



## **Most Important Terms and Conditions**

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## **SMART EMI- IN STORE**

### **SCHEDULE**

## **MOST IMPORTANT TERMS & CONDITIONS (CONSUMER FINANCE**

### **MOST IMPORTANT TERMS AND CONDITIONS (MITC) APPLICABLE TO LOANS FOR KOTAK MAHINDRA (KMBL) CONSUMER FINANCE**

#### **MEANING AND INTERPRETATION**

“**ANNEXURE**” shall be and mean the **ANNEXURE**(s) which also include the Loan Application Form submitted by the Borrower, to this MITC;

“**Due Date**” means the date on which an Equated Monthly Installment/Periodic Installment (Installment) of the principal amount of the Loan and/or interest and/or any other amount payable under this MITC and/or the Loan Balance, as the case may be, is due for payment under any **ANNEXURE** of this MITC;

“**Product**” shall means specified Consumer Durables, Digital, Lifestyle Products and such other products and/or services as may be approved by Lender that may be purchased/availed by the **BORROWER** using the Loan or any part thereof, and “Product” shall be construed accordingly. Product is described more particularly in Annexure.

“**Credit Information**” means all information, documents, representations, particulars of operations and business, financial information, representations on future business prospects and clarifications which has been or may hereafter be furnished by the **BORROWER** to the **LENDER** from time to time.

“**Affiliate/s**” means, (a) with reference to an individual any relative of such individual or any partnership firm where such individual or relative of the individual is a partner, or any company where the individual or relative of the individual is a director in control of the company (b) with reference to a company a person that directly, or indirectly through one or

more intermediaries, controls, is controlled by, or is under common control with, such company; (c) with reference to a partnership firm, any partner of such partnership firm or any company in which such partner is a director; (d) with reference to a HUF, all the members of such HUF; (e) with reference to a trust, all the trustees of such trust; (f) with reference to an Association of Persons, all the persons belonging to the Association of Persons.

“The **LENDER**” shall mean Kotak Mahindra Bank Limited (KMBL) & where the context so admits means and includes its successors and assigns and the expression

“**BORROWER**” shall mean the person who has been sanctioned a Loan by Lender, pursuant to the submission of a duly filled Application Form & unless it be repugnant to the meaning or context thereof, mean and include, where the party concerned is an individual or a proprietorship firm, his/her heirs, executors and administrators; where the party concerned is a partnership firm the partners or partner for the time being of the said firm, the survivors or survivor of them and the heirs, executors and administrators of the last surviving partner; where the party concerned is the Karta of a Hindu Undivided Family and the borrowing/guarantee is for the purposes of the Hindu Undivided Family, the member or members for the time being of the said Hindu Undivided Family, and their respective heirs, executors, administrators and assigns; and where the party concerned is a company, its successors in title, where the party concerned is an unincorporated body, all the members of such body and their respective successors, where the **BORROWER** is the Governing Body of a Society, respective successors of the members of the Governing Body and any new members elected, appointed or co-opted and where the **BORROWER** is the Trustees of the Trust, their successors.)

“**Indebtedness of the BORROWER**” means any indebtedness of the **BORROWER** and/or to the **LENDER** and / or it’s holding/subsidiaries/ associate /affiliate / group company at any time for or in respect of monies borrowed, contracted or raised (whether or not for cash consideration) or liabilities contracted by whatever means (including under guarantees, indemnities, acceptance, bond, credits, deposits, hire purchase and leasing by the **BORROWER**/ or by a person or entity related to or connected with the **BORROWER**/)

**“Customers’ Internal Rate of Return (CIRR)”** means the rate of interest applicable to the loan amount sanctioned to the **BORROWER** over the tenure of the finance facility and is more specifically described in the **ANNEXURE** to this MITC.

**“Down payment/Margin Money”** means the amount paid by the **BORROWER** to the **LENDER** or to the Dealer towards the **BORROWER’s** contribution towards the purchase price of the Product and is more specifically described in the **ANNEXURE** to this MITC.

In this MITC, unless the context otherwise requires:

- The pronouns “he”, “she”, “it” and their cognate variations are used interchangeably and should be interpreted in accordance with the context;
- Words denoting a person shall include an individual, corporation, company, partnership, trust or other entity;
- References to the word “include” or “including” shall be construed as “including without limitation”;
- Reference to any party to this MITC or any other agreement or deed or other instrument shall include its successors and permitted assigns;
- The **ANNEXURE/s** to this MITC shall form an integral part of this MITC;

#### **1. Scope:**

The **LENDER** agrees to lend to the **BORROWER** and the **BORROWER** agrees to borrow from the **LENDER** on the terms and conditions contained herein, a sum as mentioned in the **ANNEXURE** (hereinafter called the **“Loan amount”**) for purchase of the Product thereon as briefly mentioned in the **ANNEXURE** and/or any communication from the **BORROWER** to the **LENDER**.

#### **2. Repayment:**

- i) The **BORROWER** agrees that so long as the Loan shall continue, the **BORROWER** shall:
  - a) Pay the **LENDER**, the sums mentioned in the **ANNEXURE**. The **BORROWER** shall pay the installments as per the due dates mentioned in the **ANNEXURE** and/or any repayment Schedule drawn pursuant to this MITC.
  - b) Pay the **LENDER**, without prejudice to the rights of the **LENDER**, on demand made by the **LENDER**, **late payment charges at the rate as specified in the ANNEXURE**, on the amount that has remained outstanding beyond due date till the date the payment has been made by the **BORROWER** to the **LENDER**. The **late payment charges** shall be calculated from the date the Installment was due till the date the payment has been made.
- ii. The **BORROWER** shall in addition to the payment set out above, also pay and agree to observe and comply with the following:
  - a) Down payment/Margin Money upon the execution of this MITC. For the purpose of the MITC, Down payment/Margin Money shall be as set out as per the **ANNEXURE**.
  - b) **Documentation and service charges** as per the **ANNEXURE** upon execution of this MITC.
  - c) **Post-dated Cheques**
  - d) The **BORROWER** shall handover to the **LENDER** on the execution of this MITC, post-dated cheques (PDCs) for the amount of the Installment's which cheques shall be encashed by the **LENDER** on the due dates. It is further agreed by the **BORROWER** that if so directed and called upon by the **LENDER**, he shall in lieu of the PDCs mandate its bankers at its own cost, responsibility and consequences, to debit the Installments and/or any charges directly from his account maintained and without prejudice, the **BORROWER** shall be bound and liable to pay all sums to the **LENDER** on the due dates specified herein and time for payment of the same shall be essence of this MITC. On the failure of the **BORROWER** to effect payment on the due dates specified herein the **LENDER** shall be entitled to the remedies as available under this MITC.
  - e) Without prejudice to the **BORROWER**'s liability to pay the Loan, the **BORROWER**/ / as the case may be, and if so required by KMBL shall, arrange with his bank for

automatic transfer of the installments from his bank account to KMBL's bank account by way of the Electronic Clearing System.

- f) Any dispute being raised about the computation of the Installments will not entitle the **BORROWER** to withhold payment of any Installments or any portion thereof. It is agreed and understood by the **BORROWER** that the obligation of the **BORROWER** to pay the Installments is absolute and unconditional pursuant to his having executed this MITC. Dishonour of any PDC/return of any Electronic payment clearance Mandate without realization shall attract **cheque dishonour charges** as mentioned in the **ANNEXURE** hereunder.
- g) The payment of the Installments shall commence/Due as agreed in the **ANNEXURE** irrespective of the delivery of the Product.
- h) Whereas although the **BORROWER** has agreed to give PDCs/Electronic Mandate for payment of Instalments, any non-presentation on the part of the **LENDER** due to any reason whatsoever shall not affect the liability of the **BORROWER** to pay the said Instalments. The **BORROWER**, at its own cost and expense, agrees to replace the cheque(s) if so required by the **LENDER**.
- i) The **BORROWER** (if had given such PDCs/Electronic Mandate in discharge of the **BORROWER's** obligation under this MITC) as the case may be shall not at any time close the bank accounts / from which PDCs/Electronic Mandate have/has been issued and/or issue any communication to the **LENDER** for stopping or postponing the presentation of the said PDCs/Electronic Mandate and any such communication if sent shall be regarded as a dishonour of the cheque drawn and constitute default of the terms of this MITC.
- j) The **BORROWER** irrevocably agrees that the Installments will be increased by any incremental taxes, whether GST or any other central or state taxes or any other related and consequential charges now or hereafter levied on this transaction, with retrospective or prospective effect. The Installments shall also be increased, by any increase in the purchase price of the Product in the intervening period between placement of the Order and its acceptance and eventual delivery of the Product, if such increase in the price is funded by way of Loan to the **BORROWER**.

