



Fiji Development Bank

GENERAL TERMS AND CONDITIONS OF THE LOAN OFFER

- (a) The terms and conditions set out herein and the obligations imposed on you and the rights and powers of FDB under the provisions of the Fiji Development Bank Act Chapter 214 as amended from time to time will form the terms and conditions of FDB's securities.
- (b) All out of pocket expenses incurred by FDB together with FDB's usual fees in connection with any of its services, whether it be directly or indirectly offered, will be debited to your account and are payable by you irrespective of whether or not the loan is disbursed.
- (c) In the event the loan is withdrawn, you are liable to meet all the costs/fees pertaining to the preparation, stamping and registration of security documentation and fees incurred after loan acceptance.
- (d) Any undrawn portion of the loan remaining after three months from date of acceptance of the Offer or such other dates as advised by FDB will be subject to a Commitment fee as stipulated in the **Schedule of Fees and Charges** brochure attached for your information. The Commitment Fee will be charged to the account on a monthly basis.
- (e) The Facility shall be repayable on demand and until demanded, shall be repayable in accordance with the repayment arrangements applicable to each facility as set out herein. Demand can also be made upon a material breach or event of default by the borrower and/or the mortgager.
- (f) Loan funds will be made available against such evidence of expenditure or reports as FDB may require and FDB reserves the right to discontinue making disbursements or further disbursements of the loan funds at any time for any reasons whatsoever upon written notification to you.

1. SUMMARY OF LOAN FACILITY

Full Details of your Loan Facility together with product details are summarised in the Loan Facilities - Schedule 1.

2. PURPOSE

Unless otherwise agreed by FDB in writing, the purpose of the Loan Facility is stated in Loan Facilities - Schedule 1.

3. TERM

The total term of the Term Loan Facility is stated in Loan Facilities - Schedule 1.

4. INTEREST RATE

- (a) Interest Rate (Fixed Rate and Variable Rate) chargeable on the Loan Facility is stated in the Loan Facilities - Schedule 1.

- (b) Unless otherwise stated, the interest rate is subject to change at any time, generally in response to market conditions. Changes to the Interest Rate will be at FDB's discretion and you will be advised of the same within 1 month prior to the effective date.
- (c) For Export Credit Facility (ECF) and Import Substitution and Export Finance Facility (ISEFF), the interest rate is subject to change upon advice from the Ministry of Commerce, Trade, Tourism and Transport (MCTTT) and the Reserve Bank of Fiji (RBF) respectively.
- (d) Any changes to the interest rate applicable to the Facility will require a review of repayment arrangements and other conditions generally as articulated in Clause 14 hereof.
- (e) Once a change in interest is made by FDB you will then have the following options:
 - i. accepting the new Interest Rate and the new repayment; or
 - ii. paying off the loan; or
 - iii. refinancing your debt with another financier/lender.
- (f) FDB also reserves the right to change the Fixed Rate applicable to the Loan Facility should the Principal Sum not be fully drawn within days of your acceptance of this Offer or as otherwise advised in writing by FDB. At the end of the Fixed Rate period, the Variable Rate will automatically commence without any further notice to you.

5. INTEREST CALCULATION

- (a) Interest will be calculated on your daily loan balance and charged to the respective accounts at the end of each calendar month and/or at such intervals as FDB may determine from time to time.
- (b) Unpaid interest will be automatically added to the Principal Sum at the beginning of the next calendar month.
- (c) Interest will start to accrue on the account from the date of the first drawdown of loan fund(s). Fees and charges debited on the account will start to accrue interest upon the first loan disbursements.
- (d) If there is a further Loan on the Same Account interest will continue to be charged on the debit balance even if the further loan funds have not been disbursed.

6. TOTAL AMOUNT OF INTEREST PAYABLE

The total amount of interest payable during the term of the Loan Facility depends on a number of factors including but not limited to regularity and timing of your repayments without any default, fluctuations in Interest Rates and any variations to the Principal Sum (including bulk repayments or redraws). As such, it would be difficult to ascertain the exact amount payable during the term of the Loan Facility.

