CREDIT POLICY DOCUMENT

A FRAMEWORK FOR CREDIT DISPENSATION

**CREDIT POLICY FRAMEWORK**

The existing Credit Policy Framework was approved and adopted in the Board Meeting held on 11.08.2017.

With the launching of “Revitalising Infrastructure and Systems in Education (RISE) by 2022 by GoI, there have been many changes with regard to capital contribution, eligibility criteria, budgeted outlay, financing model, target beneficiaries, grant assistance, appraisal of the projects etc., This has necessitated modifications / amendments to the existing credit policy framework. Accordingly, this policy is modified / amended and approved by the Board in its meeting dated 20th July 2018.

The objective of this policy is to provide a framework for HEFA to structure, manage and monitor the credit portfolio [project loans for creation of infrastructural facilities], besides providing certain important guidelines and processes.

HEFA would finance the infrastructure requirements of the higher educational institutions under higher education, school education and institutions under the Ministry of Health in accordance with the following Credit Policy:

**I. Eligible Institutions:**

As per RISE by 2022 model, the eligible institutions will be financed under the following five financing windows:

1. Technical Institutions more than 10 years old: Repay the whole Principal Portion from the internally generated budgetary resources.
2. Technical Institutions started between 2008 and 2014: Repay 25% of the principal portion from internal resources, and receive grant for the balance of the Principal portion.

1. Central Universities started prior to 2014: Repay 10% of the principal portion from internal resources, and receive grant for the balance of the Principal portion.

1. Newly established Institutions (started after 2014), for funding construction of permanent campuses: Grant would be provided for complete servicing of loan through OH-31. Other Institutions of MHRD with no scope for fee revision or internal resource generation would also figure in this category.
2. Other educational institutions and grant-in-aid institutions of Ministry of Health: Sponsoring Department/Ministry to give a commitment for complete servicing of the principal and interest by ensuring adequate funds in the OH-31 for the institution.

*The institutions in windows II / III/ IV will have to improve their internal generation and shall repay the outstanding principal amount after a period of 2/3/5 years respectively from the date of completion of the project period. MHRD will assess the performance of each institution on a continuing basis and fix a period beyond which servicing of interest shall also be taken over by the institution in part or full.*

**II. Application format**

The format of application for loan facility shall be as given in Annexure – 1. The application shall be signed by the Director / Registrar of the institution after taking approval from the Board of Governors or Executive Council.

**Documents required for Project Loans:**

All loan applications shall be submitted by the institutions directly to the concerned Ministry for approval.

The loan application shall contain the following details/enclosures:

1. The Detailed Project Report [ DPR] of the appraisal body which apprised the project.
2. Each proposal shall include inter-alia, steps to enhance existing capacity utilisation, revenue generation strategies, revenue generation from the assets created.
3. Purpose and justification for taking up the project including the details of the number of beneficiaries from the project.
4. Brief details of the project including the area to be constructed, equipment to be procured along with the broad specifications.
5. Cost of the project as per administrative approval by the competent authority, along with cost per sq.ft (in case of construction) and phasing of the requirement of funds (drawdown schedule) depending on the expected progress of the work.
6. Estimates and designs as per technical sanction by the competent authority.
7. Duration of the project including the stage-wise timelines for completion.
8. Modalities for procurement and execution of the project.
9. Systems for Project Management and Monitoring of quality.
10. Systems for maintenance of the project including resource generation.
11. The institution has to state the method and timelines for selection of Agency(ies) for execution, and soon after such selection, shall furnish details to HEFA along with their bank account particulars for release of funds directly to the concerned agency.
12. Details of present Bankers.
13. In case this is an ongoing project, a clear account for the total project cost, amount so far spent and the balance cost certified by the chartered accountant.
14. Check list for Loan as per format given in Annexure - 2.
15. Cash flow statement and calculation of Internal rate of return (IRR) as per format in Annexure - 3. [ This is obtained only for information and it will not have any bearing on the credit decision]

The Ministry shall forward the appraised and approved proposals to HEFA along with all the above enclosures and the following:

1. Letter certifying that the project has been apprised/approved through SFC/EFC/Cabinet route.
2. The letter from the Ministry recommending the window in which the loan shall be considered; and also committing adequate funds for servicing the HEFA loan through OH-31 / through the Internal and Extra Budgetary Resources [ IEBR] of institution.

**III. Sanctioning Authority:**

The Board of HEFA is empowered to sanction the loan facility to eligible institutions within the limit, as per RBI guidelines applicable to NBFCs. Office Note recommending for sanction of the loan shall be placed before the Board by the Managing Director and CEO of the Company.

**IV. Type of Projects for funding:**

Only projects of the following nature, which propose to create new infrastructure shall be considered for financing:

1. Construction of buildings or facilities therein, required for academic or research purposes, including the requirements for accommodating students / scholars / faculty /staff of the institution. Only the non-recurring portion shall be financed.
2. Setting up laboratories / high performance computing (HPC) facilities/libraries and equipping them, provided further, that the projects are accompanied by detailed plans for utilisation of such facilities. Only the non- recurring portion shall be financed.
3. Research projects that are sanctioned by Ministry of HRD or any other Ministry of Government of India provided further that the Agency would meet only the cost of the non-recurring portion of the research project, and the cost of maintenance shall be borne by the institution from the resources generated through such project.
4. Setting up Centres of Excellence (CoE) sanctioned by MHRD or other Ministries of Government of India, provided that only cost of the non-recurring portion of the CoE project shall be financed.
5. Campus common infrastructure/facilities including student facility centres. Only the non-recurring portion shall be financed.

The projects executed with the HEFA finance shall be maintained by the internal resources of the Institution.

**V.Fixing of credit limits:**

In respect of all the financing windows, the loan limit / quantum of finance shall be as decided by the SFC / EFC / Cabinet, as the case may be, while appraising / approving the project and the same shall be conveyed to HEFA by the MHRD / concerned department.

However, this shall be subject to single party exposure stipulated in this credit policy.

**VI. Prudential limit for single party exposures.**

In terms of RBI Master Direction DNBR.PD / 007 / 03.10.119/ 2016-17 dated 1st September 2016;

“No NBFC shall lend to any single borrower exceeding 15% of its owned funds. Providedthat Infrastructure Finance Companies may exceed the concentration of credit norms in lending to any single borrower, by ten per cent of its owned fund”;

However, as per amendment RBI/DNBR/2016-17/44 to above master direction of RBI updated up to 31st may 2018, Govt companies set up to serve specific sectors may approach RBI for exemptions. The time line to comply with will be up to Balance sheet dated March 31st 2022.

HEFA is a Govt company set up to serve the education sector. As such, HEFA shall approach RBI for exemption. Till such time exemption is received, as a prudent policy, the single party exposure limit would be 25% of owned funds of HEFA.

**VII.Appraisal of the projects:**

The institutions have to submit their applications along with Detailed Project Report and prescribed documents to MHRD, GoI. All such projects shall be first apprised / approved by SFC / EFC / Cabinet and then forwarded to HEFA.

At HEFA every credit proposal shall be subjected to comprehensive evaluation/ appraisal under the following three heads, which shall run simultaneously, so that the appraisal shall be completed within 4 weeks from the date of receiving the proposal from MHRD completed in all respects:

1. Financial appraisal by the internal team
2. Technical appraisal by a third party expert, normally from approved panel of Canara Bank or Project Appraisal Group, HO.
3. Legal appraisal, wherever required, by the empanelled advocates of Canara Bank or by the legal department of Canara Bank.

**Time line for appraisal by HEFA**

All the proposals received from the 1st day of a calendar month till the last working day of the month shall be processed within the last working day of the subsequent month and shall be placed to the board for sanction in its first meeting in the following month.

**Example:**

All proposals received during 01.06.2018 to 30.06.2018 shall be processed (including Technical appraisal) within 31.07.2018 and placed in the first board meeting of August 2018.

In respect of loans where appraisal could not be completed within the above specified time lines shall be placed before the Board of Directors along with reasons for the delay.

**VIII.Margin:**

NIL. HEFA shall finance the approved project cost in full without any margin.

**XII. Repayment**

Repayment period of the project loans shall be up to a maximum of 10 years.

**Principal**

The principal repayment of the loan shall be in semi-annual installments commencing 6 Months from the date of first disbursement and subsequent instalments to be repaid every 6 months thereafter.

**Interest**

Interest shall be debited to the loan account at monthly rests. The aggregate of such monthly interest at the end of the calendar quarter i.e. March, June, September and December shall be payable within 30 days from the completion of the quarter.

The recovery of principal and interest will be through an Escrow mechanism as detailed in the escrow agreement annexed.

**IX. Pricing of Credit/Rate of Interest:**

Pricing / Rate of Interest will be fixed, as per the interest rate policy of HEFA, at the time of sanction of the loan and the same shall be reset annually. The first reset shall be at one year from the date of sanction.

**X. Other charges:**

No other charges are payable by the borrower institutions except applicable stamp duty. Stamp duty as advised by HEFA shall be paid by the concerned institutions in advance before executing the loan documents.

**XI. Security:**

As Land & Building of the institutions are not alienable, the same shall not be available as security.

All loans therefore, shall be secured by prime security of Hypothecation of equipment / moveable assets proposed to be purchased out of loan.

**and**

Charge over Escrow accounts created for repayment of principal and interest, as detailed herein under “Escrow arrangement".

**Details of ESCROW arrangement:**

The project loan facility sanctioned to the institution shall be secured by charge over the following ESCROW accounts. For this purpose, an escrow agreement between Borrower, Escrow Bank and HEFA shall be executed.

**Escrow mechanism – principal**

1. As per various financing windows, in respect of Technical Institutions more than 10 years old i.e., started before 2008, Technical Institutions started between 2008 and 2014, Central Universities started prior to 2014 and newly established institutions (after 2014-15), principal repayment is serviced by the institutions out of IEBR funds to the extent of 100% / 25% / 10%/ 0 % respectively and balance of 0%/75%/90%/100% will be serviced by GoI.
2. In case of other educational institutions and grant-in-aid institutions of Ministry of Health, the Grant would be provided for complete servicing of loan through OH-31 by the sponsoring Department / Ministry.
3. In case of CFIs under windows I to IV, the existing “Fee receivable account” of the borrower institution shall be escrow account 1 and the corresponding banker shall be escrow bank 1. The existing “Grants receivable account” of the borrower institution shall be escrow account 2 and the corresponding banker shall be escrow bank 2.
4. The borrower institution shall open 2 more escrow accounts i.e., Principal repayment account (escrow account 3) and interest payment account (escrow account 4) with Canara Bank [ escrow bank 3].
5. Upon receiving the intimation from HEFA, Escrow bank 1 and /or 2 shall debit the “Fee Receivable account” [ escrow account 1] and/or “Grants receivable account” [ escrow account 2] individually or together to the extent of prescribed percentages [ based on the window under which the borrower institution falls ] aggregating to 50% of the annual principal repayment obligation on **signing the loan documents** and the balance 50% before the end of 6 months from that date and similar amounts every 6 months thereafter, till closure of the loan account and remit the amount to principal repayment account [ escrow account 3] maintained with Canara Bank [ escrow bank 3].

1. The Escrow bank 3 is entitled to invest the amount so received in Principal Repayment Account in short term fixed deposits as per borrower’s instruction, till the period to coincide with the due date of term loan instalment (project-wise) and on due dates the amount shall be transferred to the HEFA’s ’s account. This amount will be appropriated towards instalment due in respect of project wise loan accounts.
2. In case of other institutions and grant-in-aid institutions of Ministry of Health under window V, the sponsoring Ministry / Department will be servicing the entire principal and interest through grants under OH-31. As such, upon intimation from HEFA, escrow bank 2 shall debit “ Grants Receivables account” [ escrow account 2], to the extent of one half – yearly instalment ( 50% of the annual obligation) on signing the loan documentation and similar amount every six months thereafter and remit the amount to principal repayment account [ escrow account 3] maintained with Canara Bank [ escrow bank 3], as described under para 5 above.

**Escrow mechanism – Interest**

In case of institutions under all the windows I to V, as interest obligation is fully serviced out of grants from MHRD / sponsoring Ministry / department, upon demand notice from HEFA, escrow bank 2 shall debit the quarterly interest to “Grants receivables account” before 10th of April, July, October and January months, being the interest debited to the loan account calendar quarterly i.e., as at 31st March, June, September and December respectively and remit the amount to the interest payment account maintained [ escrow account 4] with Canara Bank.

Such amount shall be transferred to HEFA’s account immediately but not later than 2 working days. This Amount will be appropriated to the quarterly interest due on loan accounts.

An Escrow agreement among HEFA, borrower and escrow banks shall be put in place for the above Escrow mechanism.

**Tabular representation of window wise repayment condition:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Category of Institution** | **Repayment of Principal** | | **Interest Servicing** | |
| Technical Institutions established | By Institution | By GOI | By Institution | By Govt |
| Before 2008 | 100% | - | - | 100% |
| 2008 to 2014 | 25% | 75% | - | 100% |
| Central Universities before 2014 | 10% | 90% | - | 100% |
| Newly Established after 2014-15 | - | 100% | - | 100% |
| Other educational institutions and grant-in-aid institutions of Ministry of Health | - | 100% | - | 100% |

**ESCROW MECHANSIM FLOW CHART**

Institute

asass

One half yearly installment on signing of Loan documents and then half yearly till closure of loan.

**Principal Repayment Account**

of HEFA

**Interest Repayment Account**

of HEFA

PP

Interest Repayment

Account

Principal Repayment

Account

Account opened with Canara Bank

Account opened

With Canara Bank

Escrow 4

Escrow 3

**Escrow a/c 1**

with existing Banker

(Escrow Bank 1)

**Escrow a/c 2**

with existing banker (Escrow Bank 2)

Existing Grants receivable a/c

Existing

Academic Receipts/

Fee Receivables

PRINCIPAL

INTEREST

PRINCIPAL

Quarterly interest demanded within 30 days from due.

Kept in short term deposit

by Escrow bank 3 and transferred on due date

To HEFA’s Principal a/c

HEFA

Adjusted towards loan account on due dates

**XII. Insurance**

All hypothecated equipment / moveable assets financed by HEFA are to insured for fire, theft and burglary and the policy shall be assigned in favour of HEFA. In case the hypothecated assets are not insured, for any reason, the concerned Ministry shall make good the loss if any, caused on account of non-insurance. An undertaking letter in this regard shall be issued by the concerned Ministry.

**XIII.Valuation of Assets:**

The Capitalised cost of the assets created out of finance/Book value of the assets as at the end of the financial year (as obtained from the institutions) shall be taken as the value of assets. No external valuation is mandatory.

**XIV.Documentation:**

The following documentation drafted by HEFA’s Legal Counsel M/s. Dua & Associates, approved by Canara Bank, Legal section, Head Office and approved by board of HEFA shall be obtained for all the Loans.

1. Term Loan agreement between the borrower institution and HEFA – Annexure 4
2. Escrow agreement among HEFA, borrower and Escrow banks – Annexure 5
3. Deed of Hypothecation between HEFA and borrower institution – Annexure 6

The executed loan documents shall be approved by legal counsel appointed by HEFA / Legal section of Canara Bank.

**XV. Sanction :**

1. Upon approval of the Project Loan by the Board, the sanction will be conveyed to the Institution giving full details viz; the loan amount, term of the loan, repayment schedule for the Principal amount, interest chargeable, and the project completion time.

1. Validity of Sanction - Sanction shall be valid for a period of 1 Year. In case, no part of loan is availed within the validity period of sanction, the sanction shall lapse. However, the validity can be extended for a further period by the sanctioning authority.

**XVI. Release of funds /Disbursements:**

1. All fund releases from the loan account shall be against a scanned copy of the written request by the authorized signatories duly mailed to HEFA.

1. The loan amount shall be released based on the satisfactory progress of the project, as per Project Implementation report submitted by the institution.
2. All disbursements from the loan shall be made directly to the CPWD / contractor / Vendor/ Implementing Agency / Project monitoring consultant (PMC) against production of bills / certificate. Disbursement are permitted at the request of the institution, in cases where advance payments have to be made to CPWD / NBCC/ contractors as per the MOU signed by the institution with CPWD/NBCC/Contractors against submission of copy of MOU and demand notice.
3. However, in cases where the construction is undertaken by the institution’s construction wing, payment may be released directly to the institution upon submission of bills and certificate on the civil work done from the Engineer appointed by HEFA and Chartered accountant certificate on the amount spent on the project.
4. In case of Miscellaneous Fixed Assets, wherever direct disbursement is not possible, based on the CA Certificate confirming end use of the loan submitted within 30 days from the date of each such disbursement, it shall be credit to the account of the institution.
5. Original bills/invoices of the Vendor/Agency shall be submitted in case of all purchases/ payments.
6. Only after receipt of disbursement request supported by related documents from the Borrower Institution, the eligible amount will be remitted within 48 hours electronically to the Bank Account of the CPWD / PMC / implementing Agency /identified vendor.
7. The responsibility of carrying out due diligence before issuing a request for release of funds lies with the institution. It shall be the responsibility of the Institution to ensure that the process laid down in their Statutes the guidelines issued by the Government and sanction terms are complied with scrupulously.
8. **Reimbursement:**

Preliminary expenses incurred by the institution on the sanctioned projects like initial payments made to the Architect, Fees paid to statutory authorities towards approvals, advance deposit amount paid, if any, to CPWD/NBCC as per the terms of the MOU signed with them, Amount spent by the institution on the sanctioned project prior/after the approval by SFC / EFC / Cabinet may also be reimbursed to the institution on submission of evidencing documents and original bills certified by Chartered Accountant, subject to these costs / expenses forming part of the project cost.

**XVII. Verification of Assets and Inspection of Security:**

The Unit / Project shall be inspected at the time of first disbursement, final disbursement and if required, periodically by officials of HEFA or their authorized representatives. The institutions shall co-ordinate / facilitate the same.

**XVIII. Review of Borrower Accounts:**

A list of Special Watch Accounts, where the overdues persist / continue for more than 30 days will be generated and followed up for recovery at Monthly intervals. Loan accounts where 2 consecutive instalments fall overdue shall be reviewed individually and necessary remedial measures would be initiated.

Details of such accounts (where 2 consecutive instalments are overdue) shall be placed before the Board for review on quarterly basis.

**XIX. Monitoring of Projects**

1. The institute has to submit Project Implementation Progress report [ PIPR] to us on quarterly basis duly signed by Engineer and Chartered accountant countersigned by Registrar / Director.
2. The institute also has to submit progress report of Project Monitoring Group appointed by the institute to us with review remarks of BOG / B&W committee / FC.
3. Reports shall be submitted to MHRD / concerned Ministry / Department on a monthly basis.
4. The progress of all the projects sanctioned and under implementation shall be monitored and reported to the Board once in a quarter.
5. The Board after monitoring / review of the project (s) from time to time may take a decision to stop further funding, if the project is not being implemented as per the laid down plans. The Institution shall abide by the decision of the Board in this regard.