The **BORROWER** agrees and undertakes to promptly (and in any event within 7 days of being so required by the **LENDER**) pay the following:

- i. all present and future duties, taxes, expenses and any other charges whatsoever in relation to this MITC, the Product(s) and/or the Security and
- ii. all other charges, costs and expenses from time to time specified by the **LENDER** (including all costs and expenses incurred or paid by the **LENDER**) in relation to this MITC in accordance with the provisions of this MITC and
- iii. all expenses and charges, including legal charges, incurred by the **LENDER** for enforcement of this MITC and/or any Security including those incurred for repossession and/or sale of the Product(s) and/or for recovery of the Loan Balance or any part thereof.

If the **LENDER** in its discretion makes any such payments, the **BORROWER/** and/or undertakes to reimburse the **LENDER** within 7 days of being informed by the **LENDER** of the same, along with interest thereon at the rate mentioned in the **ANNEXURE** or otherwise communicated hereinafter in respect of the Loan. In particular, the **BORROWER** agrees and undertakes to pay the charges, costs and expenses as mentioned in the MITC.

### **3. Covenants & Undertakings:**

**The BORROWER expressly agrees, undertakes and covenants with the LENDER:**

- a. To keep the Product in sound and working condition and at all reasonable time to allow the **LENDER** and/or its authorised representative to inspect the same.
- b. Not to engage any person other than authorised person of the Manufacturer of Product or authorized Dealer / Supplier of Manufacturer to affect the repairs, if any, to the Product.

- c. To keep the Product in the **BORROWER**'s own custody and not change the communication address without the **LENDER**'s previous consent in writing and not to sell or pawn or hire or otherwise deal with or dispose off the said Product in any manner whatsoever or part with possession.
- d. Without prejudice to the provisions of the Sub-clause(c) above, it is understood that in no event will the **LENDER** consent to the Product being removed from the above mentioned address. The **BORROWER** hereby expressly agrees that if he is about to remove the said Product he will give a 15 days prior written notice to the **LENDER** of such intention and will before removing observe such terms as the **LENDER** may stipulate.
- e. To pay the **LENDER** on demand all expenses, costs or charges incurred in ascertaining the whereabouts of the **BORROWER** or the said Product or in recovering or endeavoring to recover the possession thereof from any one in whose possession the Product shall for the time being be.
- f. Not to sell, pledge, hypothecate, hire or otherwise deal with the Product or part with the possession of the Product or remove it out of the state where the original delivery was effected without the express written permission of the **LENDER** previously obtained and also not to use the Product for any purpose other than that declared in the **BORROWER**'s proposal / application as the case may be.
- g. The **BORROWER** in whose name the Product is going to be registered shall, at the time of delivery of the Product to the **BORROWER**, hypothecate the Product in favour of the **LENDER** in order to secure the **LENDER's** dues and charges on the terms and conditions contained in this agreement
- h. The **BORROWER** undertakes to get the invoice of the Product endorsed with the name KOTAK MAHINDRA BANK LIMITED to confirm and record the fact that Borrower has hypothecated the Product in favour of the Lender. Provided that the default by the **BORROWER** to get the Product endorsed with the name KOTAK MAHINDRA BANK LIMITED shall not be deemed to be or construed as an absence of the **BORROWER's** hypothecation of the Product in favour of



KMBL as mentioned above simultaneous with the delivery of the Product. The BORROWER undertakes to supply the details of the Product (either directly or through the Dealer/Supplier) as soon as such details are available. The said proposed hypothecation shall be by way of first and exclusive charge against the LENDER's dues and charges.

- i. Permit the **LENDER** and/or its authorised representative to inspect the Product at all reasonable times, and for that purpose permit the **LENDER** and / or its authorised representatives to enter any premises where the Product is installed.
- j. Strictly follow all instructions given by the Manufacturer / Dealer / Supplier for use of the Product.
- k. Indemnify the **LENDER** against loss or damage to the Product or any part thereof from whatever cause whether or not such loss or damage is as a consequence of the negligence of the **BORROWER**.
- l. Not to do any act to affect the negotiability of the cheque's (being the PDCs given under this MITC) and/or writing any letters to the **LENDER** / Bankers to withhold presentation of all or any of the cheques due for payment.
- m. The **BORROWER** is obliged to pay Installment's during the contracted period regardless of whether the Product requires repairs or is in operation or not or is working or not and the **LENDER** shall not be liable or responsible for nonperformance, if any, of the Product and further the **BORROWER** shall look solely to the Manufacturer / Supplier / or Dealer of the Product as the case may be for the performance of all guarantees and warranties with respect to the Product.
- n. It is agreed that the **LENDER** shall be entitled to levy service charges for rendering services to the **BORROWER** under this MITC and the **BORROWER** shall pay the same on demand, failure on part of the **BORROWER** shall be a default of the terms of this MITC entitling the **LENDER** to take remedial steps as set out hereinafter in the MITC. The **BORROWER** acknowledges that levy of such service charges by the **LENDER** are reasonable and indeed recoverable and he shall not set up any defense against the demand thereof. These service

charges called **Miscellaneous Additional Charges** for the services shall be those set out in the **ANNEXURE** hereto and/or as may be prescribed by the **LENDER** from time to time for such or any services it has to render to the **BORROWER** at his request or which has become necessitated due to change/modification in the statute.

- o.** The **BORROWER** agrees that if any amounts are outstanding for payment by the **BORROWER** (not being the Installments as set out herein) including on account of the indebtedness of the **BORROWER** in respect of any dues repayable by them under this MITC or any other contract / agreement which they have entered into with the **LENDER**/it's affiliate ( including under guarantees , indemnities or other by whatever name called) the **LENDER** shall be entitled to encash the PDCs for the satisfaction of such outstanding amounts notwithstanding that such PDCs have been deposited / furnished to the **LENDER** for the payment of Installments and the **BORROWER** shall continue to be indebted to the **LENDER** for the Installments.
- p.** To inform the **LENDER** of any change in address and/or phone number(s) and/or e-mail address within seven (7) days of such change taking place.
- q.** In the event of any cheque(s)/draft(s) issued by the **BORROWER** to the **LENDER** for payment of Installment and/or any other charges/dues being lost/stolen/misplaced/damaged, the **BORROWER** agrees to replace the said cheque(s)/draft(s) of given amount within seven (7) days of being informed of the same by the **LENDER**.
- r.** If the **BORROWER** is desirous of changing the PDCs which they have deposited with the **LENDER** towards payments of the Installments due to any reason whatsoever (including but not limited to change in the bank account) then they shall do so only after obtaining written consent therefor from the **LENDER** and upon paying such sum as mentioned in the **ANNEXURE** hereunder to the **LENDER** as charges / towards service charges for effecting the change in its record.

#### **4. Promissory Note:**

Upon execution of this MITC, the **BORROWER** (all of them or as the case may be) shall execute a Promissory Note of the value of the Total Installments less the advance installments along with the rate of interest applicable. It is expressly clarified that such Promissory Note shall be by way of collateral security for repayment of loan and shall not be deemed to be conditional payment of Installments.