7. REPAYMENTS

The loan repayments applicable to the Loan Facility are detailed in the Loan Facilities - Schedule 1.

8. EARLY EXIT

- (a) Without prejudice to FDB's rights under the Property Law Act or any other law which may be in force at the material time and subject to the other terms of this clause, you must give FDB at least three months' notification for mid-stream settlement. Failure to do so, you will be charged an early loan exit fee equivalent to three months' interest (minimum \$1,000) on the outstanding loan balance."
- (b) The Early Loan Exit Fee is not applicable to Loans with debt level below \$200,000.00.

9. FREQUENCY OF REPAYMENTS

You may opt for either of the options listed below:

(a) Monthly

The monthly repayment is due on or before the due date specified in the Loan Facility Schedule.

(b) Other Periods of Payment

FDB may at its discretion agree to a 6 Monthly repayment or Annual Repayment or any other alternative repayment arrangement.

10. FDB'S DEFAULT RIGHTS

(a) An event of default occurs:

- i. If you do not make any payment by its due date;
- ii. If there is any breach of any repayment terms or conditions of this Offer, the Facility, or any other facility already provided to you by the Bank, or any Security provided to FDB for this Facility or any other facility;
- iii. If, in FDB's opinion, any event or circumstance arises causing a material adverse change in your financial situation likely to affect your ability to meet your repayment obligations under this Offer or Facility or any Security for it.

(b) A material adverse change includes, but is not limited to:

- i. death; or
- ii. termination of employment; or
- iii. bankruptcy, insolvency, receivership or liquidation; or
- iv. enforcement proceedings by any creditor on any assets given by you or any guarantor as security for this Facility; or
- v. any reduction in the value of property mortgaged to FDB as security for this Facility; or
- vi. any insurance over the mortgaged property being cancelled or declined; or
- vii. any information supplied to in connection with this Facility or any security for this Facility being found to be untrue or incorrect.
- viii. any event whether political, social, economic or climatic that may impact directly or indirectly on the Facility

(c) Prior to FDB exercising its rights under the Securities and/or requiring immediate repayment of the default amount in full, you will be given 30 days' written notice to allow you an opportunity to remedy the default. If FDB for any reason fails to give you notice regarding any event of default, then this does not mean that FDB has waived its right to do so later.

However, FDB will not give you such notice if:

- i. FDB, on reasonable grounds, believes that it was induced by fraud on your part to issue you with this Offer or to enter into this Facility, or
- ii. FDB has made reasonable attempts to locate you, but without success; or
- iii. a Court authorises FDB to require immediate repayment without giving you such a notice; or
- iv. FDB believes on reasonable grounds that Assets given to FDB as Security have been or will be removed or disposed of without FDB's permission; or

- v. FDB believes on reasonable grounds that urgent action is necessary to protect the Assets given as Security for this Facility;
- vi. If (being a corporation), in FDB's opinion, there is a change in your effective control without FDB's prior written consent.

Remedy on Default

a) On Defaults as to Repayments

If repayments are not made within this period or if you fail to perform or observe any other terms and conditions of this Loan Facility, then you will be in breach of the Loan Facility conditions in which event FDB has the right to charge the Monthly arrears fee as well as exercise the rights set out in **Schedule 3**.

b) Demand on Entire Debt

In the event FDB becomes entitled to demand payment of the entire debt, in which event the entire debt amount will be in default, FDB will exercise its rights set out in **Schedule 3**.

c) On Other Breaches

If you fail to perform and observe any other terms and conditions of the Loan Facility after being served with a 30-day Notice, then FDB may exercise its default rights to call up the entire debt.

Note: The above penalties are reviewed from time to time depending on the market conditions and are subject to change at FDB's discretion subject to notification to you prior to the change.

12. DEFAULT FEE WHEN ARREARS ARE OVER 30 DAYS

FDB is entitled to charge a default monthly fee of \$25.00 if there are arrears which exceed 30 days.