*All projects would be monitored through a dash board/ project monitoring system made available by HEFA and access will be given to the MHRD /ministries / organizations including NITI Aayog.*

**XX. Asset classification and Provisioning Norms as prescribed by RBI as applicable to HEFA:**

1. **Asset classification**

The asset classification of all loan exposures shall be as under;

1. Standard assets;

Standard asset shall mean the asset in respect of which, no default in repayment of principal or payment of interest is perceived and which does not disclose any problem or carry more than normal risk attached to the business;

1. Sub-standard assets;

“sub-standard asset” shall mean:

1. an asset which has been classified as non-performing asset for a period not exceeding 12 months;
2. an asset where the terms of the agreement regarding interest and / or principal have been renegotiated or rescheduled or restructured after commencement of operations, until the expiry of one year of satisfactory performance under the renegotiated or rescheduled or restructured terms:

**Provided** that the classification of infrastructure loan as a sub-standard asset shall be in accordance with RBI directives.

1. Doubtful assets;

which remains a sub-standard asset for a period ‘exceeding 12 months’ for the financial year ending March 31, 2018 and thereafter.

1. loss asset shall mean:
2. an asset which has been identified as loss asset by the applicable NBFC or its internal or external auditor or by the Bank during the inspection of the applicable NBFC, to the extent it is not written off by the applicable NBFC; and
3. an asset which is adversely affected by a potential threat of non-recoverability due to either erosion in the value of security or non-availability of security or due to any fraudulent act or omission on the part of the borrower

Non-Performing Asset (referred to as “NPA”) shall mean:

1. an asset, in respect of which, interest has remained overdue for a period of 120 days or more as at March 31, 2019 and 90 days as at March 31, 2020;
2. a term loan inclusive of unpaid interest, when the instalment is overdue for a period of 120 days or more as at 31st March 2019 and 90 days or more as on 31st March 2020 and in which interest amount remained overdue for a period of 120 days or more as at 31st March 2019 and 90 days or more as on 31st March 2020 or more;

**B. Provisioning requirements:**

**As per RBI guidelines;**

HEFA after taking into account the time lag between an account becoming non-performing, its recognition as such, the realisation of the security and the erosion over time in the value of security charged, make provision against sub-standard assets, doubtful assets and loss assets as provided hereunder: -

|  |  |  |
| --- | --- | --- |
| **Sl.**  **No.** | **Asset classification** | **Extent of Provision** |
| 1. | Standard assets | 0.40% of the loan outstanding |
| 2. | Sub-standard asset | 10% of the total outstanding |
| 3. | Doubtful asset | 100% of the extent to which advance is not covered by the realisable value of the security.  In addition to the above the following provision on the secured portion to be made;   |  |  | | --- | --- | | Period for which the asset has been considered doubtful | Percentage of provision | | Upto one year | 20% | | One to three years | 30% | | More than three years | 50% | |
| 4. | Loss asset | 100% of the outstanding |

This is to be complied as on 31st March 2019.

**\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\***

**ANNEXURE - 1**

**LOAN APPLICATION – HIGHER EDUCATION FINANCING AGENCY**

1. Name of the institution:

2. Nature of the institution: (Please see the eligibility conditions):

3. Address of main and other campuses:

4. Date of Establishment

5. TAN NO :

6. PAN NO :

7. The Principal functionaries of the institution:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name | Designation | Date from which  functioning | Contact  details( Mobile, email) | ID Proof and  ID No |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

8. The details of funding from the Government during the last 3 years:

(Rs in Crores)

|  |  |  |  |
| --- | --- | --- | --- |
| Year | Amounts in grants received | Projects | Amount spent |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

9. Budget Allocation for Institute for the current financial year under:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| OH 31 | OH 35 | 0H 36 | Total | HEFA Loan | Grand Total |
|  |  |  |  |  |  |

10. Letter certifying that the project has been apprised/approved through SFC/EFC/Cabinet route. A copy of approved DPR to be enclosed.

11. Amount proposed to be escrowed to HEFA for the next 10 years: (Annually):

12. Purpose and justification for taking up the project including the details of the number of beneficiaries from the project.

13. Details regarding steps to enhance existing capacity utilization, revenue generation strategies, revenue generation from the assets created.

14. Details of ongoing Projects: (Rs in Crores)

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Name of project | Cost of project | Amount Already Spent | Balance Amount required | | Finance  Required from HEFA | | Date of  Completion | Present status |
|  | Original | Revised |  |  | |  | |  |  |
|  |  |  |  |  | |  | |  |

15. New Projects requiring funding from HEFA: (Rupees in crores)

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Name of project | Cost of the project | | Term Loan required | Area under constn. / Equipment Details | Period for execution  (in mts) | Expected Date of Completion | Repayment  Period in years. | Status of the project (Admin/Tech approvals) | Project  Execution  Agencies |
| For Bldgs / Civil structure | For  Equipment |  |  |
|  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |

16. Present Bankers

|  |  |  |
| --- | --- | --- |
| Name of the  Bank | Address | IFSC Code |
|  |  |  |

17. Loans (Existing& Proposed)

A. With Other Banks

|  |  |  |  |
| --- | --- | --- | --- |
| Name Of the  Bank | Loan Sanctioned | Present Liability | Purpose Of Loan |
|  |  |  |  |
|  |  |  |  |

18. B. With HEFA

|  |  |  |
| --- | --- | --- |
| Loan Sanctioned | Present Liability | Purpose Of Loan |
|  |  |  |
|  |  |  |
|  |  |  |

19. Abstract of the annual accounts for the last 3 years, Estimates for current year & Projections covering the proposed repayment period:

20. Projected cash flows for the proposed repayment period

21. Monthly Drawdown Schedule for the proposed loans.

22. Whether All the documents/ details as per enclosed checklist is submitted - Yes/No

Date :

Place:

Name of The Director:

**(Signature/Seal of the Director/Vice-Chancellor of the Institution)**

**List of documents to be enclosed to the Application**

|  |  |  |  |
| --- | --- | --- | --- |
| **Loan Checklist** |  |  |  |
| Document Name | **Yes** | **No** | **Comments** |
| 1. KYC documents of Institute (Copies of PAN/TAN, Resolution to borrow, Letter from MHRD) |  |  |  |
| 2. KYC documents of authorized signatories (Copies of ID Proof,  Address Proof, PAN Card etc.) |  |  |  |
| 3. Detailed Project Report Approved by the Ministry/MHRD |  |  |  |
| 4. The letter from the Ministry recommending the window in which the  loan shall be considered; and also committing adequate funds for  servicing the HEFA loan through OH-31 / through the Internal and  Extra Budgetary Resources [ IEBR] of institution. |  |  |  |
| 5. Balance Sheet for last 3 years, Current Year estimates & projections covering the proposed repayment period. |  |  |  |
| 6. Income and expenditure for last 3 years, Current Year estimates & projections covering the proposed repayment period(Excel). |  |  |  |
| 7. Current Year estimates & projections covering the proposed repayment period. (Excel) |  |  |  |
| 8. Cash flow statement and calculation of IRR, projected cash flows for the life of the project. |  |  |  |
| 9. Total project cost, amount so far spent and the balance cost certified by the chartered accountant for ongoing projects. |  |  |  |
| 10. Statement of loan account with other banks (if any) for the past one year. |  |  |  |
| 11. Details regarding the projects requiring funding from HEFA. |  |  |  |
| a. Details regarding steps to enhance existing capacity utilisation, revenue generation strategies, revenue generation from the assets created. |  |  |  |
| b. Brief details of the project including the area to be constructed, equipment to be procured along with the broad specifications. |  |  |  |
| c. Cost of the project as per administrative approval by the competent authority, along with cost per sq.ft (in case of construction). |  |  |  |
| d. Estimates and designs as per technical sanction by the competent authority. |  |  |  |
| e. Month wise Loan Drawdown schedule for the projects. |  |  |  |
| f.  Modalities for procurement and execution of the project. |  |  |  |
| g.  Systems for Project Management and Monitoring of quality and progress. |  |  |  |
| h.  Systems for maintenance of the project including resource generation. |  |  |  |
| i.   The method and timelines for selection of Agency(ies) for execution, |  |  |  |
| j.   Bank account particulars for release of funds directly to the concerned agency. |  |  |  |
| 12. Copies of Office Notes placed before internal committees i.e. Building committee, Finance committee etc. |  |  |  |
| 13. Copy of the project approval from the Board of Governors or Executive Council |  |  |  |

We confirm that all the details are available as per mentioned in the checklist.

**Name : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature \_\_\_\_\_\_\_\_\_\_\_\_ Date : \_\_\_\_\_\_\_**

**Annexure - 2**

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Check List for Individual Project for HEFA Loan to be submitted alongwith the application** |  |
| **SN** |  | **Parameter** | **Details** |
| 1 |  | **Details of the available Major Infrastructure in the Institute (in Sq Meters):** |  |
|  | a | Area of Academic Buildings |  |
|  | b | Area of Residential Buildings |  |
|  | c | Area of Administrative Buildings |  |
|  | d | Area of Common Facilities |  |
|  | e | Area of Hostels |  |
|  | f | Any other Facility (like- Labs/Research Centres/Guest House etc.) |  |
|  |  |  |  |
| 2 |  | **Basic Details of the Project:** |  |
|  | a | Type of Building |  |
|  | b | Area |  |
|  | c | Cost |  |
|  | d | Capacity |  |
|  |  |  |  |
| 3 |  | **Utilization of Existing Same Type of Building(s)** |  |
|  | a | Area |  |
|  | b | Capacity in No. |  |
|  | c | Utilization in No. |  |
|  | d | % Utilization |  |
|  |  |  |  |
| 4 |  | **Can the existing buildings be utilized for the proposed facility? (Yes/No)** |  |
|  |  |  |  |
| 5 | a | **Number of Students:** |  |
|  | a1 | Present |  |
|  | a2 | Projected by the ……….. Year |  |
|  | b | **Number of Faculty:** |  |
|  | b1 | Present |  |
|  | b2 | Projected by the ……….. Year |  |
|  | c | **Number of Non-Faculty Staff:** |  |
|  | c1 | Present |  |
|  | c2 | Projected by the ……….. Year |  |
|  |  |  |  |
| 6 |  | **User Charges:** |  |
|  | a | Present User Charges from Similar Facilities |  |
|  | b | Total Estimated User Charges from the Project/Facility |  |
|  |  |  |  |
| 7 |  | **Maintenance Cost** |  |
|  | a | Expected Maintenance Cost per Year |  |
|  | b | % of Maintenance Cost which will be recovered from the User Charges |  |
|  |  |  |  |
| 8 |  | **IRG Details:** |  |
|  | a | Total Corpus of the Institute |  |
|  | b | Average IRG for last three years |  |
|  | c | % of IRG being spent presently for last three years |  |
|  | d | Principal Amount to be paid to HEFA for loan repayment per year |  |
|  |  |  |  |
| 9 |  | **Internal Rate of Return (IRR) of the Project** (Cash Flow Statement to be attached) |  |
|  |  |  |  |
| 10 |  | **Any Commercial Utilization of the Infra Created:** |  |
|  |  |  |  |
| 11 |  | **Detailed Justification for the Project:** |  |

**Annexure – 3**



**Annexure – 4**

**Term Loan Agreement**

This **TERM** **LOAN AGREEMENT** (‘**Agreement**’) is executed on this \_\_day of \_\_\_, 2018 at \_\_\_\_\_\_\_.

**BY AND BETWEEN**

**Higher Education Financing Agency**, a Section 8 (Not for profit) Company, incorporated under the Companies Act, 2013 as a government company and also registered with the Reserve Bank of India as a Non-Banking Financial Company and having its registered office at No. 14, 6th Floor, Naveen Complex, MG Road, Bangalore – 560001, represented by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Managing Director, who has been duly authorized by the resolution of its Board of Directors dated \_\_\_\_\_\_\_\_\_\_\_\_\_ (a copy of which has been provided to the Borrower) (hereinafter referred to as the ‘**Lender**’) of the **FIRST PART**;

**AND**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** an educational institution of national importance established by an act of Parliament located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter referred to as the ‘**Borrower**’ (*as more particularly* *set out in Part 1 of* ***Schedule 1*** *hereto*) of the **SECOND PART**;

The expressions Borrower and Lender shall unless it be repugnant to the context or meaning thereof, be deemed to mean and include their respective successors-in-interest and permitted assigns. The expressions Lender and Borrower shall hereinafter be collectively and commonly referred to as ‘**Parties**’ and individually as ‘**Party**’.

**WHEREAS**:

1. The Borrower is an educational institution and is in the requirement of funds for the purpose of construction and development of infrastructure facilities and other related expenses, as set out in detail in **Part 2 of** **Schedule 1** (‘**Purpose**’).
2. To give effect to the aforesaid Purpose, the Borrower has approached the Lender for extending financial assistance of an amount specified in **Part 3 of** **Schedule 1** and in this regard, the Lender issued a sanction letter (‘**Sanction Letter**’), having details as specified in **Part 12 of Schedule 1** hereto, in favour of the Borrower and the Borrower has accepted the terms of the Sanction Letter by signing the same;
3. The Parties are now desirous of entering into this Agreement to record the terms and conditions on which the Loan shall be granted by the Lender to the Borrower and the security and other terms and conditions of the Loan undertaken by the Borrower.

**NOW THEREFORE THIS AGREEMENT WITNESSETH AND IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS UNDER:**

1. **DEFINITIONS AND INTERPRETATIONS** 
   1. Definitions

|  |  |  |
| --- | --- | --- |
|  | **‘Agreement’** | shall mean this Agreement (including the schedules and / or annexures hereto), as amended and / or modified from time to time; |
|  | **‘Applicable Law’** | shall mean in respect of any relevant jurisdiction, any statute, law, regulation, ordinance, rule, judgment, rule of law, order, decree, clearance, approval, authorisation, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision, or determination by, or any interpretation or administration of any of the foregoing by, any statutory or regulatory authority whether in effect as of the date of any of the Finance Documents or thereafter and in each case as amended from time to time; |
|  | **‘Deed of Hypothecation’** | shall refer to the Deed of Hypothecation of even date executed between the Parties, creating a charge over the Hypothecated Assets; |
|  | **‘Default Interest’** | shall mean the default interest payable by the Borrower in accordance with Clause 3.2 read with **Part 6 of Schedule 1**; |
|  | **‘Due Date’** | shall mean the date on which the Installment and / or interest is payable; |
|  | **‘Disbursement Date’** | shall mean the date of disbursement of the Loan (or part thereof) in accordance with this Agreement; |
|  | **‘Effective Date’** | shall refer to the date on which this Agreement has been executed by the Parties; |
|  | **‘Escrow Accounts’** | shall refer to the accounts having details as specified in **Part 9 of Schedule 1** hereto; |
|  | **‘Escrow Agreement’** | shall refer to the Escrow Agreement of even date executed between the Parties and the Escrow Bank, for the purpose of, *inter alia*, recording the terms and conditions of the operation of the Escrow Accounts; |
|  | **‘Escrow Bank(s)’** | shall refer the bank(s) in which the Escrow Account(s) are maintained; |
|  | **‘Final Settlement Date’** | shall mean the date as specified in **Part 10 of Schedule 1** hereto or the date on which the Outstanding Dues, are to be paid up by the Borrower in full, in accordance with this Agreement; |
|  | **‘Finance Documents’** | shall mean and refer to this Agreement, the Escrow Agreement, the Deed of Hypothecation and / or other ancillary agreements executed between the Parties in relation to the Loan and shall include any other agreement executed / to be executed in connection with the Loan which is categorized as a Finance Documents by the Lender; |
|  | **‘Hypothecated Assets’** | shall mean the security created over the Receivables and such other assets as set out in the Deed of Hypothecation; |
|  | **‘Installment’** | shall refer to the amount payable at each Due Date, in accordance with **Schedule 2** of this Agreement; |
|  | **‘Interest’** | shall refer to the interest payable by the Borrower on the Loan, as set out in **Part 4 of Schedule 1**hereto; |
|  | **‘Interest Reset Date’** | shall mean the date on which the Interest shall be reset by the Lender, being one year from the date of the Sanction Letter and subsequently at the expiry of one year after the date of the previous Interest reset; |
|  | **‘Loan’** | shall refer to the sum (as specified in **Part 3 of Schedule 1** hereto) availed by the Borrower from the Lender, as a loan, in terms of this Agreement; |
|  | **‘Margin’** | shall have the meaning ascribed to it in Clause 2.3 herein; |
|  | **‘Outstanding Amount’** | shall mean the entire outstanding amount due in respect of the Loan (at any time) including but not limited to the present and future obligations and liabilities of the Borrower to pay/ repay the principal amount of the Loan, Interest, Default Interest, prepayment charges, other fees, liquidated damages, indemnities, costs, charges and expenses (*including any fees payable to the Lender*) and other amounts payable in respect of the Loan under the Finance Documents; |
|  | **‘Purpose’** | shall have the meaning ascribed to in Part 2 of Schedule 1; |
|  | **‘Receivables’** | shall mean all receivables of the Borrower from: (a) the fees and other academic proceeds collected by it from students enrolled with the Borrower; and (b) all receivables in the form of grant and / or aid received by the Borrower from the Government of India or any state government; |
|  | **‘Revised Interest’** | shall have the meaning ascribed to the term in Clause 3.3; |
|  | **‘Sanction Letter’** | shall refer to the sanction letter issued by the Lender to the Borrower and annexed hereto as **Annexure A**; |
|  | **‘Security’** | shall have the meaning assigned to it in Clause 7. |

* 1. Interpretation

In the interpretation of this Agreement, unless the context otherwise requires:

1. Apart from the terms defined in Clause 1.1 above, any other terms defined elsewhere in this Agreement, shall have the meanings assigned to them thereunder;
2. References to laws shall mean the Applicable Law/s of India, as enacted, amended, supplemented or re-enacted from time to time;
3. References in the singular shall include references in the plural and vice versa;
4. Reference to any gender includes a reference to all other genders;
5. Whenever provision is made for the giving of notice, approval or consent under this Agreement, unless otherwise specified, such notice, approval or consent shall be in writing and the words ‘notify’, ‘approved’ and ‘consent’ shall be construed accordingly;
6. In the event of any disagreement or dispute between the Lender and the Borrower regarding the occurrence of an Event of Default or the materiality of any matter in relation to the Finance Documents, the determination of the Lender in this regard shall be final and binding on the Borrower; and
7. The headings are merely indicative in nature and are inserted for convenience. They must not be considered for the purpose of construction/ interpretation.
8. **LOAN & MARGIN**
   1. The Borrower is entitled to avail facilities up to the overall loan limit fixed by the Lender, subject to the compliance of the criteria fixed by the Lender. The Borrower shall enter into separate term loan agreement(s) for each such term loan availed by it under the Overall Loan Limit, from the Lender. The current overall loan limit of the Borrower is set out in **Part 14 of Schedule 1**.
   2. Subject to the terms of this Agreement, the Lender hereby agrees to grant to the Borrower and the Borrower hereby agrees to avail from the Lender, the Loan in accordance with the provisions contained herein. The Loan shall be disbursed in one or more tranches in the manner contemplated herein.
   3. The Borrower has represented that the total cost for giving effect to the Purpose is as specified in **Part 13 of Schedule 1** hereto. The Borrower agrees and confirms that it shall bear **\_\_\_\_\_\_\_**of the Total Cost of the Purpose (‘**Margin**’). Further, the Borrower confirms that the granting of the Loan by the Lender is subject to the Borrower bearing the Margin **(if any),** either upfront or on pro-rata basis. In the event the Borrower has already spent an amount equivalent to the Margin towards the Purpose, the Lender shall upon receipt of proof of such expense, treat the amount so spent by the Borrower as the Margin, subject to the compliance of the criteria fixed by the Lender.
9. **INTEREST** 
   1. Rate of Interest

On and from the Disbursement Date, subject to Clause 3.3, the Loan shall carry an interest as specified in **Part 4 of Schedule 1** hereto (‘**Interest**’). The Interest on the Loan calculated on daily product basis shall be debited monthly and payable quarterly, on an accrual basis.

