAT Act empower the Commissioner of VAT to register a privilege against the VAT payer for any VAT arrears in the event of default. In the circumstances, you are obliged to submit periodically a copy of the VAT returns/statements/letters regarding VAT arrears issued by the VAT Department to enable monitoring of settlement of VAT payable. Failure to effect VAT payments or submit the requested documentation on time, would tantamount an event of default.
- 3.11 We, at our sole discretion, unilaterally reserve the right to terminate the relationship with you for grounds, even if not related to the conduct of the Facility in line with these Conditions. We shall be entitled to consider such grounds as an Event of Default entitling us to claim the full repayment of any utilised amount of the Facility together with any interest, charges, and fees on demand. Interest will continue to accrue on the balance outstanding at the highest commercial rates prevailing at the time until date of full repayment.
- 3.12 In the event that the home financing Facility is either fully repaid or has the relative debit balance reduced by more than 30% of the sanctioned limit within the first three years from first loan drawdown, you will be obliged to refund the Bank in full with the Bank processing fees, Bank legal fees, Bank architect fees and any other fees/expenses which were refunded and/or waived by the Bank.

#### **4. Additional conditions for secured facilities**

- 4.1 We reserve the right not to advance any sums until the security requested has been provided and all conditions fulfilled.
- 4.2 You undertake that the security you shall be granting in favour of the Bank is free and unencumbered.
- 4.3 During the course of the Facility/ies, you undertake and bind yourself with the acceptance of the Bank not to charge in favour of any third party, the property which you have specially hypothecated in favour of the Bank, nor to transfer such (including by title of lease) in any manner whatsoever without the prior written consent of the Bank. Any breach of this condition shall be deemed to be an Event of Default. The lease of the property may only be permitted if it does not constitute your primary residence.
- 4.4 You undertake to retain and keep the properties stipulated under the Security Required and Held (if applicable) of your Sanction Letter in a good state of repair and not to carry out any structural alterations to the property/ies unless they are in line with the relative Planning Authority permits and sanitary regulations, and this for the entire term of the Facility/ies. You further undertake not to demolish, build, or carry out any major structural alterations to the property/ies secured in favour of the Bank without its prior written consent. You also authorise the Bank to appoint its architect to inspect the property/ies and confirm on the state of same, and this on a periodical basis or as may be required by the Bank from time to time, at my/our expense. In default, the Bank reserves the right to call-in the Facility/ies.
- 4.5 During the course of the Facility/ies and in particular during the course of the development and construction of the property project, you undertake that all the necessary precautions and measures will be taken to ensure that no damage will be caused to third party property. Furthermore, you undertake that in such an event you will suitably compensate any third party who has suffered such damage.
- 4.6 In terms of Legal Notice 376 of 2012 'Energy Performance of Buildings Regulations', an owner or his agent has to obtain an Energy Performance Certificate (EPC) in the form prescribed by these Regulations for when a building is constructed, sold or rented. Should the seller fail to provide you, as the prospective

purchaser, with an EPC of the property to be acquired, within the period of the promise of sale or at the time of signing the contract of sale, you would have the right to engage an Independent Energy Performance Building assessor (registered with the Malta Resources Authority) to issue the required certificate. You are therefore required to provide the Bank with an Energy Performance Certificate (EPC) at least one month prior to the signing of the deed of purchase.