13. FINANCIAL REPORTS

The Borrower must comply with the following:

- (a) The Borrower(s) is/are required to furnish Business Financials (Balance Sheet, Profit and Loss Statement and any other information relevant to the operations of the business or company) and Cash Flow Projections for the next 12 months to FDB at least on an annual basis within 90 days of the annual balance date. This financial data is to be prepared by a registered qualified Accountant in accordance with generally accepted accounting principles consistently applied in Fiji. Failure to provide the financial reports on time constitutes a default under this Letter of Offer and will entitle FDB to charge default rate as expressed in this Letter of Offer.
- (b) The Borrower shall submit a financial statement in the following form:
 - a borrower having a turnover of above \$5.0 million shall submit audited financial statement.
 - a borrower with a turnover of below and including \$5.0 million shall submit an unaudited financial statement.
- (c) In addition, FDB may at its discretion direct the customer to furnish audited financial statements regardless of the turnover.
- (d) Should you fail to supply the audited financial statements a fee of \$200 will be charged every quarter from the annual balance date until the relevant financial statement is submitted.

- (e) Provide any financial or other information as FDB may reasonably request from time to time.

14. REVIEW OF THE FACILITY

- (a) Notwithstanding Clause 5(b), FDB has the right to review the Facility (the pricing and Securities, including the terms and conditions of the Facility) in accordance with this clause.
- (b) If after a credit risk assessment, FDB determines that there has been a change in circumstances in the credit risk, FDB may in its absolute discretion give notice in writing:
 - i. to change any of the terms and conditions of the Facility provided;
or
 - ii. to terminate the Facility,
- (c) If FDB wishes to change any of the terms and conditions of the Facility and gives you notice accordingly, then unless otherwise agreed with you:
 - i. the changes in the Facility take effect from the day when you accept the changes; or
 - ii. if you do not accept the changes before the end of notice period, then the Facility becomes due and repayable.
- (d) Any notice to terminate given by FDB under Clause 14(b)(ii) hereof shall take effect at the end of the *30-day* notice period. You must pay FDB immediately upon termination, the outstanding money under the Facility (including any costs or losses determined by FDB).
- (e) The terms and conditions of the Facility being the subject of the Review under Clause 14 are separate and distinct from changes to interest rate payable pursuant to Clause 5 hereof.
- (f) FDB retains the right to assign or sell any part of its Loan Portfolio. If FDB sells or assigns or sells any part of its Loan Portfolio and such assignment includes your loan, then FDB shall advise you in writing once the Assignment has been effected. By signing this Loan Offer Letter, you are agreeing and consenting to FDB having the right to sell or assign your loan to a third party on the same terms and conditions as are contained in this Loan Offer Letter.

15. ARREARS LETTERS, DEMAND NOTICE & AUTHORITY TO SEIZE

- (a) FDB reserves the right to serve you with Reminder/Arrears Letters and Demand Notices.
- (b) FDB also reserves the right to serve Authority to Seize/Seizure Notice upon you and immediately seize and take possession from you any chattels which is held as security with us should your account be in arrears.
- (c) Take note that Demand Notice and Authority to Seize/Seizure Notice can be served simultaneously at FDB's discretion.

16. FEES, COSTS & CHARGES

- (a) Details of fees, costs and charges applicable to the Loan Facility are provided in the attached **FDB Schedule of Fees and Charges** and relative **Product Information Brochure**.
- (b) FDB reserves the right to review its fees, costs and charges, introduce new fees, costs and charges and/or vary the frequency and timing of charging them by giving you 30 days' prior notice. The Borrower acknowledges and agrees that notices can be sent via post, email, fax or advertisement.
- (c) Apart from FDB's standard fees and charges, you will also be required to pay:
 - i. all legal costs for the preparation of the Securities, payment of all disbursements including search fees, consent fees, land rent, town rates, stamp duty, registration fees, termination and amendments fees under PPSR and other outgoings and charges and also includes such other charges such as statutory charges imposed on FDB
 - ii. the legal cost and disbursements for the conveyance of the property where you are purchasing one. You may qualify for exemption from payment of stamp duty on the Transfer and the Securities and we recommend that you seek your own independent legal advice on this;
 - iii. all the legal cost and expenses for the enforcement of the Securities in the event of any default by you in observing the terms and conditions of this Loan Facility.
 - iv. any other relevant fee and charges under your authority.
- (d) Where you require discharge of part and/or all of the Securities provided by you upon, either full clearance of the Loan Facility and/or if FDB agrees to discharge any of the Securities before the Loan Facility is fully paid off, then appropriate settlement fee applicable at that time will be payable by you prior to each settlement attended by FDB.
- (e) You will be provided with FDB's current fees, costs and charges relating to enforcement actions in the event of any default by you.