* 1. Default Interest
     1. In case of a default by the Borrower in the repayment of the said Loan on the Due Date or any breach by the Borrower of the terms of the Finance Documents, the Borrower shall be liable to pay to the Lender, such additional interest rate as more particularly mentioned in **Part 6 of Schedule 1** which will be compounded quarterly, over and above the rate prescribed herein for the period during which such default continues.
     2. The Borrower agrees and acknowledges that the Default Interest is a genuine pre-estimate of the loss likely to be suffered by the Lender on account of a default by the Borrower.
  2. Interest Reset

The Lender is entitled to revise the rate of Interest payable by the Borrower to the Lender, at its sole discretion (based on its internal policies) on the Interest Reset Date. In the event the Lender revises the Interest payable by the Borrower under this Agreement (‘**Revised Interest’**), the Lender shall intimate the Revised Interest to the Borrower in writing and the said Revised Interest shall payable from the date of such Interest Reset.

1. **REPAYMENT**

* 1. The Borrower shall repay the entire Loan together with accrued Interest and all other Outstanding Amount payable under this Agreement (in full) on or before the Final Settlement Date. The Borrower shall repay the principal in accordance with the repayment schedule set forth in **Schedule 2** hereunder. If the entire Loan is not disbursed under this Agreement, such undisbursed amount shall be reduced from the repayment amount proportionately.
  2. All payments to be made by the Borrower to the Lender under this Agreement shall be made free and clear of and without any deduction for or on account of any taxes whatsoever. If the Borrower is required to make any such deductions, then, in such case, the sum payable to the Lender shall be increased to the extent necessary to ensure that, after making such deduction, the Lender receives and (without any liability for such deduction) a sum equal to the sum which it would have received had such deduction not been made or required to be made.
  3. All Outstanding Amounts due and payable by the Borrower to the Lender under this Agreement shall be payable without any delay or demur and without any deduction whatsoever by way of set off or counterclaim or otherwise of any amount due or alleged to be due or outstanding from the Lender or any other person and notwithstanding any legal limitation, disability or incapacity of the Borrower or any of them.
  4. The Lender shall not be required to give any notice, reminder or intimation to the Borrower regarding its obligation to pay the amount payable hereunder on the Due Dates and it shall be entirely the Borrower's responsibility to ensure prompt and regular payment of the amount payable by the Borrower to the Lender on the Due Dates and in the manner herein provided.
  5. Notwithstanding anything set out in this Agreement, the Borrower hereby agrees and acknowledges that the obligation to repay the Loan is an absolute and unconditional obligation of the Borrower and shall not be dependent on any conditions including, but not limited to, receipt of Receivables.

1. **PREPAYMENT**

The Borrower may prepay the entire Outstanding Amount (or any part thereof), subject to following:

1. Issuing a 30 (Thirty) days advance written notice to the Lender; and
2. Paying the prepayment charges, as specified in **Part 7 of Schedule 1** hereto, to the Lender.
3. **ESCROW ARRANGEMENT** 
   1. The Borrower shall ensure that all the Receivables as may be collected by the Borrower shall be received / collected in the respective Escrow Accounts in the manner specified under the Escrow Agreement.
   2. Without prejudice to the other rights and remedies available to the Lender under Applicable Law, equity or otherwise, if any Receivables are received or collected by the Borrower (whether by way of cheques /demand drafts/RTGS/NEFT) in any account other than the Escrow Accounts, the Borrower shall forthwith transfer all such Receivables to the relevant Escrow Account in the manner provided in the Escrow Agreement. The Borrower agrees and acknowledges that the Receivables so deposited shall be distributed in accordance with the terms set out in the Escrow Agreement.
   3. The Parties shall enter into an Escrow Agreement simultaneous with the execution of this Agreement with the Escrow Bank. All costs with respect to the execution of the Escrow Agreement (including but not limited to the escrow charges payable to the Escrow Bank) shall be borne exclusively by the Borrower.
   4. The Borrower agrees and confirms that the Lender shall be entitled to issue instructions with respect to the Escrow Accounts to the Escrow Bank.
   5. The Escrow Accounts shall be established and operated in accordance with the provisions of the Escrow Agreement.
4. **SECURITY** 
   1. The Borrower shall secure the Loan together with all Interest, Default Interest, additional interest, costs, charges and expenses and all other monies whatsoever, due and payable or which may hereafter be payable by the Borrower to the Lender whether under the Agreement or otherwise, by creating such security in favour of the Lender, as may be acceptable and considered appropriate by the Lender.
   2. In consideration of the Lender advancing the Loan in terms hereof and for the purpose of securing the repayment of the Loan and the Outstanding Amounts and the due discharge of the obligations by the Borrower under the Finance Documents, the Borrower hereby agrees to create the Security, as specified in **Part 8** of **Schedule 1** hereto, within the timelines specified by the Lender, by taking all requisite actions in this regard including: (i) stamping and registering the relevant Security documents as may be required under Applicable Law and providing the same to the Borrower.
   3. The Borrower shall for so long as any portion of the Outstanding Amount is outstanding / payable to the Lender, fully insure and keep the underlying security so insured, at its own costs in the joint names of the Borrower and the Lender, with the name of the Lender recorded as ‘the First and exclusive Loss Payee’ in such insurance policy/ies. Such insurance required to be taken by the Borrower for the Hypothecated Assets shall be standard comprehensive package insurance policies covering (a) all comprehensive risks, including but not limited to riots, civil commotion, flood, earthquake, terrorism, fire and such additional risks / liability to which the Product(s) is / are normally exposed and (b) unlimited third party liability risks. The Borrower shall forthwith upon taking / renewing any such insurance policies furnish true copies of such insurance policy / ies to the Lender to confirm having complied with this obligation.
   4. The Borrower hereby expressly agrees that, if in the sole opinion of the Lender, the Borrower has defaulted in any of its obligations under this Agreement or otherwise, the Lender shall be entitled to enforce/foreclose the said Security without notice to the Borrower and utilize the proceeds in the manner set out in the Finance Documents.
   5. The appropriation by the Lender of the said Security (or any part thereof) in accordance with the provisions of this Agreement shall not discharge or relieve the Borrower of its obligations under this Agreement, to the Lender and shall be without prejudice to any other right and/or remedy that the Lender may have at equity or in law.
   6. Upon termination of this Agreement, the unutilized Security shall be set-off against any Outstanding Amounts due and payable by the Borrower to the Lender. The balance, if any, shall be refunded / returned to the Borrower.
   7. Further, the Borrower expressly accepts that if the Borrower fails to pay any monies on the Due Dates or which may be declared due to prior to the date when it would otherwise have become due or commits any Event of Default under this Agreement then in such event the Lender shall, without prejudice to any other right that the Lender has in law, be absolutely entitled to exercise all or any of rights of lien and set-off to recover such dues from the Borrower.
   8. The Security and the Security documents shall be created / executed in a form and manner satisfactory to Lender and shall remain valid and continue as security for full discharge of the Loan under the Finance Documents.
5. **DISBURSEMENT**

On the written instructions of the Borrower duly signed by its authorised signatory and transmitted by fax to the Lender, the Lender has agreed to disburse the Loan to the Borrower by directly transferring the Loan amount to the vendors / contractors / suppliers / sub-contractors (as the case may be) of the Borrower. The Loan shall be disbursed by the Lender by way of Real Time Gross Settlement or National Electronic Funds Transfer. The Borrower shall provide proof of placing order alongwith the price of the product / service to the Lender. The Borrower agrees to obtain competitive quotes for the products proposed to be purchased by it with the Loan in accordance with the procurement/purchase policies of the Borrower.

1. **CONDITIONS FOR DISBURSEMENT** 
   1. The Borrower undertakes to fulfill the conditions specified in **Schedule 3** hereto within the time specified in **Schedule 3** hereto, to the absolute and complete satisfaction of the Lender (unless waived by the Lender in writing). The Loan shall be disbursed to the Borrower in accordance with this Agreement only upon fulfillment of the conditions specified in Schedule 3 hereto, to the satisfaction of the Lender.
2. **REPRESENTATIONS AND WARRANTIES**

The Borrower hereby represents the following to the Lender, on the basis of which the Lender has agreed to make available the Loan to the Borrower: -

1. The Borrower validly exists under law and is duly qualified and authorised to do and carry on its operations.
2. This Agreement has been duly and validly executed and constitutes a legal and binding obligation of the Parties.
3. There are no proceedings of any nature pending before any court of law which will materially affect the financial position of the Borrower.
4. The Borrower has obtained all corporate approvals (if applicable) to enter into this Agreement.
5. The Borrower has not committed any default nor is there any subsisting default with respect to any facility / loan availed by the Borrower.
6. The Security is free from charge / lien / encumbrance (of any nature whatsoever) nor is it the subject matter of any attachment or judgment.
7. **COVENANTS AND UNDERTAKINGS**
   1. Affirmative Covenants
8. The Borrower undertakes to utilise the Loan only for the Purpose set out in **Part 2 of Schedule 1** hereto.
9. The Borrower shall, at all times during the term of this Agreement comply with the terms of this Agreement and the other Finance Documents.
10. The Borrower covenants that it shall execute all such deeds, documents and assurances and do all such acts and things as the Lender may require for exercising its rights under this Agreement and the Loan and Finance Documents.
11. The Borrower shall duly comply with all applicable laws in performing its obligations under this Agreement.
12. The Borrower shall at all times during the subsistence of this Agreement, maintain all license / approvals / consents required for conducting its operations and / or none of the licenses / approvals of the Borrower shall be cancelled / revoked.
13. The Borrower shall carry on and conduct its operations in ordinary course with due diligence and efficiency and in accordance with Applicable Law.
14. The Borrower shall maintain books of accounts as per Applicable Law.
15. The Borrower shall submit to the Lender, quarterly project implementation progress report.
16. The Borrower shall submit its financial statement to the Lender, within 15 (Fifteen) days of finalisation of the financial statement.
17. The Borrower shall provide details of all litigations (to which it is a party), which may materially affect the financial position of the Borrower and provide details of notices received by it with respect to such litigations.
18. The Margin shall be borne by the Borrower.
19. The Borrower shall notify the lender immediately upon occurrence of any of the following actions / events;
20. availing of any further loan (whether secured or unsecured) from any financial institution / person.
21. Change in the nature / constitution of the borrower (i.e. the Borrower shall not become a private institution).
22. Change in the place of its operations.
    1. Negative Covenants

Except with prior consent of the lender;

1. The borrower shall not create any lien / charge / encumbrance over the Security, during the subsistence of this Agreement.
2. **EVENTS OF DEFAULT**

The occurrence of any of the following events shall be considered an event of default (“**Event of Default**”):

1. Failure to make payments to the Lender of the Outstanding Amount or any part thereof including Interest, Default Interest, overdue interest, processing fee or any other charges such as cheque bounce charges, collection charges, representation charges etc., payable under these presents on the due date(s) or on demand as the case may be;
2. The Borrower using the said Loan or any part thereof for any purpose other than for which the said Loan has been sanctioned without obtaining the prior written permission of the Lender;
3. If the Security created in favour of the Lender has been shared or disposed off or second or parallel charge has been created by the Borrower with another bank/financial institution/third party;
4. The Borrower is unable to carry on its operations or the Borrower’s license to carry on its operation has been revoked.
5. The Borrower is unable or has admitted in writing its inability to pay any of the Outstanding Amount as they mature or when due.
6. Any act or omission on the part of the Borrower, which may periodically affect the interest of the Lender or which in any manner, is detrimental to the terms and conditions of this Agreement;
7. If any circumstance or event occurs which would or is likely to prejudicially or adversely affect in any manner the ability/capacity of the Borrower to perform or comply with its obligations to thereunder and/or to repay the said Loan or any part thereof;
8. It is or becomes unlawful for the Borrower to perform any of its obligations under this Agreement and / or any Finance Documents;
9. Breach of any of the obligations by the Borrower under any of the Finance Documents;
10. Breach of any of the conditions of the grant and / or aid received by the Borrower from the Government of India or any state government;
11. Change or Conversion in the nature of the Borrower (i.e. privatization of the Borrower);
12. The Borrower has defaulted in the repayment of any loan or facility (or part thereof) availed by it from any person.
13. **CONSEQUENCES OF AN EVENT OF DEFAULT**

On the occurrence of an Event of Default, the Lender shall give 30 (thirty) days written notice to the Borrower to cure the Event of Default (the “**Cure Period**”). On expiration of the said Cure Period, if the Borrower has not been able to cure the Event of Default to the satisfaction of the Lender:

1. The Lender shall be entitled to cancel any outstanding commitments under this Agreement or the Finance Documents;
2. The Lender shall be entitled to demand immediate repayment of the Outstanding Amount;
3. The Lender shall at its discretion be entitled to enforce/foreclose the Security, given under this Loan;
4. The Lender shall be entitled to take possession and / or control of the Hypothecated Assets (or any part thereof);
5. The Lender shall be entitled to instruct the Escrow Bank of the Escrow Accounts to cease making any payments/transfers from any of the Escrow Accounts;
6. without prejudice to the rights of the Lender under this Agreement and the Finance Documents, the Lender shall, in addition to the remedies available under this Agreement, have the rights and remedies as are available to it under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and / or any other laws / acts applicable in law in force or notified for the recovery of the dues to the Lender under this Agreement.
7. **INDEMNITY**

The Borrower shall indemnify and hold the Lender saved and harmless from time to time and at all times from and against any and all loss, damage, claims, expenses, charges, demands, penalties or other costs and consequences which may arise or result from granting of the said Loan to the Borrower or otherwise arising out of, in connection with, in relation to or pursuant to this Agreement or the said Loan provided hereunder and shall reimburse the Lender upon demand for any payment, loss and damage which the Lender may make, suffer or sustain by reason or on account thereof and shall upon request appear and defend at the Borrower's own cost and expense any action, suit or other proceedings which may be brought against the Lender in connection therewith. The Borrower shall further be liable to indemnify the Lender in respect of any and all expenses incurred by the Lender in enforcing or attempting to enforce this Agreement or the Security created herein including legal fees and disbursements on a full indemnity basis. It is hereby clarified that this indemnity clause is applicable only in relation to the Loan being granted by the Lender under this Agreement.

1. **NOTICES** 
   1. Any notice, demand, request or other communication to be made or given under this Agreement shall be in writing unless otherwise stated. Such notice, demand request or other communication shall be deemed to have been duly given or made when it shall be (a) delivered personally, or (b) sent by facsimile transmission, or (c) sent by registered mail with acknowledgment due, postage prepaid.
   2. The details of the Parties for the purpose of serving any notices in relation to or pursuant to this Agreement are set out in **Part 11 of** **Schedule 1** hereto.
   3. Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
   4. if delivered personally, on delivery; or
   5. if by way of facsimile, when received in legible form; or
   6. if by way of registered mail / courier, the date of receipt of such registered mail / courier (as demonstrated by the acknowledgement); or
   7. if by electronic mail, upon receipt of an acknowledgement mail from the other Party
   8. Notwithstanding anything to the contrary contained hereinabove, any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender. Further, it is clarified if notice is issued by the Borrower through electronic mail for request for disbursement/release of any amount of the Loan, a scanned copy of the disbursement request duly signed by the authorized signatory of the Borrower shall be attached with the said electronic mail.
   9. Promptly upon change of address or email specified herein above, the relevant Party shall notify the other Parties.
2. **ASSIGNMENT**

* 1. Notwithstanding anything to the contrary contained in this Agreement, the Borrower shall not assign or transfer any of its rights or obligations under this Agreement and/or any Finance Documents, except with the prior written consent of the Lender.
  2. The Lender may without reference to the Borrower:

1. assign any of its rights;
2. transfer by novation any of its rights and obligations; or
3. participate or sub-participate (on a disclosed or undisclosed basis) any of its rights and obligations;

under any Finance Document to another other entity. The Lender shall however issue a prior notice to the Borrower informing the Borrower before such assignment.

1. **CONFIDENTIALITY** 
   1. The Borrower shall be obliged to preserve the confidentiality of all information with respect to the Loan, except where the Borrower is able to prove to the satisfaction of the Lender:
      1. the information comes into or is already in the public domain through no fault of the Borrower;
      2. disclosure is required by an Applicable Law or governmental authority.
   2. No announcements in relation to the contents of this Agreement or the Loan may be made by the Borrower without prior written consent of the Lender, except as may be required by Applicable Law.
2. **SPECIFIC PERFORMANCE**

The Borrower agrees that the Lender shall be entitled to an injunction, restraining order, right for recovery, suit for specific performance or such other equitable relief as a court of competent jurisdiction may deem necessary or appropriate to restrain the Borrower or any other party from committing any violation or enforce the performance of the covenants, representations, warranties and obligations contained in this Agreement. These injunctive remedies are cumulative and are in addition to any other rights and remedies the Lender may have at Applicable Law. The Parties recognize that damages in alternative to or in lieu of specific performance shall not be an adequate remedy and the Parties shall be entitled to specific performance of this Agreement.

1. **DISPUTE RESOLUTION** 
   1. Any dispute(s) or difference(s) arising between the Parties out of, or in connection with, or in any manner related to this Agreement or interpretation of any of the provisions of this Agreement or performance of any of the terms and conditions of this Agreement shall be settled amicably through negotiation between the Parties.
   2. In the event the Parties are unable to resolve the dispute within a period of 60 (Sixty) days from the date of reference to mediation in terms of Clause 19.1 above, the said dispute shall be submitted to arbitration by a sole arbitrator nominated by the Parties. The arbitration shall be governed by the Arbitration and Conciliation Act, 1996 or any statutory re-enactment thereof, as may be in force then.
   3. If the Parties are unable to agree on the nomination of a sole arbitrator within a period of 30 (thirty) days from the date of reference to arbitration, each Party shall be entitled to nominate one arbitrator each, and the said arbitrators appointed by the Lender and the Borrower shall in turn nominate a third arbitrator jointly. The decision of the panel of the said three arbitrators shall be final and binding on the Parties.
   4. The arbitrator shall be a person of professional repute who is not directly or indirectly connected with any of the Parties to this Agreement and shall have prior experience as an arbitrator.
   5. The place of arbitration shall be Bangalore. The language to be used in the arbitration proceedings shall be English.
   6. The arbitration award shall be final and binding on the Parties, and enforceable in accordance with its terms. The arbitrator shall state reasons for his / her findings in writing. The Parties agree to be bound thereby and to act accordingly.
   7. All costs and expenses incurred by the Lender in the course of and/or for the purposes of and/or in connection with the arbitration proceedings initiated under this Clause, including but not limited to fees payable to the legal advisors / counsel of the Lender, shall be borne by the Borrower.
2. **GOVERNING LAW**

Subject to Clause 19, this Agreement shall be governed by and construed in accordance with the laws of India. It is hereby agreed that the courts at Bangalore will have the exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (“**Dispute**”) and accordingly any legal action or proceedings arising out of or in connection with this Agreement may be brought in the courts of Bangalore and the Borrower irrevocably submits to the jurisdiction of these courts.