**5. Condition of the Product/Service:**

- a) The **BORROWER** shall be exclusively responsible for getting the delivery of the Product/Service from the Manufacturer or the Dealer / Supplier. The **LENDER** shall not be liable for any delay in delivery or any demurrage or the quality / condition / fitness of the Product or delivery of the service. The **BORROWER** absolves the **LENDER** from any liability in respect of above and that the **BORROWER** agrees not to withhold payment of stipulated Installments on pretext that Product/Service has not been delivered or is not in an acceptable condition.
- b) The **BORROWER** confirms that the Product has been examined, tested and inspected by him to be in good working order to the satisfaction of the **BORROWER**. No claim or objection shall be admissible against the **LENDER** as to the quality or completeness and correctness of the Product. It is expressly clarified that the **LENDER** shall not be responsible nor liable in any way whatsoever for the non-performance of all or any of the guarantees and warranties in respect of the said Product granted or given by the Manufacturer / Dealer / Supplier.
- c) The **LENDER** does not have any liability in case the Manufacturer discontinues the Product and / or alters the Product specification.
- d) The **LENDER** shall not be liable to the **BORROWER** for any liability, claims, loss, damage or expenses of any kind or nature:
  - i. Caused directly or indirectly by the Product/Service or any inadequacy thereof, or any defect therein or by the use thereof; or in relation to any repairs, servicing, maintenance or adjustment thereto, or any delay in providing or failure to provide the same or in relation to any loss;
  - ii. Of business or any damage whatsoever and howsoever caused;

- e) The **LENDER** has not made any and does not hereby make any representation or warranty with respect to the merchantability, fitness, condition, quality, durability, suitability, usage or operation of the Product or delivery of Service with any respect;

## 6. Events of Default:

An event of default shall occur hereunder if the **BORROWER**:

- i. Fails to pay any of the Installments or a part thereof or other payment required hereunder when due whether on demand or not; or
- ii. Fails to perform or observe or carry out any other covenant, condition or MITC to be performed, observed or carried out by the **BORROWER** hereunder or under any other document furnished to the **LENDER** in connection herewith; or
- iii. Without the **LENDER**'s consent sells, transfers, parts with possession or sub-lets or charges or encumbers or creates any lien on or endangers the Product in the opinion of the **LENDER**; or
- iv. Dies or commits an act of bankruptcy or become insolvent or bankrupt or is wound up or makes an assignment for the benefit of creditors, or consents for the appointment of a trustee or receiver, or either a trustee or a receiver shall be appointed for the **BORROWER** for a substantial part of **BORROWER**'s property without the **LENDER**'s consent or any bankruptcy or re-organisation, or insolvency proceedings or winding up proceedings shall be instituted by/or against the **BORROWER**, voluntary or otherwise; It is expressly clarified that the Product shall not be considered to be the property of the **BORROWER** in the event of **BORROWER** being adjudged as insolvent or having a receiver or liquidator appointed; or
- v. Suffers adverse material change in the financial condition from the date hereof, and as a result thereof, the **LENDER** deems itself or the Product to be unsecured; or
- vi. Is in default under any hire purchase or other finance agreement at any time executed with the **LENDER** or with any bank or financial institution / body corporate or any other creditor ; or
- vii. Commits breach of any of the terms of this MITC; or

- viii. Is unable to prevent the Product from being confiscated, attached or taken into custody by any authority or from becoming subject of any execution proceedings under the law; or
- ix. Is unable to convince the **LENDER** about the ability of the **BORROWER** to meet his obligation/s under this MITC; or
- x. Does any act, deed or thing which in the sole opinion of the **LENDER** prejudices the rights of the **LENDER** in relation to the Product; or
- xi. Has an execution or sequestration levied against his estate or allows the Product to be seized under any distress, execution or any other process or to be detained by reason of any alleged lien ; or
- xii. Is unable to protect and take appropriate care of the product leading to the Product being destroyed for any reason whatsoever.

## 7. Consequences upon event of default:

7.1 Upon the occurrence of any event of default and any time thereafter, the **LENDERS** shall, with or without notice, to the **BORROWER** be entitled to declare all sums due and to become due hereunder for the full term of the MITC as immediately due and payable including that the **BORROWER** shall be liable to pay to the **LENDER** pre-payment interest calculated as the percentage (as per the **ANNEXURE**) of the balance principal outstanding along with other dues including unpaid installments, goods and service taxes, late charges, etc. due as on date of such declaration and upon the **BORROWER** failing to make the said payment in full immediately, the **LENDER** may, at its sole discretion, do any one or more of the following shall be entitled to the following remedies:

- i) Upon notice to the **BORROWER** terminate this MITC; and/or
- ii) Upon Notice, demand that the **BORROWER** return the Product to the **LENDER** at the risk and expense of the **BORROWER**, in the same condition as was delivered to it (ordinary wear and tear excepted) at such location as the **LENDER** may designate. Upon failure of the **BORROWER** to deliver the product as stated above within the period of demand, the **LENDER**, its agents, constituted attorney and/or

any other person appointed by the law for such purpose may in accordance with the law shall take immediate possession of the Product and remove the same without liability to the **LENDER** or its agents or such entry or for damage to property or otherwise. Upon such return of the Product or upon the **LENDER** taking possession of the Product as herein before stated, the Loan herein granted by the **LENDER** to the **BORROWER** shall stand cancelled and provided however the remedies available to the **LENDER** as herein given shall survive such cancellation of the Loan and the **LENDER** shall be entitled and authorised to exercise its right herein including in connection with the Product to recover its dues under this MITC. Notwithstanding as stated above the **BORROWER** waives the requirement of prior notice in the eventuality of establishing the cases of extreme exigency; and/or

iii) On such terms and conditions and for realizable consideration which the **LENDER** may receive and with prior notice providing final opportunity to make the outstanding amount to the **BORROWER**, sell the Product at a public or private sale, otherwise dispose off, hold, upon such terms, the Product or use, operate, lease to others or keep idle give on hire such Product, all free and clear of any rights to the **BORROWER** and without any duty to account to the **BORROWER** for such action or inaction thereof, so as to recover the outstanding amount payable by the **BORROWER**. Notwithstanding as stated above the possession of the Product may be returned to the **BORROWER** in the eventuality of realization of outstanding amount or any other amount by the **BORROWER** to the satisfaction of **LENDER**; and/or

iv) By written notice to the **BORROWER**, require the **BORROWER** to pay to the **LENDER** (as liquidated damages or loss and not as a penalty) on the date specified in such notice, an amount equal to all unpaid Installments payments and all other payments which, in the absence of a default, would have been payable by the **BORROWER** hereunder for the full term hereof plus interest at the rate of 36% per annum for the period until receipt of the said amount; and/or

- v) Exercise any other right of remedy which may be available to the **LENDER** under the applicable law.
- vi) It being agreed and understood by the **BORROWER** that the right to the **LENDER** to recover the amount payable and/or repayable or reimbursable to the satisfaction of the **LENDER** shall survive any such cancellation of Loan and / or termination of the MITC and the **LENDER's** rights wherever given in connection with initiating of action for enforcing its rights to recover the amount shall also survive the cancellation of the Loan or the termination of the MITC, as the case may be, and the **LENDER** shall be entitled to take all or any of the steps therefor and the **BORROWER** shall not take defense of such termination or cancellation of Loan under this MITC.

**8. Distribution on realization:**

- a) The net proceeds of sale, realization, recovery and/or insurance claim proceeds relating to the Product herein, on receipt by the **LENDER** shall be applied at the sole and absolute discretion of the **LENDER** in the manner the **LENDER** thinks fit. The **BORROWER** shall continue to be liable for any deficiency in the amount due to the **LENDER** by the **BORROWER** after adjustment of the net proceeds of sale, realization, recovery and/or insurance claim as above.
- b) No interest or compensation shall be payable by the **LENDER** to the **BORROWER** on the proceeds to be held by the **LENDER** or during the period the same shall be held by the **LENDER** for being applied on distribution or realization.
- c) Upon the termination or earlier determination of this MITC or the cancellation of the Loan as the case may be, the **LENDER** shall be absolutely entitled or be at liberty to sell or otherwise dispose off the Product in such manner as they may deem fit including by private sale which shall be acceptable to the **BORROWER**.
- d) If the price recovered on such sale or disposal falls short of the aggregate amount of installments remaining due and payable, the **LENDERS** may, by a notice in writing call upon the **BORROWER** to pay the difference within such days of the receipt of the Notice by the **BORROWER**, together with all overdue sums, owing

and payable by the **BORROWER** to the **LENDER** under or by virtue of these presents and the **BORROWER** agrees to make such payment without demur;

- e) In addition and without prejudice to what is stated above, the **BORROWER** shall be liable for all legal and other costs and expenses resulting from the foregoing defaults from exercise of the **LENDER's** remedies, including but not limited to possession of any of the Product and / or collection recovery of all or any charges payable by the **BORROWER**.
- f) No remedy referred to hereinabove is intended to be exclusive, but the same shall be in addition to any other remedy available to the **LENDER** at law. The **LENDER** reserves the rights to appoint bankers or financial institutions or any other person it deems fit as their attorney or agent for the purpose of enforcing their right and remedies under this MITC.

