



## LOAN DOCUMENTATION

**Customer Name** : \_\_\_\_\_

**Contract No.** : \_\_\_\_\_

**Disbursement Date** : \_\_\_\_\_

**Asset Type** : \_\_\_\_\_

### COMMERCIAL VEHICLE / EQUIPMENT / MACHINERY FINANCE

(CO-BORROWER)

\_\_\_\_\_ FROM \_\_\_\_\_



## LOAN CUM HYPOTHECATION AGREEMENT

THIS AGREEMENT OF HYPOTHECATION is made at the place and on the day, month and year set out at the end of this Agreement;

### AMONGST

The "Borrower" the details whereof are given at the end of this Agreement, of the First Part

### AND

The "Co-borrower" wherever applicable, the details whereof are given at the end of this Agreement, of the Second Part

### AND

CITIBANK N.A., a corporate body having its registered office at 399, Park Avenue, Borough of Manhattan, City of New York and a representative/sales/Branch Office inter-alia at the place mentioned in the end of this agreement (hereinafter referred to as "the Bank") of the Third Part.

### RULES OF INTERPRETATION

- (a) The Expression 'Borrower', 'Co-borrower' and 'Bank' shall unless it be repugnant to the meaning or context thereof mean and include their Legal heirs, Executors, Permitted Assigns, Administrators, Official Receivers, Successors in business or title etc. as the case may be.
- (b) Reference to any gender shall include all genders and reference to words in the singular shall include words in the plural and vice versa in the context thereto
- (c) the word 'including' shall be construed without limitation
- (d) a provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation
- (e) a day is a reference to a calendar day
- (f) any approval or consent required from or any waiver given by the Bank will only be effective if issued by the Bank in writing
- (g) The headings of a clause, sub-clause or schedule in this Agreement are for convenience only and shall not constrain or affect its construction or interpretation in any way whatsoever.

### WHEREAS

- i) The Borrower and Co-borrower have approached the Bank for loan to the Borrower for purchase of some equipment/s/vehicle/s along with accessories (hereinafter referred to as "the said asset/s" and more particularly described in the Schedule III hereto). The Borrower has identified a seller of the same and has inspected and approved the same. The Borrower now has requested the Bank to grant to the Borrower loan, particulars whereof are given in the Schedule I hereto and which are hereinafter referred to as the "said credit facilities";
- ii) The Borrower and Co-borrower have requested for the grant of said credit facilities by the Bank to the Borrower for purchasing the said assets;
- iii) One of the conditions stipulated by the Bank for sanction of the said credit facilities, is that the Borrower and Co-borrower shall execute in favour of the Bank a Loan Cum Hypothecation agreement being these presents, to record, inter-alia, the terms and conditions of the said sanction, and in consideration of the Bank having agreed to sanction the said credit facilities the Borrower and Co-borrower hereby execute these presents; For brevity sake, the Borrower and Co-borrower are collectively referred as "Borrowers";

### NOW THIS AGREEMENT WITNESSETH AS UNDER: DEFINITIONS

- (a) "Agreement" means and includes this Agreement and the attachment(s) annexed hereto. Agreement shall also include application, supplementary agreement(s), modifications, alterations, addendums, attachments and schedules subsequently executed during the tenure of this Agreement.
- (b) "Automated Clearing House (ACH)" means Debit Clearing Service by an electronic funds-transfer system run by the National Automated Clearing House Association (NACHA) implemented by National Payments Corporation of India (NPCI), participation in which has been confirmed by the Borrower in writing for facilitating payment of EMI.

For Citibank N.A.