1. **OTHER REMEDIES**

The rights and remedies conferred upon the Lender under this Agreement:

* + 1. shall not prejudice any other rights or remedies to which the Lender may, independently of this Deed, be entitled; and
    2. shall not be prejudiced by any other rights or remedies to which the Lender may, independently of this Deed, be entitled, or any collateral or other security (including, without limitation, guarantee) now or hereafter held by the Lender.

1. **DISCHARGES AND RELEASES**

Notwithstanding any discharge, release or settlement from time to time between the Lender and the Borrower, if any discharge or payment in respect of the Outstanding Amount by the Borrower or any other person is avoided or set aside or ordered to be surrendered, paid away, refunded or reduced by virtue of any provision, Applicable Law for the time being in force or for any other reason, the Lender shall be entitled hereinafter to enforce this Agreement as if no such discharge, release or settlement had occurred.

1. **MISCELANEOUS** 
   1. Inspection: It shall be lawful for the Lender and its agents (after giving due notice at the expenses in all respects of the Borrower) to enter at any time into the premises of the Borrower or places of storage of any of the Hypothecated Assets for the purpose of inspection and of checking the Hypothecated Assets and taking account and inspection of books of account of the Borrower which the Lender is hereby authorized to do and it shall also be lawful for the Lender, from time to time, as it may deem fit, to have all or any of the Hypothecated Assets for the time being so hypothecated and charged as aforesaid valued by an engineer or other valuer to be appointed by the Lender and all such expenses and fees of such valuation shall be treated as advances by this Agreement and be debited to the Borrowers' loan/cash credit/ overdraft /current account and payable accordingly and shall until payments be treated as advance secured by this Agreement.
   2. Disclosure of Information:
      1. The Borrower hereby agrees as a pre-condition of the Loan granted by the Lender that in case it commits a default in the repayment of the Loan or in the repayment of Interest thereon or any of the agreed instalments of the Loan on Due Date/s, the Lender and/or the Reserve Bank of India will have a right to disclose or publish the name of the Borrower and its directors as defaulter in such manner and through such medium as the Lender or Reserve Bank of India in their absolute discretion may think fit after obtaining approval from MHRD and with prior intimation to the borrower.
      2. Accordingly, The Borrower hereby agree and give consent for the disclosure by the Lender of all or any such:
2. Information and data relating to the Borrower;
3. The information or data relating to any credit facility availed of/to be availed, by the Borrower;
4. Default if any committed by the Borrower, in discharge of such obligation;

as the Lender may deem appropriate and necessary to disclose and furnish to credit information Bureau (India) Ltd., and to any other agency authorized in this behalf by the Reserve Bank of India.

* + 1. The Borrower declares that the information and data furnished by it to the Lender are true and correct. The Borrower undertakes that:

1. the Credit Information Bureau (India) Ltd, and any other agency so authorized may use, process the said information and data disclosed by the Lender in the manner as deemed fit by them; and
2. the Credit Information Bureau (India) Ltd and any other agency so authorized may furnish for consideration the processed information and data or products thereof prepared by to Credit Information Bureau (India) ltd and Information Utility established under the provisions of the Insolvency and bankruptcy Code, 2016 or any other body authorized in this behalf by RBI/Government of India or other regulator/ Authority.

23.2.4 Further the Borrower undertakes and confirms to authenticate any information called for by any authority pertaining to the Loan sanctioned as per this Agreement/other loan documents within a period of 10 days from the date of receipt of such request .

* 1. Effectiveness of this Agreement: This Agreement shall be effective on and from the Effective Date and shall be in force till all Outstanding Amounts have been fully discharged by the Borrower to the satisfaction of the Lender.
  2. Severability: Every provision hereof shall be severable and distinct from every other such provision and if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable in any respect under any law or in any jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not be in any way affected or impaired thereby. To the full extent permitted by law, the Borrower hereby waives any term or provision prohibited or unenforceable in any respect.
  3. Illegality: If for any reason whatsoever, any provision of this Agreement is or becomes, or is declared by a court of competent jurisdiction to be, invalid, illegal or unenforceable, the Parties shall negotiate in good faith to agree on such provision to be substituted, which provision shall, as nearly as practicable, leave the Parties in the same or nearly similar position to that which prevailed prior to such invalidity, illegality or unenforceability.
  4. Waiver: No delay or omission of the Lender in exercising any right, power or remedy accruing to the Lender upon any default hereunder shall impair any such right, power or remedy or be construed to be a waiver thereof or any acquiescence in such default, nor shall the action or inaction of the Lender in respect of any default or any acquiescence by it in any default affect or impair any right power or remedy of the Lender in respect of any other defaults nor shall any single or partial exercise of any such right, power or remedy preclude any further exercise thereof or the exercise of any other right, power or remedy. The rights and remedies of the Lender herein provided are cumulative and not exclusive of any rights or remedies provided by applicable Law or equity or in any of the other Finance Documents.A waiver or consent granted by the Lender under this Agreement will be effective only if given in writing and only in the specific instance and for the purpose for which it is given.
  5. Construction: The provisions contained herein shall be read in conjunction with the provisions of the other Finance Documents and as amended from time to time, and to the extent of any inconsistency or repugnancy the latter shall prevail to all intents and purposes.
  6. Survival: The provisions of the Agreement which by the nature survives the expiry or termination of this Agreement, shall survive such expiry of termination of this Agreement.
  7. Modification: All amendments or supplements to the terms of this Deed can be made only by the parties in writing.
  8. Entire Agreement: The Parties hereby agree that this Agreement constitutes and contains the entire arrangement and understanding between the Parties with respect to the subject matter hereof and supersedes all previous communications, negotiations, agreements, contracts, deeds, memorandum of understanding commitments, either oral or written between the Parties respecting the subject matter hereof (including but not limited to the Sanction Letter).
  9. Business Day: Any payment which is due to be made on a day that is not a Business Day shall be made on the previous Business Day in the same calendar month.
  10. Limitation on rights of others: Nothing in this Agreement, whether express or implied, shall be construed to give to any person other than the Lender any legal or equitable right, remedy or claim under or in respect of this Agreement, except as expressly provided in this Agreement, any covenants, conditions or provisions contained herein or in the Security, all of which are, and shall be construed to be, for the sole and exclusive benefit of the Lender.
  11. Stamp Duty: The stamp duty and registration charges applicable on the Finance Documents shall be borne solely by the Borrower.
  12. Counterparts: This Agreement is executed in 2 (Two) counterparts, each of which shall be deemed an original.

1. **FORCE MAJEURE** 
   1. The Parties shall not be liable for any failure or delay in the performance of their respective obligations hereunder if such Party is prevented from so performing its obligations by any existing or future law or regulation, Government policy/action, orders or restrictions imposed by any court of law, any existing or future act of governmental authority, act of god, flood, war or warlike conditions, hostilities, sanctions, mobilisations, blockades, embargos, looting, revolutions, fires or accidents, terrorism, riot, rebellion, civil commotion, strike, lockout, other industrial action, general failure of electricity or other supply, technical failure, accidental or mechanical or electrical breakdown, computer failure or failure of any money transmission system (collectively "**Force Majeure**").
   2. Upon the occurrence of any event or condition of Force Majeure which affects the performance of any of the Parties, such Party shall promptly notify the other Parties of the nature of the event or condition, the effect of the event or condition on the Party's performance and the estimated duration of such event or condition. Such Party shall also notify the Parties immediately upon cessation of, or changes in, the event or condition constituting Force Majeure.
   3. The Parties shall take best efforts, within their power, to recommence performance of this Agreement and limiting the effects of Force Majeure on the ceasing of such event.

IN WITNESS WHEREOF the Parties hereto have hereunto set and subscribed their respective hands and seals the day and year first hereinabove written.

|  |  |
| --- | --- |
| SIGNED AND DELIVERED FOR AND ON BEHALF OF **LENDER**  By:  Title: | SIGNED AND DELIVERED FOR AND ON BEHALF OF **BORROWER**  By:  Title: |

**Schedule 1**

|  |  |  |
| --- | --- | --- |
| **Part** | **Heading** | **Particulars** |
|  | Borrower |  |
|  | Purpose |  |
|  | Loan Amount |  |
|  | Interest |  |
|  | Interest Period | The Interest shall be debited monthly  The aggregate of monthly interest at the end of the calendar quarter (i.e. March, June, September and December) has to be repaid within 30 days from the completion of the quarter. |
|  | Default Interest |  |
|  | Prepayment Charges |  |
|  | Security |  |
|  | Details of the Escrow Accounts |  |
|  | Final Settlement Date |  |
|  | Address for communication | **For Lender**:  Address: 06th Floor, Naveen Complex, No. 14, M G Road, Bengaluru 560001, KA  Attention: Executive Vice- President  Telephone number: 080 25594720  Email: [info@hefa.co.in](mailto:info@hefa.co.in)  **For Borrower**:  Address:  Attention:  Telephone number:  Email: |
|  | Sanction Letter |  |
|  | Total Cost of the Purpose |  |
|  | Overall Loan Limit |  |

**Schedule 2**

**Repayment Schedule**

**The repayment shall be project wise as detailed below;**

**1. Project A**

The entire loan amount of project A shall be repaid in 20 half yearly instalments of **Rs. \_\_\_each**, commencing six months from the date of first disbursement and subsequent instalments to be repaid every six months thereafter.

1. **Project B**

The entire loan amount of project B shall be repaid in 20 half yearly instalments of **Rs. \_\_\_\_each**, commencing six months from the date of first disbursement and subsequent instalments to be repaid every six months thereafter.

1. **Project C**

The entire loan amount of project C shall be repaid in 20 half yearly instalments of **Rs\_\_\_ each**, commencing six months from the date of first disbursement and subsequent instalments to be repaid every six months thereafter.

**4. Project D**

The entire loan amount of project A shall be repaid in 20 half yearly instalments of **Rs. \_\_each**, commencing six months from the date of first disbursement and subsequent instalments to be repaid every six months thereafter.

**Schedule 3**

**Conditions Precedent**

**Conditions Subsequent**

**Annexure A**

**Sanction Letter**

[*Enclosed Separately*]

**Annexure – 5**

This **DEED OF HYPOTHECATION** (“**Deed**”) is entered into on this --------------:

## BY

**----------------------------**an educational institution of national importance established by an act of Parliament located at ------------------ hereinafter referred to as the ‘**Borrower**’ (*as more particularly* *set out in Part 1 of* ***Schedule 1*** *hereto*) of the FIRST PART;

***IN FAVOR OF***

**Higher Education Financing Agency**, a Section 8 (Not for profit) Company, incorporated under the Companies Act, 2013 as a government company and also registered with the Reserve Bank of India as a Non-Banking Financial Company and having its registered office at No. 14, 6th Floor, Naveen Complex, MG Road, Bangalore - 560001, represented by------------- Managing Director, who has been duly authorized by the resolution of its Board of Directors dated 16.05.2018 (a copy of which has been provided to the Borrower) (hereinafter referred to as the ‘**Lender**’) of the **OTHER PART**;

The expressions Borrower and Lender shall unless it be repugnant to the context or meaning thereof, be deemed to mean and include their respective successors-in-interest and permitted assigns. The Borrower and the Lender shall collectively be referred to as the “**Parties**” and individually be referred to as a “**Party**”.

### WHEREAS

1. The Borrower is a leading centrally funded higher educational institution located at ---------------------.
2. Pursuant to issue of a sanction letter bearing No. -------------------- dated -------------- and Corrigendum issued REF: ------------------------ dated ---------------- issued by the Lender to the Borrower (“**Sanction Letter**”) and the acceptance of the same by the Borrower and, in terms of the Loan Agreement dated --------------- entered into between the Borrower and the Lender (“**Loan Agreement**”), the Lender has granted/ agreed to grant a term loan of an amount up to Rs. ------------ (Rupees ------------------------ only) (“**Loan**”) to the Borrower in one or more tranches for the purposes and on the terms and conditions contained therein.
3. One of the terms and conditions of the Loan Agreement is that the Loan amount and any and all other moneys whatsoever payable under and in relation to the Loan in terms of the Loan Agreement (collectively referred to as the “**Outstanding Amount**”) and the performance by the Borrower of its obligations under the Finance Documents shall be *inter-alia*, secured, on a First and continuing exclusive basis, by way of charge on all of the rights, title and interests of the Borrower in and to the Receivables (as defined below), more particularly described in the **Schedule I** hereunder and collectively referred to as the “**Hypothecated Assets**”.
4. The Lender has now called upon the Borrower and has requested the said Borrower to execute these presents and create a charge by way of hypothecation in favour of the Lender, which the Borrower have agreed to do in the manner hereinafter appearing.

**NOW THIS DEED WITNESSETH AND IT IS HEREBY MUTUALLY AGREED AND DECLARED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

**1. DEFINITIONS AND CONSTRUCTION**

Unless otherwise defined herein, the capitalised terms in this Deed shall have the meanings given to them in Loan Agreement. In this Deed, the capitalised terms listed below shall have the following meanings:

* 1. “**Authorised Representative**” shall mean and refer to the persons authorised by the Parties hereto to execute this Deed;
  2. “**Applicable Law**” shall mean in respect of any relevant jurisdiction, any statute, law, regulation, ordinance, rule, judgment, rule of law, order, decree, clearance, approval, authorisation, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision, or determination by, or any interpretation or administration of any of the foregoing by, any statutory or regulatory authority whether in effect as of the date of any of the Finance Documents or thereafter and in each case as amended from time to time;
  3. “**Business Day(s)**” shall mean the days other than 2nd and 4th Saturday of every month and Sunday on which banks are open for business in Bangalore, India;
  4. “**Deed**” shall mean this Deed of Hypothecation;
  5. “**Escrow Account 1**” shall mean escrow account No. -------------- opened and maintained by the Borrower with the Escrow Bank 1 for deposit of the Fee Receivables;
  6. “**Escrow Account 2**” shall mean escrow account No. ---------------------- opened and maintained by the Borrower with the Escrow Bank 2 for deposit of the Grant Receivables;
  7. “**Escrow Account 3**” shall mean the escrow account bearing No. --------------- opened and maintained by the Borrower with the Escrow Bank 3 for deposit of the principal payable to the Lender;
  8. “**Escrow Account 4**” shall mean the escrow account bearing No. --------------- opened and maintained by the Borrower with the Escrow Bank 3 for deposit of the interest payable to the Lender;
  9. “**Escrow Agreement**” shall mean the agreement executed between the Borrower, the Lender and the Escrow Bank on ---------------- in relation to the utilisation and operation of the Escrow Account 1, Escrow Account 2, Escrow Account 3 and Escrow Account 4 held by the Borrower with the Escrow Banks;
  10. “**Escrow Bank 1**” shall mean ---------------------------- in which Escrow Account 1 of the Borrower is maintained;
  11. “**Escrow Bank 2**” shall mean--------------------------------------- in which Escrow Account 2 of the Borrower is maintained;
  12. “**Escrow Bank 3**” shall mean -------------------------- of Canara Bank, bank in which Escrow Account 3 and Escrow Account 4 are maintained;
  13. “**Escrow Bank 3 Receivables**” shall mean all receivables from Escrow Account 1 and Escrow Account 2 transferred to Escrow Account 3 and Escrow Account 4 in terms of the escrow mechanism set out in the Escrow Agreement and maintained by Escrow Bank 3;
  14. “**Escrow Banks**” shall mean collectively Escrow Bank 1, Escrow Bank 2 and Escrow Bank 3;
  15. “**Event of Default**” shall mean any of the events specified in the Loan Agreement;
  16. **“Fee Receivables”** shall mean all the academic receipts receivable by the Borrower from students enrolled at its institution owing to, receivable and/or received by, the Borrower from any of its students towards academic activities (including any distance education programmes) that is deposited in Escrow Account 1;
  17. **“Finance Documents”** shall mean and include individually or collectively as this Deed, the Loan Agreement, Escrow Agreement, Sanction Letter and/or any other document executed / to be executed between the Parties in relation to the Loan;
  18. **“Grant Receivables”** shall mean all grants/ aid and financial assistance received by the Borrower from the Government of India, Ministry of Human Resources and Development / or any other Ministry that is deposited in Escrow Account 2;
  19. **“Hypothecated Assets” shall have the meaning ascribed to it in Schedule I of this Deed;**
  20. **“Receivables”** shall collectively mean and include the Fees Receivables, Grant Receivables and Escrow Bank 3 Receivables.
  21. “**Receiver**” shall have the meaning ascribed thereto in **Clause 6** hereof.
  22. “**Outstanding Amount**” shall have the meaning ascribed to it in Recital C herein; “**Other Assets**” shall mean and include all movable assets acquired by the Borrower from and out of the Loan availed, being tangible and intangible assets (both present and future) including, without limitation, all actionable claims, inventory, insurance policies, all moveable items/ equipments (whether attached or otherwise), raw materials, all items of equipment, building materials such as but not limited to steel and wooden materials, packing materials, electrical cables, electrical instruments, plumbing materials, construction materials, finished and semi-finished goods, consumable stores, spares, tools, accessories, office furniture, typewriters, computers, computer systems, drilling machines, dyes, ropes, vehicles and all other assets, whether installed or not and whether lying loose or in cases or which are lying or are stored in or to be stored in or to be brought into or upon the premises of the Borrower, whether now belonging to or that may at any time belong to the Borrower and/or that may at present or hereafter be held by any party anywhere to the order or disposition of the Borrower or in the course of transit or on high seas or on order, or delivery, howsoever and all replacements thereof and additions thereof whether by way of substitution, addition, replacement, conversion, realisation or otherwise howsoever together with all benefits, rights and incidentals attached thereto which are now or shall at any time hereafter be owned by the Borrower AND ALL estate, right, title, interest, property, claims and demands whatsoever of the Borrower, unto and upon the same.

2. **COVENANT TO REPAY**

In pursuance of the terms and conditions set out in Finance Documents, the Borrower does hereby covenant with the Lender that it shall repay the Outstanding Amount in the manner set out in the Finance Documents and duly observe and perform all the terms and conditions set out therein.

3. **HYPOTHECATION AND CHARGE**

* 1. In consideration of the aforesaid, the Borrower does hereby hypothecate and charge to and in favor of the Lender as security for the due payment of the Outstanding Amount, the Hypothecated Assets, particulars whereof are given in **Schedule I** hereunder, with the intent that the security and charge hereby created shall be a security on a first and continuing basis.
  2. The charge created hereunder over the Hypothecated Assets by the Borrower in favour of the Lender is a first and exclusive charge. Provided however that the right to utilize the Receivables towards servicing the repayment of the Loan shall be subject to a maximum amount of the Outstanding Amount.