17. SECURITY

The Securities to be taken to secure the Loan Facility are stated in the List of Securities- **Schedule 2**.

SECURITY CONDITIONS

The Securities detailed herein will be continuing Securities. They will extend to secure any sum of money that at any time is owed by you (either alone or as a joint account or any other account whatsoever) to FDB. In addition to the specific documentation details, you will execute (or arrange to have executed) such supplementary and ancillary documents as FDB may require to perfect the Securities from time to time.

18. INSURANCE

As part of your responsibilities as Borrower:

- (a) Securities detailed in the Security Schedule must be fully insured during the term of the loan. All insurable assets must be insured for full replacement/market value against loss or damage by fire, hurricane, earthquake, cyclone/windstorm, flood and such other risks as FDB may from time to time advise with FDB's interest noted on the policy document. The Policy document is to be provided to FDB prior to drawdown of the Facility;

- (b) The required minimum level of insurance cover for FDB's purposes will be reviewed by FDB from time to time. It will be your responsibility to ensure that the required minimum level of cover is maintained throughout the term of the Facility;
- (c) FDB may require the Securities to be insured with an insurance company acceptable to the Bank;
- (d) To note FDB's interest as Mortgagee/Loss Payee on the Insurance Policies;
- (e) The security is to be insured to a value not less than the replacement/market value assessed against registered valuation report from a reputable valuer enlisted on FDB's Panel of Valuers for properties. For property assets this includes the replacement value of the improvements.
- (f) To renew the insurance policy every year and maintain its continuity for the duration of the term of this loan;
- (g) To ensure that the required level of Insurance Cover as set from time to time is maintained throughout the term of the Loan Facility;
- (h) To pay the premium for the insurance policy and any renewals thereof before expiry; and
- (i) To provide current Insurance Policy to FDB before settlement or drawdown and all renewals thereof. Throughout the duration of the loan the insurance policy must be kept current.
- (j) The options in terms of premium payment are stated as options (i) and (ii) below:
 - (i) Payment of insurance premium by you 10 working days before the expiry date where repayment is made up of principal and interest only (P + I).

Should you fail to provide renewal advice for the insurable assets detailed in the Security Schedule prior expiry, FDB may consider the option to renew the cover with the existing underwriter, or obtain a fresh cover with its Insurance Agency as Security Interest holder. FDB will keep you informed if it is unable to renew the policy for reasons beyond its control. As the borrower and/or owner of the asset, you are still responsible for insuring the asset.

In the event of premium payment by FDB, the premium shall be debited to your account and payable by you. Failure to immediately pay the premium shall constitute a default under this loan agreement and will entitle FDB to take such actions including recovery action as FDB may deem fit.

OR

- (ii) Payment of insurance premium by FDB where repayment is inclusive of principal, interest and insurance. (P + I + I)

In this instance, FDB shall pay the premium to the insurance company. FDB shall recover over 12 months such insurance payment in addition to the normal stipulated repayment as shown in the Facility Schedule.

19. VALUATION REPORTS [IF APPLICABLE]

- (a) During the term of the Facility, the Assets listed in the Security Schedule including the land and building must be valued for the Bank at least once every 3 years or lesser if in the opinion of the Bank there is any material change in the value of the Assets listed. In this regard, the Bank may directly instruct a registered Valuer for a valuation of the Assets. Valuation reports are to be addressed to the Bank with confirmation from the Valuers that the subject valuations satisfy the Bank's requirements and can be relied upon for mortgage lending purposes. Any costs associated with such valuation can be paid upfront or can be debited to your account and are payable by you.