- 4.7 Should you be eligible to benefit from a preferential fixed or variable interest rate on your Facility, based upon your EPC's energy efficiency rating, you are to provide the Bank with an EPC as a basis for the Bank to confirm or otherwise your eligibility to benefit from such preferential rates. The Bank reserves the right to appoint its own independent qualified energy assessor to confirm the validity of any and all ratings shown on the EPC submitted by you. This energy assessment validation will be subject to a fee, as per Bank's Tariff of Charges. In the event that the ratings are not validated and/or a default is found by the Bank's qualified energy assessor in the EPC submitted by you, the Bank may, in its sole discretion, upon notification, revise the preferential interest rates and the Bank's standard interest rates shall apply forthwith.
- 4.8 The property/ies hypothecated in the Bank's favour as security for Facility/ies granted may be subject to a property revaluation every three years or at shorter intervals, at the Bank's discretion, depending on the property market conditions. The Bank-appointed architect will be engaged to carry out property revaluation/s, in line with current banking regulations. Fees and expenses in respect of property revaluations shall be for your account.
- 4.9 We reserve the right to demand / vary / increase the security (if applicable) at any time at our discretion and the security provided is to be considered as applying to all facilities which we may be making available to you from time to time. Moreover, the Bank may hold any moneys from time to time standing at any time to your credit in any account as security for the facilities mentioned in your Sanction Letter and may, without further order from or notice to you, apply such moneys in or towards satisfaction of such indebtedness, refusing payment of cheques or other orders on your account unless after such application, you hold on any account sufficient funds to meet these cheques or orders. We reserve the right to change, vary or add to the entire terms and conditions for the use of the Facility (including the interest rate, term, security requirements, fees, and charges) in line with these Conditions.
- 4.10 The Bank Guarantee/s will be extended on an annual basis and is / are subject to annual renewal fees based on the outstanding renewal amounts.
- 4.11 When the last loan drawdown is affected and full utilisation of the Facility takes place, you authorise us to appear on a deed of Conservation of the Special Privilege mentioned in the Security Clause of your Sanction Letter and to appoint a Notary to publish the relative deed at your sole expense, and your account will be debited with the applicable Legal Fees and expenses.
- 4.12 You acknowledge that, in the event of a payment being made by the Guarantor to the Bank, pursuant to a request for payment under the Guarantee, the Guarantor may be subrogated in all of the Bank's rights, including but not limited to the Security Required, up to the amount of the Payment Demand. So however, that the Bank shall always be entitled to exercise in its own name any rights and remedies available to it under your Sanction Letter or applicable law.
- 4.13 You are required to provide the Bank, through your Notary, with a copy of the searches conducted at the Public Registry and the Lands Registry (Form E) as well as a detailed architect's plan and site plans in accordance with the requirements of the Lands Registry, when liaising with the Bank's legal advisor for the signing of the deed.
- 4.14 You are to ascertain with the Notary the amount of stamp duty due on the property transfer and you undertake to deposit sufficient funds to cover this amount in an APS Account prior to the date of signing of the deed. On such date, the Bank will issue a bank draft in favour of the CFR to cover the stamp duty payment by debiting this account, and in the case of insufficient funds in the Account, the Bank reserves the right to cancel the appointment for the signing of the deed.
- 4.15 Prior to first drawdown of the Facility, you are to provide the Bank with the last ground rent receipt of the property being hypothecated as evidence that the ground rent is paid up-to-date. Furthermore, you are

also urged to either redeem the ground rent or set up standing order arrangements in favour of the direct owner for the timely payment of the ground rent on an annual basis, as and when due.

- 4.16 Sanction of Facility is being communicated subject to the perfection of all security requirements as stipulated in the 'Specific Conditions' section within your Sanction Letter. Fees in connection with the perfection of security shall be debited to your account to cover any third-party costs required for the verification of any security items required by the Bank, as stipulated in your Sanction Letter.
- 4.17 Should you sell the property being financed, all sales proceeds will be applied in permanent reduction of the Facility.
- 4.18 Payment of premia of insurance policies pledged in favour of the Bank are to be effected by standing order serviced through your Service Account, in which your income must be directly credited or deposited. In default of payment of insurance premia, you hereby authorize the Bank to debit any of your accounts having a credit balance and reimburse the Bank, without prior notification. This authorisation will automatically terminate on date of full settlement of the Facility and these payments will cease as of such date, after which you are required to make separate arrangements, and the Bank shall not in any way be held liable for any/all claims made after this date.

## 5. Events of default

If during the term of your agreement, an Event of Default takes place, the Sanction Letter may be withdrawn by the Bank, and any sum of principal and interest outstanding in favour of the Bank shall be immediately due and payable (together with all charges and expenses). All rights appertaining to the Bank shall be exercisable, and all the security shall become enforceable, forthwith. In such an event, you shall lose the benefit of any time granted to you for payment and this without the necessity of any notice or other proceedings.

In these Events of Default, the following interpretation shall apply:

In the case of a suretyship, the term "Borrower/s" shall also include the "Surety/ies";  
The term "Borrower/s" shall also include the term "Customer/s".