1. **AFFIRMATIVE** **COVENANTS**
   1. In pursuance of the Finance Documents and for the consideration aforesaid and other related documents, the Borrower does hereby further agree, declares and covenants with the Lender:
      1. In the event of any breach or default by the Borrower in the performance of its obligations hereunder or any of the terms, covenants, obligations and conditions stipulated in the Finance Documents or any amendments thereto executed or that may hereafter be executed in favor of the Lender or in the event of the Borrower failing to pay either the interest or the principal amount due under the Loan Agreement, or in the event of the charge or the security created in favor of the Lender having become enforceable for any reason whatsoever, the Lender or their nominees/ representatives shall, give notice of 10 days at the risk, cost and expense of Borrower, may thereafter, in case the breach or default is not cured and if necessary as Attorney for and in the name of the Borrower seize, recover, receive, appoint a receiver and sell the Hypothecated Assets by public auction or by private contract, dispatch or consign for realization or otherwise dispose of or deal with all or any part of the said Hypothecated Assets and to enforce, realize, settle, compromise and deal with any rights or claims relating thereto without being bound to exercise any of these powers or be liable for any losses in the exercise or non-exercise thereof and without prejudice to the Lender’s rights and remedies of suit or otherwise.
      2. Notwithstanding any pending suit or other proceeding, the Borrower undertakes to give immediate possession of the Hypothecated Assets to the Lender, on demand and to transfer and to deliver to the Lender all related bills, contracts, securities and documents and the Borrower hereby agrees to accept the Lender’s account of sales and realizations as sufficient proof of amounts realized and related expenses and to pay on demand by the Lender’s any shortfall or deficiency thereby shown. Provided, however, that the Lender shall not in any way be liable or responsible for any loss or damage that the Hypothecated Assets may suffer or sustain on any account whatsoever whilst the same are in possession of the Lender or by reason of exercise or non-exercise of rights and remedies available to the Lender as aforesaid and that all such loss or damage shall be wholly debited to the account of the Borrower, howsoever the same may have been caused.
      3. The Borrower shall execute all such deeds, documents and assurances and do all such acts and things as the Lender may require for exercising the rights, powers and authorities hereby conferred on the Lender for effectuating and completing the security created hereunder and shall from time to time and at all times after the security hereby constituted shall become enforceable, execute and do all such deeds, documents, acts and things as are necessary for enforcing the security created hereunder and for realization of the Hypothecated Assets and in particular the Borrower shall execute all transfers, conveyances, assignments and assurances of the Hypothecated Assets, whether to the Lender or their nominees.
      4. In the event of the Lender enforcing the security hereunder either through the intervention of the Court or otherwise or by appointing a receiver or by sale or realisation of the Hypothecated Assets or any of them or any part thereof or otherwise howsoever and in whatsoever manner the said Lender may think fit, the proceeds of the sale or other proceeds or realization of the Hypothecated Assets or any of them or any part thereof including any money payable under or in respect of any policy of insurance remaining after deducting there from the costs (between the attorney and client), charges and expenses incidental to such sale or realization, shall if sufficient be paid over to the Lender for application in accordance with the Loan Agreement.
      5. The Recitals, Schedules and Addendum if any to this Deed shall have effect and be construed as an integral part of this Deed but in the event of any conflict or discrepancy shall for the purposes of interpretation and enforcement of this Deed shall be resolved in terms of Clause 16 of this Deed.
      6. The Borrower shall not sell, release, compound or dispose of any of the Hypothecated Assets without the express consent in writing of the Lender.
      7. The Borrower shall furnish to the Lender full particulars of all the assets of the Borrower and of the Hypothecated Assets including any statements, accounts, reports, analysis, details and information and shall allow the Lender or its authorized agents, valuers, advisers, attorneys, other authorized persons, employees and representatives to take inspection of the said Hypothecated Assets or any of them and it shall be lawful for the Lender at any time and from time to time and at all times during the continuance of this security and at the expense of the Borrower in all respects to value the security, to take inventories thereof and to take possession thereof either temporarily or permanently or for such periods as the Lender think fit and to employ a person or persons or firm or company to inspect and evaluate on behalf of the Lender all or any of the said Hypothecated Assets and the Borrower shall pay to the Lender on demand the fees or other remuneration payable to any such person firm or company and the costs, charges and expenses of and incidental to such valuation (the Lender's demand being conclusive) and in default, the Lender shall be at liberty to debit the amount thereof to the said account, any such valuation accepted by the Lender shall be conclusive against the Borrower, the Lender shall not be liable to pay damages for under or over valuation of the said Hypothecated Assets;
      8. The Hypothecated Assets whether present or future, whether now belonging to the Borrower or which may be manufactured or acquired in the future are and shall be the absolute and unencumbered property of the Borrower with full and absolute power of disposition over all such goods including the right to hypothecate and/or create any charge thereon in any whatsoever manner and the Borrower undertakes not to deal with/dispose of any part of the said Hypothecated Assets otherwise than in the ordinary course of business but the manner only in and to the extent stipulated herein.
2. **AVOIDANCE OF PAYMENT**

If any amount paid by the Borrower in respect of the Outstanding Amount is avoided or set aside on the liquidation or administration of the Borrower or otherwise, then for the purpose of this Deed such amount shall not be considered to have been paid when such payment is returned or becomes liable to be returned to the Borrower or any other claimant by the Lender.

1. **APPOINTMENT OF RECEIVER**
   1. The Lender, at any time after the security hereby created has become enforceable and whether or not the Lender shall then have entered into or taken possession of and in addition to the powers hereinbefore conferred upon the Lender after such entry into or taking possession of, may appoint a receiver or receiver(s) in respect of the Hypothecated Assets or any part thereof (hereinafter the “**Receiver**”). The following provisions shall apply to such receiver.
   2. Unless otherwise directed by the Lender such Receiver shall have and exercise all powers and authorities vested in the Lender hereinafter set forth or under applicable law or as the Lender may think expedient, including the following rights, power and authorities:
      1. to take possession of and collect all or any part of the Hypothecated Assets and for that purpose to initiate any proceedings and enforce any order or judgment in the name of the Borrower or otherwise as the Receiver shall consider fit;
      2. for the purpose of exercising any of the powers, authorities and discretions conferred on it by this Deed and/or defraying any costs or expenses which may be incurred by it in the exercise thereof or for any other purpose, to borrow from the Lender or others on such terms (with or without security) as the Lender or the Receiver shall consider fit and so that, with the prior written consent of the Lender, any such security may be or include a charge on the whole or any part of the Hypothecated Assets ranking wholly or partly in priority to or pari-passu with the security created hereunder;
      3. to assign, sell, lease, license, grant options to sell, deal with or manage or concur in assigning, selling, leasing, licensing, granting options to sell, dealing with or managing and to vary, terminate or accept surrenders of leases, licenses or otherwise dispose of any part of the Hypothecated Assets in such manner and generally on such terms and conditions as the Lender or the Receiver shall consider fit and to carry any such transactions into effect in the name of and on behalf of the Borrower or otherwise;
      4. to redeem any prior encumbrance and settle and pass the accounts of the encumbrances so that any accounts so settled and passed shall be conclusive and binding on the Borrower and the money so paid shall be deemed to be an expense properly incurred by the Receiver;
      5. to settle, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any Person or body who is or claims to be a creditor of the Borrower or relating in any way to the Hypothecated Assets or any part thereof;
      6. to bring, prosecute, enforce, defend and discontinue all such actions and Proceedings in relation to the Hypothecated Assets or any part thereof as the Receiver shall consider fit;
      7. to sell, lease or otherwise dispose of all or any part of the Hypothecated Assets including plant, equipments, vehicles or other fixtures;
      8. to do all such things and take all such action as may be required in order to ensure the continued safe, efficient and economic operation of the institution by the Borrower;
      9. insure and keep insured the property and assets of an insurable nature comprised in the Hypothecated Assets against loss or damage by such risks and contingencies in such manner and in all respects, and to maintain, renew or increase any insurance or insurance in respect of such property or assets;
      10. to do all such other acts and things (including, without limitation, signing and executing all documents and deeds) as may be considered by the Lender or Receiver to be incidental to any of the matters or powers aforesaid or otherwise incidental or conducive to the preservation, improvement or realization of the Hypothecated Assets;
      11. to exercise all such other powers and authority as the Lender shall consider fit to confer and so that the Lender may in relation to such part of the Hypothecated Assets as is the subject of a charge hereunder confer any powers and authorities which it could give if it were an absolute beneficial owner thereof; and
      12. in the exercise of any of the above powers, to expend such sums as the Receiver may think fit and the Borrower shall forthwith on demand repay to the Receiver all sums so expended together with interest thereon, from the date of payment by the Receiver until the date of repayment of such sums, together with such interest, shall be secured by this Deed.
   3. Such Receiver shall, in exercise of his powers, authorities and discretions, conform to the regulations and directions from time to time made and given by the Lender.
   4. The Lender, may from time to time, fix the remuneration of such receiver and shall direct payment thereof out of the Hypothecated Assets or any sale, realizations and insurance proceeds of the disposals there from but only the Borrower shall be liable for the payment of such remuneration.
   5. The Lender may, from time to time and at any time, require such receiver to give security for the due performance of his duties as such receiver and may fix the nature and amount of the security to be given to the Lender but the Lender shall not be bound to require such security in any case.
   6. The Lender may pay over to such receiver any monies constituting part of the security created hereunder to the intent that the same may be applied for the purpose hereof by such receiver and the Lender may, from time to time, determine what funds the receiver shall be at liberty to keep in hand with a view to the performance of his duties as such receiver.
   7. Every such receiver shall be the agent of the Borrower for all purposes and the Borrower alone shall be responsible for his acts and defaults, loss or misconduct and liable on any contract or engagement made or entered into by him and for his remuneration and the Lender shall not incur any liability or responsibility therefore by reason of their making or consenting to his appointment as such receiver.
2. **ADDITIONAL COVENANTS**
   1. **Assets and Realization to be kept distinguishable**

All the Hypothecated Assets and all sale realizations and insurance proceeds thereof and all documents under this security shall always be kept distinguishable and held as the property of the Lender specifically appropriated to this security and be dealt with only under the directions of Lender and the Borrower shall not create any other charge, mortgage, lien or other encumbrance upon or over the same or any part thereof except in favor of the Lender or otherwise permitted by the terms of the Loan Agreement nor suffer any such charge, mortgage, lien or other encumbrance or any attachment or distress to affect the same or any part thereof nor do or allow any thing that may prejudice this security and the Lender shall be at liberty to incur all costs and expenses as may be necessary to preserve this security and to maintain the same undiminished and claim reimbursement thereof as mentioned herein PROVIDED that except to the extent specifically permitted by the Lender or otherwise permitted by the terms of the Loan Agreement, the Borrower shall not compound or release any of the receivables nor do or omit to do anything whereby the recovery of the same may be delayed or prevented.

* 1. **Not to create any encumbrance**

The Borrower shall not create any mortgage, charge, lien or encumbrance on the Hypothecated Assets affecting the same, or any part thereof nor do anything which would prejudice the security contained therein.

* 1. **Particulars of Assets**

The Borrower shall, whenever required by the Lender, give full particulars to the Lender of all the Hypothecated Assets and shall furnish and verify all statements, reports, returns, certificates and information from time to time and as required by the Lender and make furnish and execute all necessary documents to give effect to this security.

* 1. **Continuing Security**

This security shall be a continuing security for the due repayment of the Outstanding Amount of the Borrower under the Loan Agreement, notwithstanding any intermediate payment, sharing with any other person, claw back of monies paid, or other matter or thing whatsoever and shall not affect, impair or discharge the liability of the Borrower by virtue of winding up or dissolution of the Borrower or reconstruction or otherwise of the Borrower or takeover of the management or nationalization of the undertaking of the Borrower.

* 1. **Good Title**

The Borrower hereby declares that the Hypothecated Assets in the **Schedule** **I** will at all times be the absolute property of the Borrower at the sole disposal of the Borrower, and subject to the charge created hereunder in favor of the Lender, be free from any charge, trust, pledge, lien, claim or encumbrance.

* 1. **Further Assurance**

The Borrower hereby agrees and undertakes to execute such other deeds or documents as may be required by the Lender and take all necessary and requisite actions, including the making of all filings with the relevant authorities, in order to perfect, protect, preserve and/or enforce the security created in favor of the Lender.

* 1. **Without Prejudice**

Nothing herein shall prejudice the rights or remedies under the Loan Agreement in respect of any present or future security, guarantee obligation or decree for any indebtedness or liability of the Borrower to the Lender.

* 1. **Cumulative Powers**

A failure or delay by the Lender in exercising any right, power or remedy hereunder shall **not** impair or extinguish such right, power or remedy or operate as a waiver thereof, nor shall any single or partial exercise of the same preclude any further exercise thereof or the exercise of any other right, power or remedy. The rights, powers and remedies herein provided are cumulative and do not exclude any other rights, powers and remedies provided by law. A waiver or consent granted by the Lender will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

* 1. **Security being Unconditional**

The Security created under these presents shall not be discharged, reduced or affected by:

1. any time, indulgence, concession, waiver, forbearance or consent at any time given to the Borrower or any other person;
2. any amendment, modification or supplement to these presents, Finance Documents or any other agreement, guarantee, indemnity, right or remedy or lien unless provided for in specific terms by the Lender;
3. the making or absence of any demand on the Borrower or any other person for payment;
4. the enforcement or absence of enforcement of these presents, Finance Documents, or any other agreement, security interest, guarantee, indemnity, right, remedy or lien;
5. the taking existence or release of any other agreement, security interest, guarantee, indemnity, right, remedy or lien (including the release of any part of the Hypothecated Assets);
6. dissolution, the winding-up, amalgamation, reconstruction or reorganization of the Borrower, any other person (or the commencement of any of the foregoing);
7. the illegality, invalidity or of any defect in any provision of these presents, Finance Documents, or any other agreement, security interest, guarantee, indemnity, right or remedy or lien, or any of the obligations of any of the parties there under; or
8. any other matter or thing whatsoever relating to the Security Interest under these presents.
   1. **Insurance**
      1. The Borrower shall for so long as any portion of the Outstanding Amount is outstanding / payable to the Lender, fully insure and keep the underlying security so insured, at its own costs in the joint names of the Borrower and the Lender, with the name of the Lender recorded as ‘the First and exclusive Loss Payee’ in such insurance policy/ies. Such insurance required to be taken by the Borrower for the Hypothecated Assets shall be standard comprehensive package insurance policies covering (a) all comprehensive risks, including but not limited to riots, civil commotion, flood, earthquake, terrorism, fire and such additional risks / liability to which the Product(s) is / are normally exposed and (b) unlimited third party liability risks. The Borrower shall forthwith upon taking / renewing any such insurance policies furnish true copies of such insurance policy / ies to the Lender to confirm having complied with this obligation.
      2. The Borrower confirms that all sums received under such insurance policies shall be applied in or towards liquidation of the amount for the time being due to the Lender hereunder; the Lender shall not be under any obligation to lodge any claim under the policies of insurance within the time limits as stipulated under the insurance policies; the Borrower shall follow the instructions of the Lender, if any, in case of any renewals of the insurance policies or making of claims or receipt of insurance moneys.
   2. **Maintenance**

The Borrower shall, at its own costs, maintain, preserve and protect the Other Assets in the same condition as on the date of execution of this Deed, subject to normal wear and tear.

1. **Enforcement**

The security created hereunder in favour of the Lender shall become enforceable by the Lender upon the occurrence of an Event of Default under the Loan Agreement. The Borrower agrees to accept as conclusive proof of correctness of any outstanding amounts claimed to be due and payable by the Borrower to the Lender under these presents and the statement of account made out from the books of the Lender and signed by the duly authorized respective representatives of the Lender without the production of any other voucher, document or paper.

1. **General Enforcement Powers**

If any one or more of the Events of Default under the Loan Agreement, the Lender may, without prejudice to any other rights and remedies:

* 1. declare by notice to the Borrower that all or part of the Outstanding Amount to be immediately due and payable (or on such dates as the Lender may specify), whereupon they shall become so due and payable;
  2. enforce the security created under this Deed and transfer, call in, collect, convert into money or otherwise deal with or dispose of the Hypothecated Assets or any part thereof on an installment basis or otherwise and generally in such manner and upon such terms whatsoever, that the Lender may consider fit;
  3. exercise any and all powers which a Receiver could exercise hereunder or by applicable Law;
  4. appoint by writing any person or persons to be a Receiver of all or any part of the Hypothecated Assets, from time to time determine the remuneration of the Receiver and remove the Receiver (except where an order of any court or tribunal is required for such removal) and appoint another Receiver in place of any Receiver, whether such Receiver is removed by the Lender or an order of any court or tribunal or otherwise ceases to be the Receiver or one or two or more Receivers;
  5. take possession of the Hypothecated Assets and after taking of such action, the Borrower shall take no action inconsistent with or prejudicial to the right of the Lender quietly to possess, use and enjoy, dispose off the same and to receive the income, profits and benefits thereof without interruption or hindrance by the Borrower or by any person or persons whomsoever, and upon taking of such action, the Lender shall be freed and discharged from or otherwise by the Borrower well and sufficiently saved and kept harmless and indemnified of, from and against all former and other estates, titles, claims, demands and encumbrances whatsoever; and/or
  6. take all such other action expressly or implicitly permitted under this Deed or under the Applicable Law.

1. **Powers of Lender**

The Lender shall have the authority to act upon and enforce the provisions of this Deed in accordance with these presents or to adopt appropriate remedies in that behalf and shall in that behalf adopt remedies in relation thereto and shall exercise all powers under this Deed in accordance with the Applicable Law and the Finance Documents.

1. **Expenses**

All expenses incurred by the Lender after occurrence and during the continuation of an Event of Default under the Loan Agreement in connection with the preservation or protection of the Borrower’s assets (whether then or thereafter existing), enforcement of security and collection of amounts due to the Lender shall be payable by the Borrower and shall stand secured under these presents.

1. **Construction**

The provisions contained herein shall be read in conjunction with the provisions of the other Finance Documents and as amended from time to time, and to the extent of any inconsistency or repugnancy the latter shall prevail to all intents and purposes.

1. **Waiver**
   1. **No implied waiver or impairment**

No delay or omission of the Lender or any Receiver in exercising any right, power or remedy accruing to the Lender upon any default hereunder shall impair any such right, power or remedy or be construed to be a waiver thereof or any acquiescence in such default, nor shall the action or inaction of the Lender or any Receiver in respect of any default or any acquiescence by it in any default affect or impair any right power or remedy of the Lender in respect of any other defaults nor shall any single or partial exercise of any such right, power or remedy preclude any further exercise thereof or the exercise of any other right, power or remedy. The rights and remedies of the Lender herein provided are cumulative and not exclusive of any rights or remedies provided by applicable Law or equity or in any of the other Finance Documents.A waiver or consent granted by the Lender under this Deed will be effective only if given in writing and only in the specific instance and for the purpose for which it is given.

1. **Miscellaneous**
   1. **Discharges and Releases**

Notwithstanding any discharge, release or settlement from time to time between the Lender and the Borrower, if any discharge or payment in respect of the Security Obligations by the Borrower or any other person is avoided or set aside or ordered to be surrendered, paid away, refunded or reduced by virtue of any provision, applicable Law for the time being in force or for any other reason, the Lender shall be entitled hereinafter to enforce this Deed as if no such discharge, release or settlement had occurred.

* 1. **Amendment**

All amendments or supplements to the terms of this Deed can be made only by the parties in writing.

* 1. **Other Remedies**

The rights and remedies conferred upon the Lender under this Deed:

1. shall not prejudice any other rights or remedies to which the Lender may, independently of this Deed, be entitled; and
2. shall not be prejudiced by any other rights or remedies to which the Lender may, independently of this Deed, be entitled, or any collateral or other security (including, without limitation, guarantee) now or hereafter held by the Lender.
   1. **Limitation on Rights of Others**

Nothing in this Deed, whether express or implied, shall be construed to give to any person other than the Lender any legal or equitable right, remedy or claim under or in respect of this Deed, except as expressly provided in this Deed, any covenants, conditions or provisions contained herein or in the Hypothecated Assets, all of which are, and shall be construed to be, for the sole and exclusive benefit of the Lender.