By acceptance of this Letter of Offer, you are authorizing FDB to automatically debit your account for any such cost.

- (b) The valuation must be provided by one of the Bank's Panel of Valuers.

20. STATEMENT OF ACCOUNT

FDB shall provide you with a Statement of Account as at 30 June and 31 December for each year. You may request Statements on a more regular basis subject to payment of requisite fee as per FDB's schedule of Fees & Charges. FDB will provide electronic statements if the Borrower so requests.

21. REPRESENTATIONS AND WARRANTIES

Upon acceptance of this Offer, the following representations and warranties are made by you:

- (a) Accepting of terms and conditions outlined in this Offer by you constitutes a legal and binding obligation upon you and all guarantors. It is enforceable in accordance with the terms of this Offer;
- (b) The execution and performance of the terms of this Offer will not violate any provision of the Memorandum and Articles of Association of your company or any guarantor;
- (c) That neither you nor any guarantor is in default under any agreement, undertaking or instrument to which it is a party or by which it may be bound, such default being material in the context of this Offer, and no event has occurred which with giving of notice, lapse of time, or both, or other conditions would constitute such default under or in respect of any such agreement, undertaking or instrument.
- (d) Except as notified to FDB in writing prior to the acceptance of the terms of this Offer, no litigation, arbitration or administrative proceedings are at present current or pending or, to your knowledge, threatened which would have a material adverse effect on your business, assets or financial condition or those of any guarantor;
- (e) Except as notified to FDB in writing prior to the acceptance of the terms of this Offer, you are not entering into the Facility as Trustee for any Trust nor is any guarantor acting as a Trustee of any Trust.
- (f) The financial accounts provided by you and the guarantors accurately reflect your and/or the guarantor's true and correct financial position as at the date of such account.
- (g) Acceptance of this offer is assurance to FDB that your business is compliant with the current environmental law and other legislations applicable at the material time including laws relating to money laundering, anti - terrorism, gender equality, employment and other social justice and the Environment and Social Safeguard Framework for sustainable energy financing.
- (h) This offer is made on the basis of statements, representations and information provided by you as contained in your Credit Application. By accepting this Letter of Offer, you warrant that everything in the application is true, correct and not misleading. If any disclosure made is incorrect, untrue or misleading, FDB may cancel the Loan Facility and require you to immediately repay any money that may have already been disbursed. It may also sue you for any damage it has suffered as a result.
- (i) Any statement, representation, promise or information of any kind given by FDB or its representatives, whether in answer to your queries or otherwise do not form part of this Letter of Offer unless they are contained in this Letter of Offer. In making this offer and in advancing you any funds under the Principal Sum, FDB does not warrant the state or condition of any property being funded. It does not warrant that the purchase price is reasonable where the purpose of the Loan Facility is to provide such funding.

- (j) In the case of property under construction it does not warrant that the structure is sound or that the work complies in every aspect with the plans or specifications. Nothing stated or implied in this Letter of Offer imposes any legal liability or obligation on FDB in those respects.

22. CREDIT REFERENCE AGENCY

Acceptance of this Offer gives right to FDB to:

- (a) Obtain credit and/or character references and other related checks for the borrower, the guarantor and owners of other collaterals from other financial institutions' credit reference agency or other search platforms.
- (b) Disclose to any credit reference agency at any time confidential credit financial and/or other business information about the borrower, the guarantor and any other third party security givers in the event of default.

23. ACCEPTANCE

To accept this Loan Facility, you must sign the original and copy of this Letter of Offer together with the following attachments and return a signed copy within **30 days** from the date of this Offer:

- (a) Loan Facilities - Schedule 1
- (b) List of Securities - Schedule 2
- (c) Acknowledgment of FDB's Rights on Default - Schedule 3
- (d) Acknowledgment of Financial Advice - Schedule 4
- (e) Statement of Declaration and Authority by Borrower(s) - Schedule 5
- (f) Acceptance Note - Schedule 6
- (g) Surety Acceptance Note by Guarantor(s) – Schedule 7
- (h) Fees and charges

Note that you will not be required to sign a separate Loan Agreement. Once you sign, initial and return these documents, they together will form part of your Loan Agreement with FDB.