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Borrower

Co-Borrower

Authorised Signatory

BC1

- (c) "Applicable Laws" means, all central, state, provincial and local (i) laws, ordinances, regulations and codes and (ii) orders, requirements, directives, decrees, decisions, judgments, interpretive letters, guidance and other official releases of any Judiciary/ Regulatory/ Governmental authority that are applicable to the subject matter of this Agreement.
- (d) "Borrower(s)" means and includes any person to whom the Bank has agreed to grant the Loan Facility and has received the same pursuant to this Agreement as mentioned herein.
- (e) "Business Day" means, unless specified otherwise, a day on which banks are open for business in India (excluding Saturdays, Sundays and public holidays).
- (f) "Credit / Loan Facility" means the loan amount set out in Schedule I of this Agreement, including any additional financial facility availed from the Bank by the Borrower, along with all interests, costs, charges and expenses as mentioned under this Agreement.
- (g) "Delayed Payment Charge" means fees assessed for a payment delayed beyond the due date of the Equated monthly Installment (EMI).
- (h) "Effective Date" means unless specified otherwise, the date on which the Credit Facility amount is approved/ sanctioned.
- (i) "Electronic Clearance Service (ECS)" means Debit Clearing Service notified by the Reserve Bank of India, participation in which has been confirmed by the Borrower in writing for facilitating payment of EMI.
- (j) "Equated Monthly Installments (EMI)" means and includes the amount of monthly payment required to repay the principal amount of Credit Facility, Interest and any other monies due and payable by the Borrower to the Bank in accordance with Schedule III of this Agreement.
- (k) "Events of Default" means and includes the happening of any one or more events of default as stipulated in clause 5 of this Agreement.
- (l) "Interest" means and includes the rate of interest chargeable by the Bank from the Borrowers on the Credit Facility as mentioned under this Agreement.
- (m) "National Electronic Funds Transfer" or "NEFT" is an Indian system of electronic transfer of funds from one bank or bank branch to another.
- (n) "Outstanding Balance" means the balance of the Credit Facility including amounts in respect of any other financial facility, outstanding and unpaid along with interest, costs, charges and expenses in relation thereto.
- (o) "Prepayment" means premature repayment of the Credit Facility by the Borrower as mentioned under this Agreement.
- (p) "Real-time gross settlement systems" or "RTGS" are specialist funds transfer systems where the transfer of money or securities takes place from one bank to another on a "real time" and on a "gross" basis.
- (q) "Repayment" means and includes repayment of all dues in respect of the Credit Facility which shall be construed to include principal amount of Credit Facility, Interest, all taxes, levies, charges, legal fees, expenses and costs, etc., provided for in this Agreement.
- (r) "Standing Instruction (SI)" means and includes onetime written instruction provided by the Borrower for debiting their account towards the regular payment of EMIs.

#### 1.1 LOAN AMOUNT, INTEREST AND REPAYMENT;

Subject to the other terms and conditions herein contained, the Bank shall grant to the Borrower the said credit facilities, particulars whereof are given in the Schedule I hereto.

- 1.2 The borrowers have requested that the said credit facility amount be paid by the Bank directly to the Manufacturer / Dealer and/or to the borrowers themselves on their request in writing. It is therefore agreed by and between the parties that all such amounts shall be paid by the Bank directly to the Manufacturer/Dealer and such payment shall be deemed to be the credit facilities granted to and availed of by the Borrower.
- 1.3
  - (A) The Borrowers shall represent, warrant and assure to make regular payment of installments consisting of the principal and interest thereon under the said credit facilities. The Borrowers acknowledge their full understanding about the amortization details such as interest rate, number of installments, due dates and amounts in respect of the installments are specified in the Schedule III hereto. The repayment schedule is without prejudice to the right of the Bank, to be paid on demand, the entire credit facilities along with other dues. The said credit facility under this agreement shall come to an end only upon the Bank having, to its satisfaction received all outstanding dues and payments required to be made to the Bank.
  - (B) The Borrowers shall, in addition to interest, pay or reimburse to the Bank, as the case may be, interest tax and any other tax or levy as may be levied on or in respect of the interest payment under these presents. The Borrowers shall bear all such taxes and duties which are payable and/or may be levied from time to time by the Government or any other Authority and/or payment to be made by the customer.
  - (C) The Borrower shall on or before the date of the disbursal of the said facilities pay to the Bank non-refundable service charges/processing fees at the rate mentioned in the Schedule III hereto.
  - (D) The annualized rate of interest as mentioned in the Schedule III is fixed is computed with monthly rests on the balance outstanding and charged on reducing balance of principal outstanding amount. Provided that the rate of interest payable by the borrower shall be subject to the changes in interest rates made by the Reserve Bank of India (RBI) from time to time.
- 1.4 The Borrowers agree that the said credit facilities shall be repayable on demand and that the Bank can, at any time, in its sole discretion, recall the said credit facilities by giving to the Borrowers seven working days notice in writing. However, for the sake of convenience, the Loan amount and the interest thereon shall be repaid in monthly installments (EMI) as per the details stated in the Schedule III. It is however specified that this repayment schedule is without prejudice to the Bank's aforesaid right to recall in the entire credit facility and to be paid on demand the said entire credit facility along with all other dues in respect thereof or arising in pursuance thereof.
- 1.5 The installments shall be repayable on dates as mentioned in Schedule III (Repayment Schedule). The repayment shall commence as per the repayment schedule. Strict compliance with the repayment schedule is an essential condition for the grant of this credit facility. All sums payable under this agreement shall be paid in full without set-off or counterclaim or any restriction or condition and free and clear of any Taxes or other deductions or withholdings of any nature, except to the extent that is required by applicable law to make payment subject to any Taxes.