1. **Governing Law**
   1. Subject to **Clause 16**, this Deed of Hypothecation shall be governed by and construed in accordance with the laws of India. It is hereby agreed that the courts at Bangalore will have the exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) (“**Dispute**”) and accordingly any legal action or proceedings arising out of or in connection with this Deed may be brought in the courts of Bangalore and the Borrower irrevocably submits to the jurisdiction of these courts.
2. **Arbitration**
   1. Any dispute(s) or difference(s) arising between the Parties out of, or in connection with, or in any manner related to this Deed or interpretation of any of the provisions of this Deed or performance of any of the terms and conditions of this Deed shall be settled amicably through negotiation between the Parties.
   2. In the event the Parties are unable to resolve the dispute within a period of 60 (Sixty) days from the date of reference to mediation in terms of Clause 16.1 above, the said Dispute, shall be submitted to arbitration by a sole arbitrator nominated by the Parties. The arbitration shall be governed by the Arbitration and Conciliation Act, 1996 or any statutory re-enactment thereof, as may be in force then.
   3. If the Parties are unable to agree on the nomination of a sole arbitrator within a period of 30 (thirty) days from the date of reference to arbitration, each Party shall nominate one arbitrator each and such arbitrators shall jointly nominate a third arbitrator. The decision of the said arbitrators shall be final and binding on the Parties.
   4. The arbitrator shall be a person of professional repute who is not prohibited to be appointed as an arbitrator under the provisions of the Arbitration and Conciliation Act, 1996 and / or directly or indirectly connected with any of the Parties to this Agreement and shall have prior experience as an arbitrator.
   5. The place of arbitration shall be Bangalore. The language to be used in the arbitration proceedings shall be English.
   6. The arbitration award shall be final and binding on the Parties, and enforceable in accordance with its terms. The arbitrator shall state reasons for his / her findings in writing. The Parties agree to be bound thereby and to act accordingly.
   7. All costs and expenses incurred by the Lender in the course of and/or for the purposes of and/or in connection with the arbitration proceedings initiated under this Clause, including but not limited to fees payable to the legal advisors / counsel of the Lender, shall be borne by the Borrower.
3. **Severability**

Every provision hereof shall be severable and distinct from every other such provision and if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable in any respect under any law or in any jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not be in any way affected or impaired thereby. To the full extent permitted by law, the Borrower hereby waives any term or provision prohibited or unenforceable in any respect.

1. **Assignment** 
   1. Notwithstanding anything to the contrary contained in this Deed, the Borrower shall not assign or transfer any of its rights or obligations under this Deed, except with the prior written consent of the Lender.
   2. The Lender may without reference to the Borrower:
2. assign any of its rights;
3. transfer by novation any of its rights and obligations; or
4. participate or sub-participate (on a disclosed or undisclosed basis) any of its rights and obligations;

under this Deed to another other entity. The Lender shall however issue a prior notice to the Borrower informing the Borrower before the assignment.

1. **Stamp Duty**

The stamp duty and registration charges applicable on this Deed shall be borne solely by the Borrower.

1. **Inspection:**

It shall be lawful for the Lender and its agents (after giving due notice and at the expenses in all respects of the Borrower) to enter at any time into the premises of the Borrower or places of storage of any of the Hypothecated Assets for the purpose of inspection and of checking the Hypothecated Assets and taking account and inspection of books of account of the Borrower which the Lender is hereby authorized to do and it shall also be lawful for the Lender, from time to time, as it may deem fit, to have all or any of the Hypothecated Assets for the time being so hypothecated and charged as aforesaid valued by an engineer or other valuer to be appointed by the Lender and all such expenses and fees of such valuation shall be treated as advances by this Deed and be debited to the Borrowers' loan/cash credit/ overdraft /current account and payable accordingly and shall until payments be treated as advance secured by this Deed.

1. **Disclosure of Information:** 
   1. The Borrower hereby agrees as a pre-condition of the Loan granted by the Lender that in case it commits a default in the repayment of the Loan or in the repayment of Interest thereon or any of the agreed instalments of the Loan on Due Date/s, the Lender and/or the Reserve Bank of India will have a right to disclose or publish the name of the Borrower and its directors as defaulter in such manner and through such medium as the Lender or Reserve Bank of India in their absolute discretion may think fit, after obtaining permission from MHRD and with prior intimation to the borrower.
   2. Accordingly, The Borrower hereby agree and give consent for the disclosure by the Lender of all or any such:
2. Information and data relating to the Borrower;
3. The information or data relating to any credit facility availed of/to be availed, by the Borrower;
4. Default if any committed by the Borrower, in discharge of such obligation;

as the Lender may deem appropriate and necessary to disclose and furnish to credit information Bureau (India) Ltd., and to any other agency authorized in this behalf by the Reserve Bank of India.

* 1. The Borrower declares that the information and data furnished by it to the Lender are true and correct. The Borrower undertakes that:

1. the Credit Information Bureau (India) Ltd, and any other agency so authorized may use, process the said information and data disclosed by the Lender in the manner as deemed fit by them; and
2. the Credit Information Bureau (India) Ltd and any other agency so authorized may furnish for consideration the processed information and data or products thereof prepared by to Credit Information Bureau (India) ltd and Information Utility established under the provisions of the Insolvency and bankruptcy Code, 2016 or any other body authorized in this behalf by RBI/Government of India or other regulator/ Authority.

21.4 Further the Borrower undertakes and confirms to authenticate any information called for by any authority pertaining to the Loan sanctioned as per this Deed/other loan documents within a period of 10 days from the date of receipt of such request.

1. **FORCE MAJEURE** 
   1. The Parties shall not be liable for any failure or delay in the performance of their respective obligations hereunder if such Party is prevented from so performing its obligations by any existing or future law or regulation, Government policy/action, orders or restrictions imposed by any court of law, any existing or future act of governmental authority, act of god, flood, war or warlike conditions, hostilities, sanctions, mobilisations, blockades, embargos, looting, revolutions, fires or accidents, terrorism, riot, rebellion, civil commotion, strike, lockout, other industrial action, general failure of electricity or other supply, technical failure, accidental or mechanical or electrical breakdown, computer failure or failure of any money transmission system (collectively "**Force Majeure**").
   2. Upon the occurrence of any event or condition of Force Majeure which affects the performance of any of the Parties, such Party shall promptly notify the other Parties of the nature of the event or condition, the effect of the event or condition on the Party's performance and the estimated duration of such event or condition. Such Party shall also notify the Parties immediately upon cessation of, or changes in, the event or condition constituting Force Majeure.

22.3 The Parties shall take best efforts, within their power, to recommence performance of this Agreement and limiting the effects of Force Majeure on the ceasing of such event.

**THE PARTIES HERETO HAVE CAUSED THIS DEED OF HYPOTHECATION TO BE DULY EXECUTED AND DELIVERED BY THEIR DULY AUTHORISED REPRESENTATIVES AS OF THE DAY AND YEAR HEREINABOVE WRITTEN**

|  |
| --- |
| Signed and delivered for and on behalf of |
|  |

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| --- |
| Signed and delivered for and on behalf of  **HIGHER EDUCATION FINANCING AGENCY**  By:  Title: Managing Director |
|  |

**SCHEDULE I**

**Hypothecated Assets**

1. All movable assets created out of Loan valued at ---------------------------------------.
2. Fee Receivables as defined in the agreement;
3. Grant Receivables as defined in the agreement;
4. Escrow Bank 3 Receivables as defined in the agreement; and
5. All Other Assets (if any) purchased from and out of the Loan, as more particularly described in the agreement.

**Annexure – 6**

**Escrow Agreement**

This **Escrow Agreement** is made at Bangalore on this ----- day of --------2018 (hereinafter referred to as the “**Agreement**”)

**BY AND BETWEEN**

**---------------------------------------------,** , an educational institution of national importance established by an act of Parliament located at------------------------------------------ represented by its authorized signatory ------------------------------- and hereinafter referred to as the ‘**Borrower**’ (which expression shall unless repugnant to the context thereof mean and include its successors-in-interest and permitted assignees) of the **FIRST PART**;

**AND**

**------------------------------ ,** a body constituted under the------------------------------------- , having its head office at--------,-------------------- and represented by its Authorised Signatory, (hereinafter referred to as the “**Escrow Bank 1**”, which term or expression shall, unless excluded by or repugnant to the subject or context, mean and include its successor(s)-in-interest and permitted assignees) of the **SECOND PART;**

**AND**

**---------------------------------------,** a body constituted under the ---------------, having its head office at --------------and represented by its Authorised Signatory, --------------------------------(hereinafter referred to as the “**Escrow Bank 2**”, which term or expression shall, unless excluded by or repugnant to the subject or context, mean and include its successor(s)-in-interest and permitted assignees) of the **THIRD PART;**

**AND**

**Canara Bank,** a body incorporated under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, having its head office at Bangalore and represented by its Authorised Signatory,------------------------------------(hereinafter referred to as the “**Escrow Bank 3**”, which term or expression shall, unless excluded by or repugnant to the subject or context, mean and include its successor(s)-in-interest and permitted assignees) of the **FOURTH PART;**

**AND**

**Higher Education Financing Agency**, a Section 8 (Not for profit) Company, incorporated under the Companies Act, 2013 as a government company and also registered with the Reserve Bank of India as a Non-Banking Financial Company and having its registered office at No. 14, 6th Floor, Naveen Complex, MG Road, Bangalore – 560001 and represented by ----------------------------- , Managing Director who has been duly authorized by the resolution of its Board of Directors dated 16.05.2018 (a copy of which has been provided to the Borrower) (hereinafter referred to as the “**Lender**”, which expression shall, unless repugnant to or inconsistent with the context or meaning thereof, be deemed to mean and include its successors-in-interest and permitted assignees) of the **FIFTH PART**;

The Escrow Bank 1, Escrow Bank 2 and Escrow Bank 3 are hereinafter collectively referred to as ‘**Escrow Banks**’. The Borrower, the Escrow Banks and the Lender shall hereinafter collectively be referred to as the “**Parties**” and individually as a“**Party**”.

**WHEREAS:**

1. The Lender has, at the request of the Borrower, [advanced / agreed to advance] to the Borrower, a [term loan facility] upto a maximum extent of Rs. (Rupees only) (“**Loan**”)pursuant to issued by the Lender and accepted by the Borrower (“**Sanction Letter**”); and (ii) the Loan Agreement dated executed between the Borrower and the Lender (hereinafter referred to as the “**Loan Agreement**”).
2. The Borrower has *inter-alia* created a first and exclusive charge by way of hypothecation over the Hypothecated Assets under the Deed of Hypothecation dated executed by and amongst the Borrower and the Lender in order to secure the amounts payable by the Borrower to the Lender under the Loan Agreement.
3. One of the conditions on which the Loan has been extended to the Borrower is that the Borrower shall ensure that the Receivables (*as defined below*), shall be exclusively deposited into the respective Escrow Accounts (*as* *defined below*) and the funds therein shall be appropriated and utilised in accordance with the terms and conditions as agreed upon by and between the Parties to this Agreement and the terms of the Loan Agreement.
4. Pursuant to the aforesaid, the Borrower has requested the Escrow Bank 1 to be the escrow bank in relation to the Fee Receivables Account and Escrow Bank 2 to be the escrow bank in relation to the Grant Receivables Account. Escrow Bank 3 shall be the escrow bank in relation to the Interest Repayment Account and Principal Repayment Account. The Escrow Banks have consented to the same. The Parties are now therefore, recording the terms and conditions upon which the Escrow Accounts shall be maintained, operated and drawn upon.
5. **DEFINITIONS AND INTERPRETATION**
   1. **Definitions**

In this Agreement, unless there is anything in the subject or context inconsistent therewith: -

* + 1. “**Agreement**” shall mean this Escrow Agreement (including the schedules and / or annexures hereto), as amended and / or modified from time to time;
    2. “**Applicable Law**” shall mean in respect of any relevant jurisdiction, any statute, law, regulation, ordinance, rule, judgment, rule of law, order, decree, clearance, approval, authorisation, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision, or determination by, or any interpretation or administration of any of the foregoing by, any statutory or regulatory authority whether in effect as of the date of any of the Finance Documents or thereafter and in each case as amended from time to time;
    3. “**Business Day(s)**” shall mean the days other than 2nd and 4th Saturday of every month and Sunday on which banks are open for business in Bangalore, India;
    4. “**Deed of Hypothecation**” shall mean the Deed of Hypothecation executed between the Borrower and the Lender on **……………………**;
    5. **“Dispute”** shall have the meaning assigned to the term under Clause 13 hereunder;
    6. **“Escrow Accounts”** shall mean and include:

1. Fee Receivables Account opened and maintained, in relation to the Fee Receivables, under this Agreement with the Escrow Bank 1;
2. Grant Receivables Account opened and maintained, in relation to the Grant Receivables, under this Agreement with the Escrow Bank 2;
3. Principal Repayment Account opened and maintained, in relation to the Interest, under this Agreement with the Escrow Bank 3; and
4. Interest Repayment Account opened and maintained, in relation to the principal amounts repayable under the Loan Agreement, under this Agreement with the Escrow Bank 3.
   * 1. “**Fee Receivables**” shall mean all the academic fees receivable by the Borrower from students enrolled at its institution owing to, receivable and/or received by, the Borrower from any of its academic activities including any distance education courses;
     2. “**Fee Receivables Account**” shall mean escrow account No. opened and maintained by the Borrower with the Escrow Bank 1 at its branch located at for deposit of the Fee Receivables;
     3. “**Finance Documents**” shall mean and include individually or collectively: the Sanction Letter, the Loan Agreement, this Agreement, the Deed of Hypothecation and/or any other document executed / to be executed between the Borrower and the Lender in relation to the Loan;
     4. “**Grant Receivables**” shall mean all grants/ aid and financial assistance received by the Borrower from the Government of India, Ministry of Human Resources and Development that is deposited in Escrow Account 2;
     5. “**Grant Receivables Account**” shall mean escrow account bearing No. opened and maintained by the Borrower with the Escrow Bank 2 at its branch located at   for deposit of the Grant Receivables;
     6. **“Interest Repayment Account”** shall mean the escrow account bearing No. opened and maintained by the Borrower with the Escrow Bank 3 at its branch located at Canara Bank, for deposit of the Interest payable to the Lender;
     7. “**Lender’s Account**” shall mean :
        1. the Principal Repayment account bearing No. 0404101616456 opened and maintained by the Lender with the Canara bank at its branch located at Cantonment Branch, Bangalore, and
        2. the Interest Repayment account bearing No. 0404101616457 opened and maintained by the Lender with the Canara bank at its branch located at Cantonment Branch, Bangalore;
     8. **“Outstanding Amounts”** means at any time, the entire outstanding amount due in respect of the Loan including but not limited to the present and future obligations and liabilities of the Borrower to pay/ repay the principal amount of the Loan, Interest, Default Interest, other fees, liquidated damages, costs, charges and expenses (including any fees payable to the Lender) and other amounts payable in respect of the Loan under the Finance Documents;
     9. **“Principal Repayment Account”** shall mean the escrow account bearing No. opened and maintained by the Borrower with the Escrow Bank 3 at its branch located at Canara Bank, for deposit of the principal Loan payable to the Lender;
     10. **“Receivables”** shall collectively mean and include the Fees Receivables and Grant Receivables;

Unless otherwise defined herein, capitalized terms used in this Agreement shall have the meanings given to them in the Loan Agreement.

* 1. **Interpretation**

In this Agreement, unless the context otherwise requires:

* + 1. Any reference in this Agreement to an agreement includes a deed and instrument together with the Schedules, Annexures and documents required to or forming part of any this Agreement, any such deed, instrument, Schedule or Annexure;
    2. Clause and Schedule headings are for ease of reference only;
    3. The words "include" and "including" are to be construed without limitation;
    4. Any payment date which is due to occur, or period which is due to end, or a day that is not a Business Day shall occur or end (as applicable) on the preceding Business Day in the same calendar month;

1. **APPOINTMENT OF ESCROW BANK** 
   1. The Borrower and the Lender hereby appoint the Escrow Bank 1 and Escrow Bank 2 as escrow banks in relation to Fee Receivables Account and Grant Receivables Account respectively and to act as the trustee for the Lender to avail the services and arrangements to be provided by them, in the manner and in accordance with the terms and conditions of this Agreement.
   2. The Borrower and the Lender hereby appoint the Escrow Bank 3 as an escrow bank (*in relation to Interest Repayment Account and Principal Repayment Account*) to act as the trustee for the Lender and to avail the services and arrangements to be provided by the Escrow Bank 3, in the manner and in accordance with the terms and conditions of this Agreement.
   3. The Escrow Banks accept their appointment as escrow banks, and agree to perform the obligations, duties and functions and provide the services and arrangements to be performed and provided by them in the manner provided herein and in accordance with the terms and conditions of this Agreement. The Escrow Banks agree to hold the amounts deposited in the respective Escrow Accounts in trust, and perform the obligations, duties and functions and provide the services and arrangements to be performed and provided by the respective Escrow Banks, in the manner provided in, and in accordance with the terms and conditions of this Agreement and Applicable Laws.
   4. In consideration of services agreed to be rendered by the Escrow Banks, the Borrower shall pay fees of such amount(s) as may be mutually agreed between the respective Escrow Banks and the Borrower, towards fees to the concerned Escrow Banks for acting and discharging its obligations and functions in terms of this Agreement.
2. **SECURITY** 
   1. The Escrow Bank 1 represents to the Lender that, to the best of its knowledge, it has not previously received notice or claim of any security granted over the Fee Receivables Account.
   2. The Escrow Bank 2 represents to the Lender that, to the best of its knowledge, it has not previously received notice or claim of any security granted over the Grant Receivables Account.
   3. The Escrow Bank 3 represents to the Lender that, to the best of its knowledge, it has not previously received notice or claim of any security granted over the Interest Repayment Account and Principal Repayment Account.
   4. Further, the Escrow Banks represent that to the best of their knowledge, there are no prior-charges created over the amounts to be deposited in the respective Escrow Accounts by the Borrower. Any claim or satisfaction of the charge in favour of the Escrow Banks in respect of the amounts lying in the respective Escrow Accounts shall be subject to the satisfaction of the liabilities of the Borrower towards the Lender.
3. **ESTABLISHMENT OF THE ESCROW ACCOUNTS**
   1. **Escrow Accounts**
      1. The existing accounts of the Borrower bearing account no. held with the Escrow Bank 1 shall be treated as the Fee Receivables Account for the purpose of this Agreement.
      2. The existing accounts of the Borrower bearing account no. held with the Escrow Bank 2 shall be treated as the Grant Receivables Account for the purpose of this Agreement
      3. Prior to the execution of this Agreement, the Borrower shall have completed, executed and delivered to the Escrow Bank 3 all such forms, documents and writings required by the Escrow Bank 3, in relation to the opening of Interest Repayment Account and Principal Repayment Account, to maintain and operate the same in accordance with the terms of this Agreement.
      4. The Escrow Bank 3 has made, prior to the execution of this Agreement, functional, the Interest Repayment Account and Principal Repayment Account on receipt of the relevant forms and documents from the Borrower and the Interest Repayment Account and Principal Repayment Account shall be operational at the time of execution of this Agreement.
      5. The Escrow Accounts opened pursuant to, and specifically for the purposes of, this Agreement and shall be governed by the provisions of this Agreement. The opening of the Escrow Accounts shall be confirmed through, a letter from the Escrow Banks to the Lender.
      6. The Borrower and the Escrow Banks undertake and agree that no person other than the Lender shall have any right, title, claim, or security over the Receivables and the Escrow Accounts and the amounts therein, shall be held and be exclusively available for the benefit of the Lender and shall be utilised and /or operated only in terms of this Agreement.
      7. No amount may be withdrawn or transferred from the Escrow Accounts except as specifically provided in this Agreement and without prior permission of the Lender. In the event the Escrow Bank/s erroneously transfers any sum of money in the Escrow Accounts otherwise than in accordance with this Agreement, the Escrow Bank/s shall be liable to re-credit the same amount of monies to the respective Escrow Accounts as may have been transferred erroneously, on the same effective date as of such erroneous transfer. The Escrow Bank/s shall keep the Lender indemnified against all actions, suits, inquiries, investigations, claims, demands, and other actions which may be asserted or threatened against the Lender.
      8. Thedetails of the Escrow Accounts maintained with the Escrow Banks for the purpose of this Agreement are as under:
4. Fee Receivables Account: - Escrow account no 1