#### **9 Pre-payment of the Loan**

- a) Subject to the provisions contained in this clause 9 below, the **BORROWER** shall be permitted to make full prepayment of the Loan in accordance with the other terms and conditions as contained in **ANNEXURE**.
- b) full pre-payment shall be allowed only after 3 months from the date of commencement of the monthly instalments.
- c) Any full or part pre-payment of the Loan would not be permitted unless the Borrower makes payment of the charges including the Foreclosure charges mentioned in the **ANNEXURE**.
- d) If the **BORROWER** makes any full prepayment without fulfilling the conditions determined by the **LENDER**, the **LENDER** shall be entitled to appropriate the same in such manner as it deems fit and the **LENDER** will give the **BORROWER** credit for the same only on due date and not before.

#### **10. Assignment:**

- a) This MITC is personal to the **BORROWER** and the **BORROWER** shall not be entitled to transfer or assign any of its rights or obligations under this MITC to any person directly or indirectly without the prior written consent of the **LENDER** in this



behalf. The **BORROWER** further agrees that during the period of this MITC the **BORROWER** shall not part with the Product to any third party.

- b) The **LENDER** shall be entitled to assign its rights, obligations, duties and liabilities under this MITC. In event of such assignment by the **LENDER** and if directed by the **LENDER** the **BORROWER** agrees to perform his obligations under this MITC qua such Assignee.

#### 11. Securitization:

- a) The **BORROWER** expressly recognises and accepts that the **LENDER** shall be absolutely entitled and have full power and authorized to sell, assign or transfer in any manner, in whole or in part, or in such manner and on such terms as the **LENDER** may decide, including reserving a right to the **LENDER** to retain its powers hereunder to proceed against the **BORROWER** on behalf of the Purchaser, assignee or transferee, any or all outstanding dues of the **BORROWER** to any third party of the **LENDER**'s choice without reference to or without written intimation by the **LENDER** or to the **LENDER**.
- b) Any such action and such sale, assignment or transfer shall bind the **BORROWER** to accept such third party as creditor exclusively or as a joint creditor with the **LENDER**, or as creditor exclusively with the right to the **LENDER** to continue to exercise all powers hereunder on behalf of such third party and to pay over such outstanding and dues to such third party to the **LENDER** as the **LENDER** may direct.
- c) Any cost in this behalf, whether on account of such sale, assignment or transfer or enforcement of rights and recovery of outstanding dues shall be to the account of the **BORROWER**.
- d) The **BORROWER** acknowledges and undertakes to pay to third parties the difference between the cheque outstanding and the amount received by the **LENDER** in the event of transfer of the portfolio to a third party.
- e) The third party shall have authority of the **BORROWER** to collect the due amount.

#### 12. Cross Default/Liability:

The **BORROWER** agrees, confirms and acknowledges that any default by the **BORROWER** under any other MITC or finance Agreement/arrangement or guarantee or security or other indebtedness of the **BORROWER** with the **LENDER** or its holding/subsidiaries/affiliates shall constitute an event of default under this MITC and vice-versa. The said amounts shall be deemed to be dues under this MITC secured by the security and vice-versa.

### **13. Appropriation / Set Off :**

Without prejudice to what is stated hereinabove, the **BORROWER** hereby expressly agrees and confirms that in the event of the **BORROWER** failing to pay the outstanding amount under the loan or any other loan/facility or commits default under any agreement/s then the **LENDER** shall without prejudice to any of its rights under any other agreements with the **BORROWER**, shall at its sole discretion and with prior notice to the **BORROWER** be at liberty to apply any other money or amounts standing to the credit of the **BORROWER** in any account with the **LENDER** and / or its holding/subsidiaries/ associate /affiliate / group company in or towards payment of the Dues or towards the Indebtedness of the **BORROWER**.

### **14. Disclaimer by LENDER:**

It is expressly clarified and declared that any Manufacturer / Dealer / Supplier for the Product by or through whom this transaction may have been introduced, negotiated or conducted shall not be deemed to be an agent of the **LENDER** and that the **LENDER** shall not be liable for any representation or statements made by such Manufacturer / Dealer / Supplier to the **BORROWER**.

### **15. Additional Charges:**

Increase in Taxes / Revisions in Product Price

- a) The parties hereto confirm that the Installments have been arrived at after taking into account all relevant taxes, duties, charges and levies applicable as on the date of this MITC. The **BORROWER** agrees that the Installments will be increased by any fresh imposition or increase of Installments, taxes, duties, levies and charges

during the subsistence of this MITC. In the event of such taxes, duties, levies and charges increasing during the period of the placing of the order for the Product and its acceptance and eventual delivery to the **BORROWER**, such increases shall also be borne and paid by the **BORROWER**.

- b) If the price of the Product (in case of acquiring a new Product) is revised upwards after the date hereof and prior to delivery of Product then in that event the **BORROWER** shall pay all of the additional amount (in addition to the amount already paid or to be paid by him / it along with the Installment's as the price of the Product) that may be required for acquiring the Product at such revised price and the **LENDER** shall not be liable to pay any amount by way of loan or otherwise for such revision in price of the Product.
- c) The **LENDER** shall not be responsible for any downward revisions in the Product price by the Manufacturer / Dealer / Supplier after the delivery of the Product and the **BORROWER** will not withhold payment of any installments on this ground.
- d) The **BORROWER** shall during the period of this MITC and till all amounts payable under this MITC are paid by the **BORROWER** in full to the **LENDER's** satisfaction herein bear all imposts, charges and other duties, taxes and penalties as may be levied from time to time by any government or any other authority pertaining to or in respect of the Product and/or this MITC and pay the same on demand by the **LENDER**.
- e) The **BORROWER** agrees to reimburse to the **LENDER** immediately upon demand any Goods and services tax or any other tax, duty or impost of any nature imposed now or hereafter whether during or after the termination of this MITC provided it is pertaining to the period of this MITC and till the duration that the **BORROWER** has paid all amounts to the **LENDER** under this MITC to the **LENDER's** satisfaction the **BORROWER** shall also be liable to reimburse to the **LENDER** interest, penalty, fee, fine for any other losses that the **LENDER** may have to bear for reasons of having paid tax, duty, penalty or any other sum.
- f) If the **BORROWER** fails to pay the money referred to in sub-clause (a), (b), (d) & (e) above, the **LENDER** may pay the same and the **BORROWER** shall reimburse all

sums so paid together with compensation charges as provided in clause 2 (b) hereof.

- g) Any failure on the part of the **BORROWER** to pay any such taxes, duties or other outgoings as set out in the sub clauses above, shall constitute a default of the MITC entitling the **LENDER** to take all or any remedial action as contained herein.

**16. Liability for Goods and Services Tax / Other taxes of BORROWER:**

Any demand for payment of Goods and Services Tax or any tax or any levies by whatsoever name called made by concerned authorities on the **LENDER** or any such discharge of payments made by the **LENDER** consequent to such demand shall be borne by the **BORROWER** and the **BORROWER** shall forthwith on demand pay and / or reimburse to the **LENDER** the said Goods and Services Tax or other taxes and levies.

- a) The **BORROWER** hereby expressly covenants with the **LENDER** that the **BORROWER** will not do or omit to do any act which may result in seizure and / or confiscation of the Product by the central or state government or local authority or any public officer or authority under any law for the time being in force.
- b) The **BORROWER** hereby agrees and declares that the **BORROWER's** obligations to pay all Installments and all over due amounts payable under or pursuant hereto shall be absolute and unconditional.

**17. Miscellaneous Provisions:**

a) **Reservation of Rights**

No forbearance, indulgence or relaxation or inaction by the **LENDER** at any time shall in any way affect, diminish or prejudice the right of the **LENDER** arising out of this MITC or acquiescence to or recognition of rights and / or position other than those expressly stipulated in this MITC

b) **Cumulative Rights:**

All remedies of either party under this MITC whether provided herein or conferred by statute, civil law, custom or trade usages are cumulative and not alternative and may be enforced successively or concurrently.

c) **Severability:**

If any provision of this MITC is invalid and unenforceable or prohibited by law where that provision is to be performed, this MITC shall be considered divisible as to such provision and such provision shall be inoperative and shall not be part of the consideration moving from either party hereto to the other and the remainder of this MITC shall be valid and binding and of like effect as though such provision was not included herein.

d) **Amendments:**

No modification or amendment of this MITC and no waiver of any of the terms and conditions hereof shall be valid or binding unless made in writing and duly executed by all the parties to this MITC.

e) **Payments:** The **BORROWER** shall not make any payments to any Direct Marketing Associate (DMA) and/or Direct Sales Associate (DSA) and/or any other Marketing & Sales Associate (MSA), whether known by any other name, of the **LENDER**. All payments by the **BORROWER** to the **LENDER** shall be made directly to the **LENDER**. The **LENDER** shall not be responsible/liable for any payments made by the **BORROWER** to any DMA/DSA/MSA of the **LENDER** and such payments being misappropriated by the DMA/DSA/MSA. All payments shall be made by crossed account payee cheque or demand draft /pay order payable to Kotak Mahindra Bank Limited.

f) **Loan Application:** The loan application of the **BORROWER** shall form an integral part of this loan MITC.

g) All documents submitted in connection with the loan application and/or this loan MITC including, but not limited to, photocopies of original documents, photographs, signature verification, address verification, bank details etc. shall become the sole property of the **LENDER** and shall not be returned/handed over by the **LENDER** to the **BORROWER** or any person acting on their behalf.