There shall be an event of default in any of the following:

- a. if it should become apparent to the Bank that any matter disclosed, warranted or represented (expressly or by implication) to the Bank by or in respect of the Borrower/s was or has become, materially or adversely misleading or incorrect;
- b. any failure by the Borrower/s to pay any sum due whether of principal, interest, fees or charges due by the Borrower/s under the deed granting the Facility and/or the relative Sanction Letter/s and in the manner stipulated therein;
- c. any failure by the Borrower/s to comply with, or any act or thing evidencing an intention not to comply with, the terms and conditions of the deed granting the Facility and/or the relative Sanction Letter/s and/or the General Lending Terms and Conditions and/or the General Terms and Conditions and/or product specific Terms and Conditions and any omission to observe any obligation and undertaking expressed in the documents regulating the Facility, which the Bank may reasonably consider material;
- d. any breach or event of default under any other agreement in respect of any other indebtedness (whether owed as principal or surety) of the Borrower/s;
- e. the cessation (or threatened cessation), transfer, transmission or assignment (whether by agreement, operation of law, or otherwise) of the whole or a substantial part of the Borrower/s' business or of the Borrower/s' beneficial interest in it or control of it;
- f. the suspension of payment of debts by the Borrower/s or any act or proceedings whether of the Borrower/s or another person which either by itself constitutes, or could directly result in a formal step being taken for:

- i. the Borrower/s to be declared, adjudicated or found to be bankrupt or insolvent; or
  - ii. entering or seeking or proposing any composition or voluntary arrangement with creditors or scheme of arrangement of the Borrower/s' affairs or the Borrower/s becoming unable to pay their debts as they fall due; or
  - iii. the administration, dissolution, winding up or analogous proceedings of, or in respect of, the Borrower/s or any of the Borrower/s' assets; or
  - iv. the appointment of an administrator, liquidator, curator, or similar officer of the Borrower/s.
- g. any event upon the occurrence of which any security (which shall include any guarantee) shall become enforceable;
- h. the termination or variation without the Bank's prior written consent of the continuing nature or priority of any security or upon the occurrence of which any such security becomes wholly or partially void, invalid or unenforceable;
- i. any circumstance arising which may negatively affect the value or nature of the security held by the Bank or the Borrower/s' financial position;
- j. any order or recommendation by a court, governmental or other competent authority for the attachment or the taking possession of, by way of execution, sequestration, warrant, whether precautionary or executive, or other process levied or enforced upon or sued out against, all or any of the Borrower/s' assets, rights or revenues;
- k. any change in the beneficial interest and/or control of the Borrower/s which in the Bank's reasonable opinion could negatively affect the Borrower/s' standing or repute;
- l. the non-issue, revocation, modification, lapse or non-renewal of any licence, consent, authorization, permit or any other certificate which could in any way prejudice the performance by Borrower/s of any of the obligations undertaken in the deed granting the Facility and/or relative Sanction Letter/s;
- m. Any event which in the Bank's reasonable opinion gives grounds for belief that the Borrower/s may not perform any obligations referred to in the deed granting the Facility and/or the relative Sanction Letter/s;
- n. any failure by the Borrower/s to comply with any development permit including the terms and conditions thereto, which has been issued and/or amended from time to time by the competent authority, as well as the commission of any breach of law, regulation, decision, award or order, resulting therefrom, which, by its commission, negatively impacts the reputation of the Bank, and this notwithstanding the submission of any application for rectification by the Borrower/s;
- o. any failure by the Borrower/s to repay or discharge in full any of their indebtedness (whether owed as principal or Surety) to the Bank or any other party, when this falls due and payable; or any creditor of the Borrower/s becomes entitled to declare any such indebtedness due and payable prior to the date when it would otherwise have become due or any guarantee or indemnity of the Borrower/s in respect of indebtedness is not honoured when due or called upon;
- p. there occurs, in the opinion of the Bank, a material adverse change in the financial condition of the Borrower/s.
- q. it becomes unlawful at any time for the Borrower/s to perform all or any of his obligations in the document/s regulating the Facility.
- r. if the Borrower/s commences negotiations with one or more of its creditors with a view to the general readjustment or rescheduling of all or part of its indebtedness, or proposed, or enters into any composition or other arrangement for the benefit of its creditors generally or as class of creditors or proceedings are commenced in relation to the customer under any law, regulation or procedure relating to the reconstruction of debts.

- s. an act whether of the Borrower/s and/or his Surety/ies or another person which either by itself constitutes or could directly result in a formal step being taken for the administration, bankruptcy, dissolution, or analogous proceedings of or in respect of the Borrower/s and/or the Surety or any of Borrower/s' and/or Surety/ies' assets or the levying of execution against all or any of Borrower/s' and/or Surety/ies' assets.

## Contact us

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