A/c No.:

Account Name: Fee Receivables Account

Branch:

1. Grant Receivables Account: - Escrow account no 2

A/c No.:

Account Name: Grant Receivables Account

Branch:

1. Principal Repayment Account: - Escrow account no 3

A/c No.:

Account Name: Principal Repayment Account

Branch: Canara Bank,

1. Interest Repayment Account: - Escrow account no 4

A/c No.:

Account Name: Interest Repayment Account

Branch: Canara Bank,

* + 1. The authorised signatories in respect of the Escrow Accounts shall be the persons listed under **Schedule I** hereto or such other persons as may be intimated by the Lender from time to time.
  1. The Parties agree and acknowledge that:
     1. No sub-accounts shall be created with respect to the Escrow Accounts without the prior written consent of the Lender, save and except any sub-account(s) that may be created solely for the benefit of the Lender, in order to give effect to the provisions of this Agreement;
     2. Neither the Borrower nor any other person shall be entitled to issue any instructions to the Escrow Bank 3 and in the event the Escrow Bank receive any such instructions, the Escrow Bank 3 shall disregard such instructions unless otherwise instructed by the Lender in writing;
     3. No Person, other than the Lender, shall be entitled to issue any instructions whether in writing or otherwise, to the Escrow Bank 3, with regard to the utilisation of the funds available in the Escrow Accounts 3 & 4, other than as agreed hereto;
     4. No cheques, demand drafts or other payment or delivery instruments shall be issued and no credit facilities (by whatever name called) shall be granted or permitted in respect of the Escrow Accounts. 3 & 4, Provided always that this sub-clause shall not prevent the Escrow Bank 3 from honouring instructions for the payments / transfers of the amounts in accordance with the terms of this Agreement;
     5. The Escrow Accounts shall be used and operated only for the purposes and in the manner provided in this Agreement and for no other use or purposes and in no other manner. Accordingly, no amounts may be withdrawn from either Escrow Accounts save and except as provided in this Agreement;
     6. The Escrow Account/s may not be closed, save and except as mentioned in this Agreement and in any event, shall not be closed or varied until payment of all amounts due and payable in the manner provided in this Agreement; and
     7. No other Person shall be entitled to create any charge, mortgage, pledge, lien, hypothecation, right of set-off or other security or interest (by whatever name called) on or in respect of, or otherwise deal with, the Escrow Accounts, save and except for the security created over the Escrow Accounts and the monies lying therein / to the credit thereof from time to time by the Borrower in favour of the Lender in terms of the Finance Documents.

1. **DEPOSITS INTO THE ESCROW ACCOUNTS**
   1. **Deposit of Fee Receivables into Fee Receivables Account**

The Borrower hereby agrees and undertakes that, on and from the date of execution of this Agreement, till the Outstanding Amounts have been fully satisfied and discharged in accordance with the Finance Documents and as certified by the Lender in writing, the Borrower shall deposit / cause the deposit of and/or cause all Persons to deposit, as the case may be, exclusively into the Fee Receivables Account, all the Fee Receivables.

* 1. **Deposit of Grant Receivables into Grant Receivables Account**

The Borrower hereby agrees and undertakes that, on and from the date of execution of this Agreement, till the Outstanding Amounts have been fully satisfied and discharged in accordance with the Finance Documents and as certified by the Lender in writing, the Borrower shall deposit / cause the deposit of and/or cause all Persons to deposit, as the case may be, exclusively into the Grant Receivables Account, all the Grant Receivables.

* 1. Until all the Outstanding Amounts have been fully satisfied and discharged in accordance with the Loan Agreement and as certified by the Lender in writing, without prejudice to the obligation of the Borrower to ensure that all Receivables are to be credited exclusively and directly into the respective Escrow Accounts as detailed in Clause 5.1 and 5.2 herein, the Borrower shall ensure (and shall take all such actions and steps to cause any other Person in this regard to ensure) that all cheques / payments received by the Borrower or received by any other Person, are deposited exclusively into the respective Escrow Accounts only.
  2. **Deposit of monies into Interest Repayment Account**

The Borrower and Escrow Bank 2 hereby agree and undertake that, on and from the date of execution of this Agreement, till the Outstanding Amounts have been fully satisfied and discharged in accordance with the Finance Documents and as certified by the Lender in writing, the Borrower and / or Escrow Bank 2 shall deposit / cause the deposit of money into the Interest Repayment Account maintained by Escrow Bank 3 in accordance with this Agreement.

* 1. **Deposit of monies into Principal Repayment Account**

The Borrower, Escrow Bank 1 and Escrow Bank 2 (as the case maybe) hereby agree and undertake that, on and from the date of execution of this Agreement, till the Outstanding Amounts have been fully satisfied and discharged in accordance with the Finance Documents and as certified by the Lender in writing, the Borrower, Escrow Bank 1 and/or Escrow Bank 2 shall deposit / cause the deposit of money into the Principal Repayment Account maintained by Escrow Bank 3 in accordance with this Agreement.

1. **APPROPRIATIONS FROM THE ESCROW ACCOUNTS** 
   1. The Escrow Banks agree that during the currency of the term of this Agreement, the Escrow Banks shall ensure that the Escrow Accounts are operated and maintained as per the terms set out herein and shall not permit any deviation, without the prior written consent of the Lender.
   2. In the event that there is any conflict between the provisions of this Agreement in relation to the utilisation / appropriation of the amounts available in the Escrow Accounts and the instructions provided by any party to the Escrow Banks, the Escrow Banks shall refer such conflict to the Lender and the Escrow Banks shall act as per the written instructions of the Lender, in relation to any such conflict.
   3. Subject to Clause 6.8, the monies available in the Escrow Accounts shall be transferred by the Escrow Banks without any instructions, in the manner specified hereunder. The Escrow Banks and the Borrower hereby agree and undertake that they shall comply with the said escrow mechanism at all times.
2. **Escrow mechanism for Fee Receivables Account:**

The Fee Receivables credited in the Fee Receivables Account shall be utilised towards repayment of the 100 / 25 / 10 / 0 % of the principal amount of the Loan being Rs. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Such amounts from the Fee Receivables lying in the Fee Receivables Account, to the extent as may be required for repayment of 100 / 25 / 10 / 0 % of the principal amount of the Loan being Rs. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, shall be transferred by Escrow Bank 1 on a scheduled date to the Principal Repayment Account maintained by Escrow Bank 3 in accordance with the repayment Schedule set out in **Schedule II** hereunder.

1. **Escrow mechanism for Grants Receivables Account:**

The Grant Receivables credited in the Grant Receivables Account shall be utilised towards repayment of the 0/75/90/100% of the principal of the Loan being Rs. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and transferred to principal repayment account maintained with Escrow Bank 3. The interest demand raised by the Lender on quarterly basis shall be transferred from the Grant Receivables lying in the Grant Receivables Account by Escrow Bank 2, to the Interest Repayment Account with Escrow Bank 3 in accordance with the repayment Schedule set out in **Schedule III** hereunder

1. **Escrow mechanism for the Interest Repayment Account:**

The monies credited to the Interest Repayment Account shall be utilised towards repayment of the interest on the Loan. The monies lying to the credit of the Interest Repayment Account shall be transferred by Escrow Bank 3 to the Lender’s Account in the manner set out in **Schedule IV** hereunder.

1. Escrow mechanism for the Principal Repayment Account:

The monies credited to the Principal Repayment Account shall be utilised towards repayment of the principal of the Loan. The monies lying to the credit of the Principal Repayment Account shall be transferred by Escrow Bank 3 to the Lender’s Account in the manner set out in **Schedule V** hereunder.

* 1. **Notwithstanding anything contained herein, upon transfer of the relevant tranche of principal and Interest payable within the due date stipulated in Schedule II and Schedule III respectively, the balance lying to the credit of the Fee Receivables Account and the Grant Receivables Account may be utilised by the Borrower at its sole discretion. It is clarified that till all Outstanding Amounts are paid by the Borrower to the Lender, to the satisfaction of the Lender, the Borrower shall not be entitled to utilise the amounts credited to the Interest Repayment Account and / or the Principal Repayment Account**.
  2. In the event the balance lying to the credit of the Fee Receivables Account and the Grant Receivables Account are not sufficient for meeting the transfer of relevant payment in accordance with Schedule II or Schedule III, as the case may be, the Escrow Bank 1 shall not allow the Borrower to access any amounts lying to the credit of the Fee Receivables Account and the Grant Receivables Account, till such time the said accounts are credited with sufficient funds in order to meet the payment requirements set out under Schedule II and / or Schedule III (*as applicable*).
  3. Notwithstanding anything herein, the Lender reserves the right, at its sole discretion, to appropriate the amounts / part thereof credited to the Fee Receivables Account and / or Grant Receivables Account, towards repayment of the Interest, any default interest or other Outstanding Amounts due and payable by the Borrower in connection with the Loan.
  4. The Escrow Bank 3 is entitled to invest the money credited to the Principal Repayment Account, as per borrower’s instructions, in short term bank fixed deposits, till it’s due date as per Schedule II.
  5. Upon the occurrence of any Event of Default under the Loan Agreement and written notification thereof by the Lender to the Escrow Banks, all monies available in each of the Escrow Accounts shall be utilised by the Lender for the following purposes and in the following priority, and the Lender shall submit written instructions in this regard (with a copy marked to the Borrower) to the Escrow Banks:
     1. Firstly, to meet any costs and expenses incurred by the Lender, which as per the terms of the Finance Documents are to be reimbursed or borne by the Borrower or any other Person under the Finance Documents;
     2. Secondly, to make payment of any Outstanding Amounts (other than principal and Interest payments) to the Lender, which are overdue on the said day;
     3. Thirdly~~,~~ to make payment of the principal component of the Outstanding Amounts;
     4. Fourthly~~,~~ to make payment of any Interest payments which are due on the said day; and
     5. Lastly, balance, if any, after satisfaction of all Outstanding Amounts under the Loan Agreement, lying to the credit of each of the Escrow Accounts shall be retained in the said accounts for the Borrower.

The Escrow Banks shall be entitled to rely conclusively on the notice delivered by the Lender regarding the occurrence of an Event of Default.

* 1. Notwithstanding anything contained herein, the Lender may instruct the Escrow Banks to act in as per its instructions till the repayment of all Outstanding Amounts.

1. **RIGHTS AND OBLIGATIONS OF THE ESCROW BANKS**

* 1. **Limit of Liability**
     1. The Escrow Banks shall not be liable to the Borrower or any other person for any action they may take under this Agreement in reliance upon any notice or request given to it by the Lender.
     2. The Escrow Banks shall be relieved of liability under this Clause 7.1 except by reason of (and to the extent of) their own gross negligence or wilful default.
  2. **No Enquiry**

The Escrow Banks are not obliged to enquire as to whether any directions given by the Lender, in respect of the Escrow Accounts, comply with the requirements of the Finance Documents so long as it is in compliance with this Agreement.

* 1. **No Set-off**

The Escrow Banks acknowledge that the Escrow Accounts and all the monies lying therein are the subject of security created by way of hypothecation by the Borrower in favour of the Lender and acknowledges that no other Party is entitled to, and undertakes not to claim or exercise, any lien, right of set-off, combination of accounts or other right, remedy or security with respect to amounts standing to the credit of the Escrow Accounts, and any income in the course of being credited to the Escrow Accounts.

* 1. **Access to Books and Records** 
     1. The Escrow Banks shall provide to the Lender and the Borrower copies of all bank statements in respect of the Escrow Accounts on a monthly basis and online access to the Escrow Accounts for the purposes of viewing accounts statements, balance information and transaction history in relation to the Escrow Accounts, as the case may be subject to execution of necessary documentation required by Escrow Banks for online access of accounts, fi any required by the Escrow Banks.
     2. The Escrow Banks agree to give access to the Lender and any of its respective appointed representatives to review the books and records of the Escrow Accounts, on receipt of a reasonable notice for the same.
  2. The Escrow Banks shall be responsible to operate the Escrow Accounts in accordance with the provisions of this Agreement only and as per Clause 6 above there is no obligation on part of the Escrow Banks to ensure payments are made by the Borrower in the Escrow Accounts or to transfer monies from any other accounts other than the Escrow Accounts.
  3. The Escrow Banks further state that if monies are to be transferred from any other account of the Borrower other than the Escrow Accounts, the Escrow Banks will require specific instructions from the authorized signatories of such Borrower to those accounts to effect the said transfer.
  4. It is agreed that the obligations of the Escrow Banks set out in this Agreement shall not be affected by any disputes or contentions between and amongst the other Parties, or any of them, and that the Escrow Banks shall be entitled to carry out its obligations as set out herein regardless of any such disputes or contentions that may be raised.
  5. The Escrow Banks shall not be entitled to deduct from the Escrow Accounts any fees, expenses, or disbursements, charged or incurred, by the Escrow Banks, in connection with this Agreement.
  6. The Escrow Banks shall not have any proprietary interest in the funds, but shall merely hold and deal with such funds and act strictly in accordance with, and subject to the terms of this Agreement and instructions given herein or pursuant hereto.
  7. Except as provided in this Agreement, all transfers and payments made by the Escrow Banks under this Agreement shall be made without any deduction, reduction, set-off counter-claim, or withholding tax.
  8. In an event of default by the Escrow Banks in the performance of its obligations hereunder or any error in the services rendered by the Escrow Banks, the Escrow Banks shall ensure that it will take all measures at its own cost to rectify such defaults and it shall be directly responsible for any liability arising out of such error or failure to deliver the obligations contemplated under this Agreement.
  9. The Escrow Banks shall act with due diligence, care and skill while discharging its obligations set out hereunder, or in any communication received by it pursuant to this Agreement. The Escrow Banks shall be responsible and liable for any failure to perform the obligations set out hereunder or in any communication received by it pursuant to this Agreement.

1. **REPRESENTATIONS AND WARRANTIES**
   1. Each Party, for itself and not for the others, represents and warrants to the others that:
      1. it has the power and authority to execute this Agreement and perform its obligations hereunder;
      2. its obligations under this Agreement constitute legal, valid and binding obligations enforceable in accordance with the terms of this Agreement; and
      3. it is not aware of any legal, quasi-legal, administrative, arbitration, mediation, conciliation or other proceedings, claims, actions, governmental investigations, orders, judgments or decrees of any nature made, existing, threatened, anticipated or pending by or against it which may prejudicially affect the due performance or enforceability of this Agreement or any obligation, act, omission or transaction contemplated hereunder.
   2. The Escrow Banks represent and warrant to the Lender and the Borrower that the Escrow Banks are duly incorporated/ licensed in accordance with the laws of India and validly existing under the Applicable Laws and have all requisite legal powers, authority and resources to enter into this Agreement and to perform their respective duties and obligations hereunder.
   3. The Escrow Banks also represent and warrant to the Lender that, to the best of their knowledge, there are no actions, suit or proceedings pending or threatened, against or affecting the Escrow Banks before any court or administrative body or arbitral tribunal that could reasonably be expected to affect adversely and/or materially the ability of the Escrow Banks to perform their respective duties and obligations under this Agreement.
   4. The Borrower and the Lender hereby represent that they have obtained all consents, approvals and licenses under Applicable Law to enter into this Agreement and to consummate the transactions contemplated herein. The Borrower and the Lender acknowledge that the Escrow Banks have agreed to open / operate the Escrow Accounts based on the representation of the Escrow Banks that they have obtained all the necessary consents, approvals and licenses to enter into this transaction and for the Escrow Banks to perform its functions as mentioned in this Agreement. The Borrower does hereby agree to indemnify and agree to keep indemnified and hold harmless the Escrow Banks from and against all loss, damage and expense suffered or incurred by the Escrow Banks by reason of its representations and warranties being incorrect or untrue.
   5. The Borrower hereby represents and warrants that all Fee Receivables and Grant Receivables shall be exclusively deposited in the Fee Receivables Account and Grant Receivables Account respectively shall not be deposited to any other account held by the Borrower (or any other Person) with the Escrow Banks or any other bank.
   6. The Borrower represents and warrants that it shall not give any instructions to the Escrow Banks or in any manner utilise the Escrow Accounts that could result in the depletion of funds in either of the accounts to less than such amounts as may be required to be maintained by the Escrow Banks in terms of Clause 6 and Clause 9.11 herein. A breach of such representation shall be treated as an Event of Default in terms of the Loan Agreement.
   7. The Parties agree that in the event of conflict between this Agreement and any other agreement or arrangement, the provisions of this Agreement shall prevail to the extent such provisions relate to the rights and obligations of the Escrow Banks.
2. **ESCROW BANK UNDERTAKINGS**
   1. The Escrow Banks hereby undertake and covenant to the Lender and the Borrower as follows:
      1. the Escrow Banks shall have the obligation to keep and maintain the amounts credited to the concerned Escrow Accounts (as and when received by it) with the same degree of care which it gives its own property or goods;
      2. the Escrow Banks shall provide monthly account statements for their respective Escrow Account to the Lender and the Borrower, as well as a copy shall be sent by e-mail to all those persons whose e-mail addresses have been mentioned under Clause 17.12 below;
      3. the Escrow Banks shall provide to the Lender and the Borrower, online access for the purposes of viewing accounts statements, balance information and transaction history in relation to the respective Escrow Accounts, subject to execution of necessary documentation required by Escrow Banks for online access of accounts;
      4. the Escrow Banks shall provide the Lender with all information regarding the Escrow Accounts as the Lender may require;
      5. the Escrow Banks shall provide to the Lender access to its books and records pertaining to the Escrow Accounts forthwith upon a request in relation to a manifest error being committed, on the part of the Escrow Banks, and the same being submitted by the Lender to the Escrow Banks;
      6. the Escrow Banks shall act in strict accordance with the terms and conditions set out herein;
      7. the Escrow Banks shall not hand over the amounts lying to the credit of the Escrow Accounts or any part thereof to any third party, unless otherwise provided herein or instructed in writing by the Lender;
      8. the Escrow Banks shall hold the amounts lying in the Escrow Accounts for the benefit of the Lender and in case of insolvency, liquidation or winding-up of the Escrow Banks, the amounts lying to the credit of Escrow Accounts will not be treated as a property of the Escrow Banks and will always be held by the Escrow Banks for and on behalf of and for the benefit of the Lender in terms of this Agreement;
      9. this Agreement shall continue to be binding for all intent and purposes and the said obligations will not be discharged on account of any reconstitution of the Escrow Banks.
      10. during the term of this Agreement, the Escrow Banks shall keep all information, in relation to the Escrow Accounts and its operation in accordance with provisions herein, confidential and shall not divulge such information to any third party, except when such disclosure is required to be made to any regulatory or governmental or judicial authority or under Applicable Laws, without the prior written approval of the Lender.
3. **EFFECTIVE DATE AND DURATION**
   1. This Agreement shall come into force or effect, or bind the Parties hereto as per the terms and conditions contained herein, on and from the date and year first hereinabove written.
   2. This Agreement shall continue in full force for a period of ten years or until all the Outstanding Amounts are fully discharged and satisfied (to the satisfaction of the Lender and as evidenced by a certificate issuing by the Lender in writing), without prejudice to any accrued rights and obligations existing at the date of termination, whichever is earlier, which can be extended on mutually agreed terms and conditions. The Lender shall notify in writing the Escrow Banks as soon as is reasonably practicable after this Agreement ceases to have effect
4. **CHANGE TO THE PARTIES** 
   1. **Benefit of Agreement**

This Agreement shall accrue to the benefit of and be binding on the Parties, their respective successors and any permitted assignee or transferee of all or some of that Party’s rights and obligations under this Agreement.