**18. Disclosure of Information:**

The **BORROWER** hereby irrevocably agree and consent with the **LENDER** to disclose at any and all times and sharing with or in any manner making available to any agency, bureau, company, firm, association, corporate or unincorporated body, and any other person including any outside agency, the Credit Information Bureau of India Limited

(CIBIL) or such other entity (Whether for its own use or for onward communication or disclosure by them to others) any information whatsoever concerning the **BORROWER**, , and including their accounts, their financial relationship and history with the **LENDER**, the manner of operation of their accounts, the debit or credit balance in any and all account/s with the **LENDER**, any default by the **BORROWER** any security created by the **BORROWER** in favour of the **LENDER** for this or any other financial relationship or facilities granted or to be granted to the **BORROWER** and/or their identities, ages, addresses, communication numbers and addresses and any other information of or relating to the **BORROWER**'s directors, shareholders, members, partners, and proprietors or immediate family members (hereinafter collectively referred to as "the Information"). The **BORROWER** shall not hold the **LENDER** responsible for sharing and/or disclosing the information now or in the future and also for any consequences suffered by the **BORROWER** and/or others by reason thereof. The provisions of this clause shall survive ever after the term/termination of this MITC and the repayment of the **BORROWER**'s dues by the **BORROWER**.

**19. Arbitration:**

Any dispute, difference and/ or claims arising out of in connection with or in relation to this Agreement, shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and any subsequent statutory amendment, if any, to the Act, by a sole arbitrator to be appointed by the Bank. Any arbitration award/ direction passed shall be final and binding on the Parties. The language of the Arbitration shall be English and the venue of such arbitration shall be at Mumbai.

**20. Jurisdiction:**

It is further agreed by and between the parties hereto that subject to Clause 19 of this MITC, the courts having jurisdiction over the arbitration proceeding under the Arbitration and Conciliation Act, 2015 as amended or any statutory amendments thereof shall have jurisdiction in respect of any matter, claims or dispute arising out of or in any way relating to these presents or to anything to be done under or pursuant to these presents or of any clause or provision thereof.

**21. Acceptance:**

- a. I / We am / are aware that the **LENDER** shall agree to become a party to this MITC only after satisfying itself with regard to all conditions and details filled by me / us in the MITC in consonance with the **LENDER's** policy.
- b. I / We agree that this MITC shall be concluded and become legally binding on the date when the authorised officer of the **LENDER** signing this MITC at the city wherein the **LENDER's** branch which is party to this MITC is situated.

**22.** The content/s of this MITC have been read out, explained and interpreted to the **BORROWER** in the language known to the **BORROWER** and the same has been understood by the **BORROWER**.

***\*inclusive of taxes as applicable***

***\*\* exclusive of taxes as applicable***

## **SMART EMI- DC EMI / PAYMENT GATEWAY EMI**

### **MOST IMPORTANT TERMS AND CONDITIONS FOR CONSUMER DURABLE AND LIFESTYLE PRODUCT LOAN ON DEBIT CARD EMI/PAYMENT GATEWAY EMI**

Kotak Mahindra Bank Limited (“Bank”) has agreed to sanction the Loan to you (“Borrower”) on the basis of and subject to the terms and conditions set out below. The Schedule of Charges shall form an integral part of the terms and conditions:

#### **1. GRANT OF THE LOAN**

1.1. At the request of the Borrower, the Bank has agreed to provide the Loan to be utilized solely towards purchase of consumer durable product(s) not including jewelry or any other products the purchase of which is not eligible for bank finance (“Product(s)”). Without prejudice to the generality of the foregoing, the Borrower shall not utilize the proceeds of the Loan for any purpose which is in violation of applicable law.

1.2. The Loan shall be provided only to existing customers of the Bank who have been provided with a Pre Approved limit in its sole discretion, determines are eligible for the grant of the Loan. Such Loan shall be disbursed directly to the Merchant. It is clarified that, the Loan disbursed by the Bank directly to the Merchant shall be deemed to be a disbursement by the Bank to the Borrower.

1.3. The Borrower acknowledges and agrees that the aforesaid Loan amount is of a non-revolving nature and once used will not once again become available till the complete repayment of the Loan

1.4 The Borrower acknowledges and agrees that during the ONLINE transactions, Bank will provide a OTP (One Time Password)/ DAC (Dynamic Access Code) to the Borrower and the Borrower needs to input that OTP on the merchant’s website/mobile application to complete the transaction or DAC on the Bank’s Payment Gateway/Mobile Banking/Internet Banking log-in screen.

1.5 The Borrower agrees not to share the OTP with anyone under any circumstance and must use the OTP to complete the transaction himself/herself only.

1.6. The Borrower agrees that the Primary Bank Account linked to the Borrower’s CRN/Debit Card used for initiating the transaction shall be used by the Bank for debiting the EMIs every month starting from the EMI due date till the end of tenure of the loan.

1.7 The Borrower agrees and understands that the transaction limit for Debit Card/PG EMI will not be influenced or affected by the transaction limit on the Borrower’s Debit Card.



## **2. PAYMENT OF PRINCIPAL AND INTEREST**

2.1. The Borrower hereby agrees to make payment of the principal amount due on the Loan along with interest computed at the Fixed Rate of Interest in the form of equated monthly installments ("EMIs") through the tenure of the Loan which tenure has been explicitly opted by the Borrower. It is agreed and understood by the Borrower that the obligation of the Borrower to pay the EMI is absolute and unconditional and there shall be no amendment to the schedule of the EMI payable to the Bank.

2.2. The Borrower shall provide irrevocable standing instructions for facilitating the payment of the EMIs in respect of the Debit Card/PG EMI Loan or the Consumer Durable and Lifestyle Product Loan (as the case may be) on the relevant due dates. The Borrower undertakes to have and maintain sufficient balance in the savings account maintained with the Bank in respect of which the Debit Card/PG EMI Loan linked standing instructions or the Consumer Durable and Lifestyle Product Loan linked standing instructions (as the case may be) have been provided for the payment of the EMI (on either the Debit Card/PG EMI Loan or the Consumer Durable and Lifestyle Product Loan, as the case may be) on any of the due dates. If any payment of the EMI which is to be made by the Borrower under either the Debit Card/PG EMI Loan linked standing instructions or the Consumer Durable and Lifestyle Product Loan linked standing instructions (as the case may be), is not made on the relevant due date for any reason whatsoever, the Bank, may without prejudice to the other rights available to it hereunder or under applicable law, block the usage of any or all Bank issued cards held by the Borrower.

2.3. The Borrower shall not be entitled to make any prepayment of the principal amount due on the Loan unless demanded by the Bank in terms of Clause 2.5 (Payment of Principal and Interest) below. Without prejudice to the preceding sentence and any other rights which the Bank may have on a breach thereof, any prepayment made by the Borrower shall attract the foreclosure charges set out in the Schedule of Charges which the Borrower shall be bound to pay over and above any other amounts payable by the Borrower under the terms hereof.

2.4. The Bank shall have the right to vary the Interest Rate from time to time, at its sole discretion or as per the guidelines / rules / regulations / laws issued by the Reserve Bank of India. In the event that the Interest Rate is varied as aforesaid, the Bank shall furnish to the Borrower a revised computation of the EMIs and the Borrower undertakes to pay the EMIs as re-calculated by the Bank to adjust for the change in the Interest Rate.

2.5. Notwithstanding anything to the contrary contained herein, the Borrower acknowledges and agrees that the Bank may in its sole and absolute discretion and without assigning any reason therefore make a demand on the Borrower at any time to forthwith repay all or part of the outstanding loan amount including interest and the Borrower shall be bound to make payment of such amounts demanded forthwith.