This Offer contains all the information which FDB is required to give you under Consumer Credit laws. You will not receive any other written pre-contractual disclosure or information statements. FDB recommends that before you accept this Letter of Offer, you should seek independent financial advice, particularly on the terms relating to interest, fees and charges. You should also seek independent legal advice from your solicitor on your obligations should you accept this Letter of Offer and give Securities or any supplementary documents which you are obliged to provide as security.

24. SPECIAL CONDITIONS

Special Conditions stated in **Schedule 1 and all other pre-acceptance conditions** are to be fully complied with to the satisfaction of FDB before the Loan Facility or any part of it is disbursed.

You may also be required to provide any financial/other information as FDB may reasonably request from time to time.

25. GENERAL CONDITIONS

- (a) The Loan Facility unless and until demanded shall be repayable as stated in the Loan Facilities - Schedule 1.
- (b) FDB will review your account on an annual basis with the first such annual review due on or before the annual review date.

- (c) FDB reserves the right to review the basis on which the Loan Facility is provided at any time but at least once annually (which includes any/all Variable Interest Rates, margins and fees, credit risk assessments and the timing of the charging thereof) during the term of such facilities. FDB may terminate the Loan Facility if in FDB's opinion; there have been material adverse changes in your financial conditions.
- (d) By accepting this Letter of Offer, you acknowledge and agree to the terms and conditions contained in this Letter of Offer which constitutes a legal and binding obligation on you and is enforceable in accordance with the terms of this Letter of Offer.
- (e) FDB's written consent is to be obtained first before entering into any arrangement(s) which would involve additional borrowing(s) from any other source(s) or which would create additional charge(s) or liability/liabilities on any asset(s) secured to FDB.
- (f) Any difference or dispute arising between the parties (or their respective representatives) which at any time arises out of or in connection with the terms of this Letter of Offer, or the breach thereof, shall be acknowledged to within 24 hours or the next business day, thereafter if a resolution is not achieved, the dispute may by mutual consent be referred to Mediation and failing which the matter in dispute may be referred for decision to an Arbitrator to be agreed between the parties. In the event of failure to agree to dispute resolution procedure set out herein either party may commence an action in the Courts of Law of Fiji which shall have jurisdiction to entertain any action in respect of this Letter of Offer or any contractual agreements in relation from this Letter of Offer inclusive of any disputes and differences arising from any such representations.
- (g) This account will be conducted in compliance with and will be regulated by the Financial Transaction Reporting Act and any other governing laws or regulations in place from time to time.
- (h) By accepting this Letter of Offer, you acknowledge and agree that you will comply with all tax regulations and all your taxes are duly paid.

26. DRAWDOWN

- (a) The Loan Facility will be disbursed by FDB in one instalment for the full amount or in progressive drawdown against documentary evidence only after all the terms and conditions including the Special Conditions stated in this Letter of Offer are satisfactorily complied with at the discretion of the Bank. In addition, you may be required to provide FDB with relevant documents required to provide disbursement.
 - (b) FDB reserves the right to terminate the Loan Facility and/or refuse disbursements or further disbursements of the Loan Facility at any time whatsoever if:
 - i. you have given or give false, incorrect and/or misleading information to FDB; or
 - ii. if there are any breach of any of the terms and conditions of the Loan Facility, changes in the Credit Risk rating, breaches of the terms of the guarantee and/or security conditions or breach of any other arrangements with FDB.
 - (c) Drawdown of the Loan Facility (Funds) is to be effected in compliance with the terms and conditions stated herein. If for any reason, the Loan Facility is not drawn within 30 days or other agreed availability period as agreed by FDB from the date of acceptance of this offer, then FDB reserves the right to cancel this Loan Facility without any notification or liability to the Borrower.
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