* 1. **Assignment**
     1. The Escrow Banks shall not assign, transfer, novate or otherwise dispose of all or any of its rights, benefits or obligations under this Agreement, without the prior written consent of the Lender.
     2. The Borrower shall not assign, transfer, novate or otherwise dispose of all or any of its rights, benefits or obligations under this Agreement, without the prior written consent of the Lender.
     3. The Borrower, the Escrow Banks and the Lender acknowledge that the rights of the Lender under this Agreement are transferable and/or assignable subject to the prior written intimation of the same to the Escrow Banks and all such transferees / assignees of the Lender shall have the same rights and benefits (and obligations) as applicable to the Lender under this Agreement: provided that the Lender shall be entitled to, without any prior intimation to the Escrow Banks, offer any receivables it is entitled to under the Loan or under the Finance Documents as security for any borrowings availed or to be availed of by the Lender.
  2. **Resignation of the Escrow Bank** 
     1. The Escrow Banks may resign, at their sole discretion at any time, without assigning any reason whatsoever, by giving not less than 30 (Thirty) days’ notice to the Lender and the Borrower, in which case the Lender, after consultation with the Borrower, may appoint a successor for the said retiring Escrow Bank.
     2. If the Lender has not appointed a successor Escrow Bank in accordance with paragraph 11.3.1 above within 30 (Thirty) days after notice of resignation was given, the retiring Escrow Bank shall transfer the amounts lying in the concerned Escrow Accounts to such account as may be designated and intimated in writing by the Lender and the retiring Escrow Bank shall stand discharged and released from all its obligations under this Agreement.
     3. The retiring Escrow Bank shall make available to its successor such documents and records and provide such assistance as its successor may reasonably request for the purposes of performing its functions as an escrow bank under this Agreement.
     4. Upon the appointment of a successor or upon expiry of the aforesaid notice period, whichever is earlier, the retiring Escrow Bank shall be discharged from any further obligation in respect of this Agreement. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
     5. The Borrower shall do all such things as the Lender may reasonably request in order to facilitate any such change (including, without limitation, the execution of new account operating mandates in respect of the Escrow Accounts and any further security documents necessary to create security interest over the Escrow Accounts in favour of the Lender).
     6. All documents / records maintained by the said Escrow Bank in relation to the concerned Escrow Account shall be returned to the Lender / Borrower (as applicable), at the request of the lender / Borrower (*as applicable*).

1. **Expenses**
   1. It is expressly agreed by and between the Parties hereto that the Borrower shall bear and pay upfront all the costs, charges and expenses including the fees of the Escrow Banks’ advocate/s that may be incurred by the Escrow Banks on account of any litigation arising out of or in connection with this Agreement and the Escrow Banks shall not be required or liable to bear or pay any such costs and expenses. In the event the Escrow Banks, without prejudice to their rights herein, happens to incur any such costs, charges and expenses (including fees of Escrow Banks’ advocate/s), the same shall be reimbursed by the Borrower to Escrow Banks immediately upon demand from the Escrow Banks without raising any dispute.
   2. The Borrower further agrees and undertakes to pay or reimburse to Escrow Banks immediately on demand without any dispute all costs, charges and expenses arising out of or in connection with this Agreement (including but not limited to opening up of Escrow Accounts and costs, charges and expenses as stated in the foregoing paragraph) or incidental to the enforcement of any of the provisions of this Agreement or in connection with any stamp duty, statutory taxes, charges, duty, etc. or duty required to be paid by Escrow Banks under this Agreement or with respect to amendment, waiver or consent relating to this Agreement. The Escrow Banks shall however provide a detailed breakup with documents in support of the amounts demanded.
2. **GOVERNING LAW AND JURISDICTION**
   1. Subject to Clause 14, this Agreement shall be governed by and construed in accordance with the laws of India. It is hereby agreed that the courts at Bangalore will have the non-exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (“**Dispute**”) and accordingly any legal action or proceedings arising out of or in connection with this Agreement may be brought in the courts of Bangalore and the Borrower irrevocably submits to the jurisdiction of these courts.
3. **DISPUTE RESOLUTION**
   1. Any dispute(s) or difference(s) arising between the Parties out of, or in connection with, or in any manner related to this Agreement or interpretation of any of the provisions of this Agreement or performance of any of the terms and conditions of this Agreement shall be settled amicably through negotiation between the Parties.
   2. In the event the Parties are unable to resolve the dispute within a period of 60 (Sixty) days from the date of reference to mediation in terms of Clause 14.1 above, the said Dispute, shall be submitted to arbitration by a sole arbitrator nominated by the Parties. The arbitration shall be governed by the Arbitration and Conciliation Act, 1996 or any statutory re-enactment thereof, as may be in force then.
   3. If the Parties are unable to agree on the nomination of a sole arbitrator within a period of 30 (thirty) days from the date of reference to arbitration, each Party shall be entitled to nominate one arbitrator each, and the said arbitrators appointed by each party shall in turn nominate a single arbitrator jointly. The decision of the joint panel of arbitrators shall be binding on the Parties.
   4. The arbitrator shall be a person of professional repute who is not prohibited to be appointed as an arbitrator under the provisions of the Arbitration & Conciliation Act, 1996 and / directly or indirectly connected with any of the Parties to this Agreement and shall have prior experience as an arbitrator.
   5. The place of arbitration shall be Bangalore. The language to be used in the arbitration proceedings shall be English.
   6. The arbitration award shall be final and binding on the Parties, and enforceable in accordance with its terms. The arbitrator shall state reasons for his / her findings in writing. The Parties agree to be bound thereby and to act accordingly.
   7. All costs and expenses incurred by the Lender in the course of and/or for the purposes of and/or in connection with the arbitration proceedings initiated under this Clause, including but not limited to fees payable to the legal advisors / counsel of the Lender, shall be borne by the Borrower.

1. **TERMINATION**

Notwithstanding anything to the contrary contained herein, this Agreement may be terminated by any of the Escrow Banks by issuing a 30 (Thirty) days prior written notice to the other Parties.

1. **FORCE MAJEURE** 
   1. The Parties shall not be liable for any failure or delay in the performance of their respective obligations hereunder if such Party is prevented from so performing its obligations by any existing or future law or regulation, Government policy/action, orders or restrictions imposed by any court of law, any existing or future act of governmental authority, act of god, flood, war or warlike conditions, hostilities, sanctions, mobilisations, blockades, embargos, looting, revolutions, fires or accidents, terrorism, riot, rebellion, civil commotion, strike, lockout, other industrial action, general failure of electricity or other supply, technical failure, accidental or mechanical or electrical breakdown, computer failure or failure of any money transmission system (collectively "**Force Majeure**").
   2. Upon the occurrence of any event or condition of Force Majeure which affects the performance of any of the Parties, such Party shall promptly notify the other Parties of the nature of the event or condition, the effect of the event or condition on the Party's performance and the estimated duration of such event or condition. Such Party shall also notify the Parties immediately upon cessation of, or changes in, the event or condition constituting Force Majeure.
   3. The Parties shall take best efforts, within their power, to recommence performance of this Agreement and limiting the effects of Force Majeure on the ceasing of such event.
2. **MISCELLANEOUS** 
   1. **Statement of Accounts**

Any statement of account issued by the Lender based on the statement of account maintained by the Lender, purporting to show an amount of Outstanding Amounts under any of the Finance Documents and signed by the duly authorised officer of the Lender shall be conclusive evidence of the amount so due and shall be binding on the Borrower.

* 1. **Performance of Obligations** 
     1. It is agreed that the obligations of the Escrow Banks set out in this Agreement shall not be affected by any disputes or contentions between and amongst the other Parties or any of them and that the Escrow Banks shall be entitled to carry out their obligations as set out herein regardless of any such disputes or contentions that may be raised.
     2. Notwithstanding anything contained in this Agreement, the Escrow Banks shall be entitled to refrain from taking actions that are in contravention of Applicable Law or any order or judgement of any court/regulatory authority/government authority. The Escrow Banks shall not be liable to the Parties, nor to any other person or entity, by reason of such compliance, notwithstanding that it shall be determined that any such order, judgment, decree or writ be entered without jurisdiction or be invalid for any reason or be subsequently reversed, modified, annulled or vacated.
     3. In respect of any communications that are to be provided by the Borrower and/or the Lender to the Escrow Banks in accordance with this transaction, the Escrow Banks shall be entitled to rely upon the contents of such communications as being true and the Escrow Bank shall not be liable to any Party in the event of the contents of such communications being false or incorrect in any manner whatsoever.
     4. The Escrow Banks shall not be liable if it acts on any instructions, which are unclear and/or ambiguous, and shall not be liable and responsible for the same. Without prejudice to the above, if any instructions are unclear and/or ambiguous, the Escrow Banks may refer back to the Party issuing the instructions for clarification and may not, in its absolute discretion and without any liability on its part, act upon the instructions until any ambiguity or conflict has been resolved to its satisfaction.
  2. **Amendments and Waivers**

This Agreement may not be amended, waived, supplemented or otherwise unless in writing and signed by or on behalf of the Parties.

* 1. **Remedies and Waivers**

A failure to exercise, nor any delay in exercising, on the part of the Lender of any power, right or remedy under this Agreement shall **not** operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

* 1. **Partial Invalidity**

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

* 1. **No Partnership**

Neither this Agreement nor any other agreement or arrangement of which it forms part, nor the performance by the Parties of their respective obligations under any such agreement or arrangement, shall constitute a partnership between the Parties or any 2 (two) of them.

* 1. **Indemnity**
     1. The Borrower hereby agrees to indemnify and keep indemnified and hold harmless the Escrow Banks and / or the Lender from and against any and all claims from and against any monetary harm, injury, penalties, judgments, liabilities, losses, costs, expenses and damages (including reasonable attorney's fees and disbursements) incurred as a result of any breach of any of the undertakings, duties and responsibilities of the Borrower and / or the assertion of any claim, by any person or entity, arising out of, the operation of the Escrow Accounts pursuant to the terms and conditions contemplated by this Agreement.
     2. The Borrower hereby agrees that the Escrow Banks and / or the Lender shall have no liability towards the Borrower for any loss or damage that the Borrower may claim to have suffered or incurred, either directly or indirectly, by reason of this Agreement or any transaction contemplated by the provisions hereof, unless occasioned by the gross negligence or wilful misconduct of the Escrow Banks and/or the Lender, as the case may be. In no event shall the Escrow Banks be liable for losses or delays resulting from computer malfunction, interruption of communication facilities, labour difficulties or other causes beyond the Escrow Banks’ reasonable control or for indirect, special or consequential damages.
     3. The Parties acknowledge that the foregoing indemnities in favour of the Escrow Banks shall survive the resignation or removal of the Escrow Banks or the termination of this Agreement.
  2. The Escrow Banks shall not be deemed to be aware of or bound by the provisions of the Loan Agreement or Finance Documents or any other agreement entered exclusively between the Borrower and the Lender in relation to the Loan, save and except the provisions of this Agreement.
  3. The Escrow Banks shall in no manner be liable or responsible for any disputes or claims amongst the Borrower and/or the Lender for any reason, even if the Escrow Banks are made a party thereto. Accordingly, the Borrower and the Lender expressly agree and undertake that, at all times, during the subsistence and after cessation of its obligations under this Agreement, the Escrow Banks shall not be liable or responsible or be a party to any litigation/arbitration or bear any costs of litigation.
  4. **Confidentiality**

No Party shall disclose any confidential or proprietary information of any other Party or the terms of this Agreement to any person, except with the prior written consent of the other Party or Parties, as the case may be, or pursuant to a written request or order of a competent authority or court or any other requirement of Applicable Law.

* 1. **Entire Agreement**

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement.

* 1. **Notices** 
     1. Any notice, demand, request or other communication to be made or given under this Agreement shall be in writing unless otherwise stated. Such notice, demand request or other communication shall be deemed to have been duly given or made when it shall be (a) delivered personally, or (b) sent by facsimile transmission, or (c) sent by registered mail with acknowledgment due, postage prepaid.
     2. The details of the Parties for the purposes of serving any notices in relation to or pursuant to this Agreement shall be as set out below:

If to the Lender: **Higher Education Financing Agency**

Kind Attn: Executive Vice-President

Address: No. 14, 6th Floor, Naveen Complex,

MG Road, Bangalore - 560001

Facsimile: Senior Vice-President

If to Borrower:

Attention:

Address:

Facsimile:

If to the Escrow Bank 1:

Attention:

Address:

Facsimile:

If to the Escrow Bank 2:

Attention :

Address:

Facsimile:

If to the Escrow Bank 3:

Attention:

Address:

Facsimile:

* + 1. **Delivery**

## Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:

* + - 1. if delivered personally, on delivery; or
      2. if by way of facsimile, when received in legible form; or
      3. if by way of registered mail / courier, the date of receipt of such registered mail / courier.
    1. Notwithstanding anything to the contrary contained hereinabove, any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender.
    2. Notwithstanding anything to the contrary stated herein or contained in any of the Finance Documents, it is expressly agreed that the Escrow Banks shall act only on the instructions of the Lender or in terms of this Agreement in the absence of any such instructions being provided by the Lender.
    3. **English language**
       1. Any notice given under or in connection with this Agreement must be in English.
       2. All other documents provided under or in connection with this Agreement must be:

in English; or

if not in English, and if so required by Lender and/or the Escrow Bank, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

* 1. **Counterparts**

## This Agreement may be executed in counterparts and all counterparts together shall constitute one and the same instrument.

* 1. **Execution**

This Agreement shall not come into force or effect, or bind the Parties hereto as per the terms and conditions contained herein unless this Agreement has been signed and executed by the authorized signatories / persons of the Parties.

* 1. **"It is agreed between the Parties that in case any of the clauses of this agreement is found to be in contravention to the extant RBI guidelines in this regard, the later shall prevail".**

**SCHEDULE I**

List of Authorised Persons

**For Lender**

**For Borrower**

**For Escrow Bank 1**

**For Escrow Bank 2**

**For Escrow Bank 3**

**SCHEDULE II**

**Escrow from Fee Receivables Account**

Upon receiving the intimation from the Lender, Escrow bank 1 and /or 2 shall debit the “Fee Receivable account” [ escrow account 1] and/or “Grants receivable account” [ escrow account 2] individually or together to the extent of prescribed percentages [ based on the window under which the borrower institution falls ] aggregating to 50% of the annual principal repayment obligation on **signing the loan documents** and the balance 50% before the end of 6 months from that date and similar amounts every 6 months thereafter, till closure of the loan account and remit the amount to principal repayment account [ escrow account 3] maintained with Canara Bank [ escrow bank 3].

**SCHEDULE III**

**Escrow from Grant Receivables Account**

**Principal**

As detailed above

**Interest**

Upon demand notice from the Lender, escrow bank 2 shall debit the quarterly interest to “Grants receivables account” before 10th of April, July, October and January months, being the interest debited to the loan account calendar quarterly i.e., as at 31st March, June, September and December respectively and remit the amount to the interest payment account maintained [ escrow account 4] with Canara Bank.

**SCHEDULE IV**

Escrow to the Interest Repayment Account

The quarterly interest due and transferred from Grants Receivable Account maintained with Bank bearing no. 1 and lying to the credit of interest repayment account with Escrow Bank 3 shall be transferred by Escrow bank 3 to Lender’s Interest Repayment Account immediately but not later than 2 working days from the date of receiving the credit. This Amount will be appropriated to the Interest Due by the lender.

**SCHEDULE V**

Principal Repayment Schedule

Upon receipt of intimation from Lender, Escrow Bank 3 shall transfer the amount lying to the credit of principal repayment account no. ………….. as per the following repayment schedule on the dates advised by the lender without any delay.

**THE PRINCIPAL REPAYMENT SCHEDULE PROJECT WISE IS AS UNDER:**

**Project A**

The entire loan amount of project A shall be repaid in 20 half yearly instalments of **Rs. \_\_\_each**, commencing six months from the date of first disbursement and subsequent instalments to be repaid every six months thereafter.

1. **Project B**

The entire loan amount of project B shall be repaid in 20 half yearly instalments of **Rs. \_\_\_\_each**, commencing six months from the date of first disbursement and subsequent instalments to be repaid every six months thereafter.

1. **Project C**

The entire loan amount of project C shall be repaid in 20 half yearly instalments of **Rs\_\_\_ each**, commencing six months from the date of first disbursement and subsequent instalments to be repaid every six months thereafter.

**4. Project D**

The entire loan amount of project A shall be repaid in 20 half yearly instalments of **Rs. \_\_each**, commencing six months from the date of first disbursement and subsequent instalments to be repaid every six months thereafter.

IN WITNESS WHEREOF the Parties have hereunto set and subscribed their respective hand through their authorized representatives and seal the day and year first hereinabove written

|  |  |  |
| --- | --- | --- |
| **SIGNED AND DELIVERED** by  the withinnamed “**Borrower**”  **[●]**through the hand of:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  its authorised signatory authorized vide a resolution passed by its board of directors at their meeting dated the in the presence of  **SIGNED AND DELIVERED** by  the withinnamed “**Lender**”  **HIGHER EDUCATION FINANCING AGENCY** through the hands of:  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  in presence of:  **SIGNED AND DELIVERED** by  the withinnamed**,** **“Escrow Bank 1”**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  by the hands of:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  in presence of:  **SIGNED AND DELIVERED** by  the withinnamed**,** **“Escrow Bank 2”**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  by the hands of:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  in presence of:  **SIGNED AND DELIVERED** by  the withinnamed**,** **“Escrow Bank 3”**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  by the hands of:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  in presence of: | )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  ) |  |