2.6. The cancellation of the transaction for the purchase of the Product for which Loan has been utilized either by the Borrower or the merchant concerned shall lead to an automatic cancellation of the entire Loan and all amounts due from the Borrower in respect of the Loan shall forthwith become due and payable to the Bank. It is further clarified that amounts already paid towards interest on the Loan shall not be reversed or repaid by the Bank to the Borrower.

2.7. Without prejudice to Clause 2.2 (Payment of Principal and Interest) above and Clause 9.3 (Set-off and Lien) below, the Borrower hereby irrevocably and unconditionally authorises and instructs the Bank to debit any and all of the accounts maintained by the Borrower with the Bank (including without limitation fixed deposit accounts) in respect of any amounts which are or become due from the Borrower to the Bank in terms hereof.

### **3. OTHER PAYMENTS**

3.1. In the event of the occurrence of an Event of Default, in relation to the Loan, the Borrower shall be required to make payment of the default interest as provided in the Schedule of Charges compounded monthly, calculated on the amounts outstanding, up to the earlier of: (a) the date such Event of Default is cured or (b) all amounts outstanding from the Borrower are repaid to the Bank.

3.2 The Borrower hereby agrees to make payment of all the fees and charges specified in the Schedule of Charges (along with any taxes applicable thereto). The Borrower hereby agrees and confirms that they shall bear such charges / expenses / fees / stamp duties as applicable which is required at execution of the present loan agreement in present or in near future.

3.3. The Borrower shall bear and pay all costs, expenses, fees, taxes (as applicable from time to time), duties (including stamp duties), charges and other imposts and obligations, existing as well as future, which may become payable by the Bank in respect of the Loan, including without limitation (a) the execution, delivery and performance of any documentation in relation to the Loan, (b) the servicing and administration of the Loan; and (c) the enforcement of the Bank's rights in respect of the Loan.

### **4. REPRESENTATIONS AND WARRANTIES**

4.1. The Borrower hereby represents and warrants on the date of these presents and thereon on each day during the continuance of the Loan that: (a) The Borrower is a citizen of India and is a person resident in India for all purposes under applicable law; (b) All information set out in these presents and furnished to the Bank in connection with the Loan, whether through physical or electronic means, is true and correct, and is not false or misleading in any manner; and (c) The Borrower is competent to contract under law and the Borrower entering into and performance by the Borrower of the transactions contemplated

by these presents do not and will not conflict with any applicable law or regulation applicable to the Borrower.

## **5. EVENTS OF DEFAULT**

5.1. An Event of Default shall have occurred upon the happening of any event or circumstances

mentioned hereunder: (a) The Borrower does not pay, on any due date, any amount payable pursuant to these presents; (b) If any litigation, arbitration or administrative proceedings are filed against the Borrower which proceedings may in the sole opinion of the Bank adversely affect the interests of the Bank; (c) If the Borrower dies or commences a voluntary proceeding under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or admits inability to pay his/her debts as they fall due, or consents to the entry of an order for relief in an involuntary proceeding under any such law, or consents to the appointment of or the taking of possession by a receiver, liquidator, assignee (or similar official) for any or a substantial part of his/her property; (d) If any representations and/or warranties contained in these presents are found to be untrue, misleading or incorrect, when made or deemed to be made; (e) If the Borrower is unable to meet any of its obligations when due to the Bank or any other bank, financial institution or other lender; and (f) Any breach of the terms and conditions contained in these presents.

5.2. On the occurrence of an Event of Default, all amounts due in respect of the Loan shall forthwith become due and payable to the Bank and the Bank shall be entitled to exercise all of its rights powers and remedies available hereunder and under law against the Borrower to recover the same.

## **6. NOTICE**

6.1. All notices, approvals, instructions, demand and other communication given or made under these presents shall be in writing and may, subject to Clause 6.2 (Notices) hereof, be given by facsimile, electronic mail, by personal delivery or by sending the same by pre-paid registered mail, if to the Borrower, at his address, fax number or email as is reflected in the internal records of the Bank and if to the Bank, at its contact details specified on [www.kotak.com](http://www.kotak.com).

6.2. Any notice, approval, instruction, demand or other communication so addressed to the relevant party shall be deemed to have been delivered (a) if given or made by registered mail, 3 (Three) days after posting; (b) if given by personal delivery at the time of delivery; and (c) if given or made by facsimile, upon receipt of a transmission report confirming dispatch; (d) if given or made by email, upon receipt of a mail delivery report confirming receipt by the other Party. Provided that facsimile transmission or email shall be immediately on the same day followed by a copy of the notice by a reputable overnight courier.

## **7. GOVERNING LAW AND ARBITRATION**

7.1. These presents shall be governed by, and construed in accordance with, the laws of India.

7.2. All disputes, differences and/or claims arising out of these presents shall be referred to the arbitration of a sole arbitrator to be nominated by the Bank, which arbitration shall be governed by the Arbitration and Conciliation Act, 1996. The award including interim award/s of the sole arbitrator shall be final and binding on all parties concerned.

7.3. Subject to the provisions of Clause 7.2 (Governing Law and Arbitration) above, these presents shall be subject to the jurisdiction of the courts and tribunals at Mumbai, India.

## **8. DISCLOSURE OF INFORMATION**

8.1. The Borrower, hereby agrees and gives consent for the disclosure by the Bank of all or any such information and data relating to the Borrower, any credit facility availed of/to be availed, by him/her, and default, if any, committed by him/her, in discharge of his/her obligation, as the Bank may deem appropriate and necessary, to:

(a) the Bank's employees, agents, contractors, insurance providers or third party service providers or professional advisers whether in India or outside India;

(b) the Bank's head office, branches, representative offices, subsidiaries, related corporations or affiliates or group companies, in India, or overseas

(c) the Reserve Bank of India or any Credit Information Company and/ or any other agency authorised in this behalf by the Reserve Bank of India or any regulatory, supervisory or other authority, court of law, tribunal or person, in India or any other jurisdiction, where such disclosure is required by law, regulation, judgment or order of court or order of any tribunal;

(d) any actual or potential assignee(s) or novatee(s) or transferee(s) of any rights and obligations of the Bank or other participants in any of its rights and/or obligations under these presents for any purposes connected with the proposed assignment or transfer;

(e) any other bank/ banking company, non-banking financial company, housing finance company or any other financial institution whether incorporated in India or not.

8.2. The Borrower further acknowledges and agrees that:

(a) The recipient Credit Information Company and any other agency so authorised may use, process the said information and data disclosed by the Bank in the manner as deemed fit by them;

(b) The recipient Credit Information Company or any other agency so authorised may furnish for consideration, the processed information and data or products thereof prepared by them, to banks/financial institutions and other credit grantors or registered users, as may be specified by the Reserve Bank of India in this behalf;

(c) Any of the recipients of the information specified in Clause 8.1 (a) and (b) (Disclosure of Information) above may utilise the Borrower's information (including the contact information) to inform and market to the Borrower any other products and services offered by the Bank and the Borrower hereby expressly requests and solicits such communications; and

(d) The Bank and / or the Reserve Bank of India will have an unqualified right to disclose or publish the name of the Borrower as a willful defaulter in such manner and through such medium as the Bank or the Reserve Bank of India in its absolute discretion may think fit.

## **9. MISCELLANEOUS**

9.1. The Bank does not hold any warranty or make any representation with respect to the availability, delivery, quality, merchantability or suitability of the Products and the Bank shall not be liable for the same in any manner whatsoever.

9.2. The Bank reserves the right to revise the terms and conditions set out above, which revisions shall take effect immediately on the Borrower being notified of the same.

9.3. Set-off and Lien: Notwithstanding anything to the contrary in these presents or any other document/arrangement: (i) in respect of all and any of Borrower's present and future liabilities to the Bank, affiliates, group entities, associate entities, parent, subsidiaries, any of their branches (collectively "Relevant Entities"), whether under this document or under any other obligation/loan/facilities/borrowings/document, whether such liabilities are/be crystallised, actual or contingent, primary or collateral or several or jointly with others, whether as principal debtor and/or as guarantor and/or otherwise howsoever (collectively "Liabilities"), each of the Bank and the Relevant Entities shall in addition to any general lien or similar right to which any of them as bankers may be entitled by law, practice, custom or otherwise, have a specific and special lien on all the Borrower's present and future stocks, shares, securities, property,

book debts, all moneys in all accounts whether current, savings, overdraft, fixed or other deposits, held with or in custody, legal or constructive, with the Bank and/or any Relevant Entities, now or in future, whether in same or different capacity of the Borrower, and

whether severally or jointly with others, whether for any banking relationship, safe custody, collection, or otherwise, and (ii) separately, each of the Bank and the Relevant Entities shall have an express right to, without notice to and without consent of the Borrower, set-off, transfer, sell, realize, adjust, appropriate all such amounts in all accounts (whether prematurely or upon maturity as per the Bank's discretion), securities, amounts and property as aforesaid (whether ear-marked for any particular Liability or not) for the purpose of realizing or against any of dues in respect of any of the Liabilities and to combine or consolidate all or any of accounts of the Borrower and to set-off any monies, whether of same type or nature or not and whether held in same capacity or not including upon happening of any of the events of default mentioned in any of the documents pertaining to the respective Liabilities or upon any default in payment of any part of any of the Liabilities.

9.4. The Borrower agrees and undertakes that he/ she shall not be entitled to transfer or assign any of its rights or obligations under these presents to any person. The Borrower further agrees that the Bank may at any time transfer, assign or novate its rights, benefits or obligations herein to any person and the Borrower hereby expressly consents to any such assignment, transfer and novation.

9.5. The provisions of these presents shall be severable and any provision hereof prohibited by any law shall be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof.

9.6. I/We hereby authorize and give consent to the Bank to disclose, without notice to me/us, information furnished by me/us in application form(s)/related documents executed / to be executed in relation to the facilities to be availed from the Bank, to the Bank's other branches/subsidiaries/affiliates/ Credit Bureaus/Rating Agencies, Service Providers, banks/financial institutions, governmental/regulatory authorities or third parties for information verification, credit risk analysis, or for any other purposes that the Bank may deem fit. I/We waive the privilege of privacy.

#### **DECLARATION**

I hereby expressly acknowledge and confirm that I have carefully gone through the above terms and conditions (which I have fully understood) and hereby record my agreement and consent to abide by the aforesaid terms and conditions.

## ***Schedule of charges***

EMI payment due date will be determined basis the Loan booking date period as given below.

First EMI due date for a loan booked under Debit Card/PG EMI will be 5th of the month after 30 days of the loan booking date. Thereafter, all the following EMI due dates will be the 5th of the subsequent months. Eg: For a loan booked on 4th June 2019, the first EMI due date will be 5th July 2019. For a loan booked on 10th June 2019, the first EMI due date will be 5th August 2019.

EMI will be billed in the monthly Consumer Durable & Lifestyle Products Loan / Debit Card/PG EMI Loan statement starting from the immediate billing cycle date. The Fixed Rate of Interest, as prescribed by the Bank, from time to time will get levied on reducing balance basis.

If the saving account does not have sufficient funds, Customer will be liable to pay bounce charges of Rs. 750 which includes all applicable taxes. Auto Debit return penal interest of 3% will be levied.

Prior to completion of the Loan / Pre closure whichever is earlier, Customer cannot withdraw / cancel auto debit instruction on the Consumer Durable Loan or Debit Card/PG EMI Loan.

Non-Payment or partial payment of EMI outstanding will attract late payment penalty of Rs. 750 inclusive of applicable taxes, irrespective of the EMI outstanding.

Service tax is applicable on (i) Pre-closure charges (ii) Late payment charges

Partial pre-payment or partial closure is not permitted on this loan. In case of pre-closure of the loan, a charge, currently 5% of the balance principal outstanding will be applicable. As the pre-closure charge is subject to change, we request you to contact the Phone Banking for the applicable charge if you decide to pre-close the loan.

Kotak Mahindra Bank reserves the right to revise the pre-closure penalty at its discretion. Additional interest if any on the principal outstanding from last statement date till date of loan pre closure need to be paid by the customer. The loan once approved and processed cannot be cancelled. Tenure confirmed at the time of booking cannot be changed. Notwithstanding anything stated above, the continuation of the loan shall be at sole discretion of the bank and outstanding will be payable to the bank on demand.

The Bank shall have the right to vary the Interest Rate from time to time, at its sole discretion or as per the guidelines / rules / regulations / laws issued by the Reserve Bank of India. In the event that the Interest Rate is varied as aforesaid, the Bank shall furnish to the Borrower a revised computation of the EMIs and the Borrower undertakes to pay the EMIs as recalculated by the Bank to adjust for the change in the Interest Rate.

All disputes, differences and/or claims arising out of these presents shall be referred to the arbitration of a sole arbitrator to be nominated by the Bank, which arbitration shall be governed by the Arbitration and Conciliation Act, 1996. The award including interim award/s of the sole arbitrator shall be final and binding on all parties concerned. Subject to the provisions above, these presents shall be subject to the jurisdiction of the courts and tribunals at Mumbai, India.

**DECLARATION**

I hereby expressly acknowledge and confirm that I have carefully gone through the provisions of the Schedule of Charges (which I have fully understood) and hereby record my agreement and consent to abide by the provisions of the Schedule of Charges.



## **SMART EMI- SMART EMI CARD**

### **MOST IMPORTANT TERMS AND CONDITIONS – KOTAK SMART EMI CARD**

#### **1. Important Terms:**

- a. Smart EMI Card is not a credit card or a debit card and doesn't allow withdrawal of cash or access to ATM. It is used only for the authentication of customer's identity while providing a loan.
- b. The minimum loan amount that Cardholders can avail using Smart EMI Card is Rs.3000.
- c. All the outstanding loan amount including fees, penalties and other charges will be deducted from Cardholder's primary Kotak Account. In case Cardholder don't have a Kotak Bank Account, the amount/charges will be deducted from the Account mentioned in e-NACH / NACH form submitted to the bank.

#### **2. Schedule of fees and charges:**

##### **a. Issuance fee, Annual fee, Add-on card fee up to:**

<b>Description of charges</b>	<b>Amount (in Rs.)</b>
Issuance fee	499 + Applicable taxes
Annual fee	299 + Applicable taxes
Add – on Card fee	299 + Applicable taxes

- i. The above referred fees may vary from customer to customer, and from offer to offer. The same is communicated to the customer at the time of applying for the card.
- ii. **Issuance fee:** Issuance fee is a one-time fee and is charged for the issuance of card.
- iii. **Annual fee:** No annual fee is charged for the first year. Annual fee is applicable from 2nd year onwards and is deducted in the first month of the respective year.

##### **b. Interest charges:**

- i. EMI is calculated by adding an Interest amount at a fixed rate of interest on the principal loan amount. The interest rate will be communicated to customer while availing the loan using Smart EMI Card. Applicable Interest rate shall be in accordance with MCLR guidelines.
- ii. EMI will be billed in the Smart EMI Card Loan welcome letter starting from the immediate billing cycle date. The Fixed Rate of Interest, as prescribed by the Bank, from time to time will get levied on reducing balance basis
- iii. The Bank shall have the right to vary the Interest Rate from time to time, at its sole discretion or as per the guidelines / rules / regulations / laws issued by the Reserve Bank of India. In the event that the Interest Rate is varied as aforesaid, the Bank shall furnish to the cardholder a revised computation of the EMIs on applicable loans and the cardholder undertakes to pay the EMIs as re-calculated by the Bank to adjust for the change in the Interest Rate.

c. **NACH/Cheque bounce charges: Rs. 750 + applicable taxes and Auto Debit return penal interest of 3% will be levied on the monthly instalment outstanding on a cumulative basis.**

d. **Late payment charges: Rs. 750 + applicable taxes.**

e. **Pre-closure charges:**

i. Pre-closure can only be done after paying 3 EMIs.

ii. 5.21% of the balance principal outstanding will be charged.

iii. As the pre-closure charge is subject to change, we request you to contact the Phone Banking on 1860 266 7777 (Local call rates apply) for the applicable charge if you decide to pre-close the loan.

iv. Kotak Mahindra Bank reserves the right to revise the pre-closure penalty at its discretion. Additional interest if any on the principal outstanding from last EMI date till date of loan pre closure need to be paid by the customer.

### **3. Pre-approved Limit:**

Pre-approved Limit means the maximum limit up to which you are authorized to spend on your Smart EMI Card.. The pre-approved limit are communicated to you at the time of delivery of the Card. The Bank will review your Card Account periodically and may increase/decrease your pre-approved limit based on internal criteria without prior notice to you.

### **4. Billing:**

a. **Welcome letter:** Once a loan is taken the bank will send a welcome letter to the cardholder showing the loan amount, interest amount and EMI due for all the months within in the loan tenure. A digital welcome letter will be dispatched by email to cardholder's mailing address that is registered with the bank. Cardholder will be reminded twice about the EMI due amount by the bank in the form of SMS to cardholder's registered mobile number before the due date of every month during the loan tenure.

#### **b. Methods of payment:**

i. **Standard instruction (Auto debit):** Cardholder's primary Kotak Account will be auto-debited for the EMI amount on due date of every month. In case Cardholder don't have a Kotak Bank Account, the EMI amount will be auto-deducted from the Account mentioned in e-NACH / NACH form submitted to the bank.

c. If EMI due amount is not auto-deducted from your bank due to any reason then cardholder will receive an SMS to make the payment. The payment can be done in the following ways:

i. **Pay by cash at branches:** The cardholder can pay the EMI due by depositing cash at any Kotak Mahindra Bank branch during banking hours

ii. **Pay online:** The cardholder can pay EMI due by paying online to below account

Account details -

Account Number: CFB (Consumer Finance Business) Loan Number

IFSC: KKBK0000631

d. Billing disputes: In the event the Cardholder disagrees with the charges indicated in the welcome letter, it should be communicated in writing to the correspondence address of Kotak Mahindra Bank or the Cardholder should contact customer centre by writing a mail to [cdservice@kotak.com](mailto:cdservice@kotak.com) within 60 (Sixty) days of receipt of the welcome letter, failing which it would be constructed that all charges indicated in the welcome letter are in order and acceptable to you.

#### **5. Customer Contact Centre:**

In all your communication with us, please indicate your 16-digit Kotak Smart EMI Card number.

You can write to us on [cdservice@kotak.com](mailto:cdservice@kotak.com) or call us on 1860 266 7777 (Local call rates apply) between 10:00 am to 7:00 pm from Monday to Saturday, excluding holidays.

#### **6. Grievances Redressal/Complaints/Escalation:**

In the unlikely event that you are not satisfied with our services, you may register your grievance by

- a. Filling the "Complaint Form" at [www.kotak.com](http://www.kotak.com)
- b. Calling our Customer Contact Centre
- c. Writing to us on [cdservice@kotak.com](mailto:cdservice@kotak.com)
- d. For further escalations you can write to [nodalofficer@kotak.com](mailto:nodalofficer@kotak.com).
- e. If your complaint is not resolved within 30 days of receipt at the Bank then the said complaint can be escalated to Banking Ombudsman. The details of the Banking Ombudsman for your location are displayed at the branches.

#### **7. Events of Default:**

- a. An Event Of Default shall have occurred upon the happening of any event or circumstances mentioned hereunder:
  - i. The Cardholder does not pay, on any due date, any amount payable pursuant to these presents.
  - ii. If any litigation, arbitration or administrative proceedings are filed against the Cardholder which proceedings may in the sole opinion of the Bank adversely affect the interests of the Bank.
  - iii. If the Cardholder dies or commences a voluntary proceeding under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or admits inability to pay his/her debts as they fall due, or consents to the entry of an order for relief in an

involuntary proceeding under any such law, or consents to the appointment of or the taking of possession by a receiver, liquidator, assignee (or similar official) for any or a substantial part of his/her property.

iv. If any representations and/or warranties contained in these presents are found to be untrue, misleading or incorrect, when made or deemed to be made.

v. If the Cardholder is unable to meet any of its obligations when due to the Bank or any other Bank, financial institution or other lender.

vi. Any breach of the terms and conditions contained in these presents.

b. On the occurrence of an Event Of Default, all amounts due in respect of the Loan shall forthwith become due and payable to the Bank and the Bank shall be entitled to exercise all of its rights powers and remedies available hereunder and under law against the Cardholder to recover the same and the Bank can exercise its rights to suspend the card or block the usage of card.

c. The Cardholder undertakes to have and maintain sufficient balance in the primary account maintained with the Bank in respect of which the Smart EMI Card Loan linked standing instructions have been provided for the payment of the EMI on any of the due dates. If any payment of the EMI which is to be made by the Cardholder under Smart EMI Card Loan linked standing instructions is not made on the relevant due date for any reason whatsoever, the Bank, may without prejudice to the other rights available to it hereunder or under applicable law, block the usage of any or all Bank issued cards held by the Cardholder.

#### **8. Termination/revocation of card membership:**

a. The Cardholder may choose to terminate his Smart EMI Card facility at any time by way of a written request or by calling the Bank's Customer Contact Centre and cut the card diagonally into pieces. All your outstanding amounts will immediately become due. Where the Smart EMI Card is never used for more than 270 days, the card may be temporarily blocked for security reasons.

b. Kotak Mahindra Bank may also cancel the use of the Card at any time without prior notice, if it reasonably believes it necessary for the business or security reasons, including if you delay payments, exceed the pre-approved limit or if Cheques are returned.

#### **9. Loss/Theft/Misuse of card:**

a. The Cardholder shall report the loss of the Card to the Bank by calling the Customer Contact Centre immediately. The Bank at the request of the Cardholder will attempt to deactivate the card immediately to prevent misuse. The Cardholder must file a First Information Report ("FIR") with the local police. The Cardholder will, however be liable for all losses when someone obtains and misuses the Card or PIN with/ Without -Cardholder's consent, or consent of an Add-On Cardholder or if the Cardholder has acted fraudulently or acts without reasonable care, the Cardholder will be liable for all losses.

b. You will not be liable for any misuse on the Card after you have informed Kotak Mahindra Bank of the loss, unless you have acted with gross negligence.

c. In the event any amount is charged by the merchant, which is due and payable by the customer, whether disputed or not, the customer is liable to make the payment to the Bank as per the billing cycle as applicable to the customer. In addition thereto, where the Bank has made the payment, the bank is entitled to recover the said amount from the customer. Further, where the amount is in dispute, the customer shall be required to make the payment of the same as per the billing cycle and shall not wait for the outcome/decision of the dispute. The said right of the Bank to recover and the liability of the Customer to make payment shall be valid and subsisting irrespective of the fact that the existing relationship of the customer has ceased with Bank and/or the card has been suspended/closed for any reason whatsoever.

#### **10. Disclosure:**

The Cardholder acknowledges that as per existing business practices, the Bank is authorized to disclose from time to time any information relating to the Smart EMI Card(s), to any credit bureau (Existing or Future) without any notice to the customer. The credit Information BUREAU India Ltd (CIBIL) and other credit bureaus is an initiative of the Government of India and Reserve Bank of India to improve the functionality and stability of the financial system. Any refresh/updation of data on receipt of payment towards overdue card accounts will reflect in CIBIL/other credit bureaus within a period of 60 days from the date of receipt of payment by the bank. We also wish to inform the Cardholder that the bank will, at its own discretion, record specific conversions between Cardholder and the representative of the Bank, in cases of grievance-related conversion or payments recover related conversions or any other conversion, that Bank may deem fit.

#### **11. GOVERNING LAW AND ARBITRATION:**

- a. These presents shall be governed by, and construed in accordance with, the laws of India.
- b. All disputes, differences and/or claims arising out of these presents shall be referred to the arbitration of a sole arbitrator to be nominated by the Bank, which arbitration shall be governed by the Arbitration and Conciliation Act, 1996. The award including interim award/s of the sole arbitrator shall be final and binding on all parties concerned.
- c. Subject to the provisions of Clause 11b (Governing Law and Arbitration) above, these presents shall be subject to the jurisdiction of the courts and tribunals at Mumbai, India.

#### **12. MISCELLANEOUS:**

- a. The Bank does not hold any warranty or make any representation with respect to the availability, delivery, quality, merchantability or suitability of the Products and the Bank shall not be liable for the same in any manner whatsoever.
- b. The loan once approved and processed cannot be cancelled. Tenure confirmed at the time of booking cannot be changed. Notwithstanding anything stated above, the continuation of the loan shall be at sole discretion of the bank and outstanding will be payable to the bank on demand.

c. The Bank reserves the right to revise the terms and conditions set out above, which revisions shall take effect immediately on the Cardholder being notified of the same.

**DECLARATION**

I hereby expressly acknowledge and confirm that I have carefully gone through the above terms and conditions (which I have fully understood) and hereby record my agreement and consent to abide by the aforesaid terms and conditions.