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Borrower

Y2

Co- Borrower

1.6 In the event of the Borrowers committing a default in the payment of sum due hereunder, whether by way of repayment of the outstanding balance of the said credit facilities or by way of payment of interest or any other payment due and payable by the Borrowers or the Borrowers committing any breach or default of any other condition of this Agreement or under any other instrument in respect of the said credit facilities, the Borrowers shall, in respect of the outstanding amount and in respect of interest or other amount in default, pay, by way of liquidated damages, additional interest at the rate specified in the Schedule III, from the date of default till the date of payment. The Borrowers expressly agree that the rate of such additional interest is a fair estimate of the loss likely to be suffered by the Bank by reason of such delay/default on the part of the Borrowers. The payment of additional interest shall not absolve the Borrowers of other obligations in respect of such default or affect any of the other rights of the Bank in respect of the default. It is expressly specified that the above is in addition to and the Bank expressly reserves all other rights that may accrue to the Bank on any default by the Borrowers. In addition, and without prejudice, to what is stated above, the Borrowers shall also be liable for all costs, charges and expenses which the Bank may pay or incur in any way resulting from the foregoing defaults and from exercise of the Bank remedies including expenses incurred on repossession or storage or sale of disposal of the Hypothecated Assets and legal cost on full indemnity basis thereof all of which are hereinafter collectively referred to as the "balance due to the Bank".

**1.7 REPAYMENT INSTRUCTIONS :**

All the payments, if the Bank so decides may be collected through post- dated cheques handed over at the office of the Bank towards any balance due to the Bank and submission of such post- dated cheques shall be deemed to be an unconditional and irrevocable authority given by the borrower to the Bank to present the cheques delivered in advance on their respective dates.

1.8 The Borrower may also repay the credit facility through any of the following mode:

- a) Automated Clearing House (ACH)
  - b) Electronic Clearance Service (ECS); or
  - c) Real Time Gross Settlement Systems (RTGS)
  - d) National Electronic Funds Transfer (NEFT)
- or any mode approved by the Bank from time to time.  
Cash as a mode of payment will not be accepted by the Bank.

The Borrowers undertake that his/her/its consent to participate in the ECS/ACH/SI mode for payment of the Monthly Installment's shall not be revoked during the tenure of this agreement except with the approval of the Bank. In case the borrowers revoke his/her/its consent to participate in the ECS/ACH/SI mode it may be presumed that the same has been done to cheat the Bank and therefore, will make the borrowers liable for criminal action under the laws applicable for the time being in force.

If any cheque / Electronic Funds transfer instruction given by the Borrower to the Bank is dishonoured for any reason whatsoever then without prejudice to the Bank's other rights, whether under Negotiable Instruments Act, the Indian Penal Code, The Payment and Settlement Act or otherwise howsoever, for every instance of dishonor the borrower will liable to pay the Bank, charges as specified in the Schedule III hereto.. It is also further agreed and understood that non presentation of the cheque / Electronic Funds transfer or any of them on part of the the Bank for any reason whatsoever, shall not in any manner affect the liability of the Borrower. If any or more than one or all of the post- dated Cheque/s / Electronic Funds transfer instruction delivered to the Bank by the Borrowers pursuant to the above clauses is/are lost, destroyed or misplaced while in the custody of the Bank; or become non-encashable due to death, insolvency, lunacy, termination of authority or otherwise of the signatory or any or more of the signatories (if more than one) or the liquidation of the drawee Bank or any moratorium or requires replacement for any reason for whatsoever in the discretion of the Bank, then in that event, the borrowers shall within three working days of receipt of such intimation from the Bank substitute/replace any such cheques/ Electronic Funds transfer instruction with a fresh Cheque/s/ Electronic Funds transfer instruction payable on the same day and for the same amount as the previous Cheque/s/ Electronic Funds transfer instruction which is/are being substituted.

The Bank may consider a request of the Borrowers not to take full Post Dated Cheques as stated above for all the installments instead but take only few cheques which can be used in case of any outstanding payment of dues under this agreement by the Borrowers.

The Bank shall be entitled to present the cheques/ Electronic Funds for the entire tenure of the loan or prepayment of the loan, notwithstanding any advance / excess payment made in the loan account. The Borrowers under no circumstances will claim any interest for any advance/ excess payment made in respect of the said credit facilities,

1.9 The Borrowers agree, that notwithstanding any specific instructions issued by the Borrower, The Bank will have absolute discretion to appropriate any payment received from the Borrower in the order that the Bank deems fit, in the following manner/chronology:

- (i) cost, charges and expenses incurred by the Bank
- (ii) additional interest
- (iii) dues payable by Borrowers under any other agreement entered with the Bank as Borrowers /Co- Borrower
- (iv) repayment of installments.

If the borrowers pay any amount to the lender before the due date of the installment, the Bank shall be entitled to appropriate the same in such manner as it deems fit and the credit in respect of such excess payment shall be given by the Bank to the borrower only on the due date of the installment.

1.10 All repayments to be made under this agreement by the Borrower shall be made at the Place specified in the Schedule III hereto ("Repayment schedule").

1.11 In cases where the end use of a single credit facility is intended to be utilized for acquiring more than one asset by the borrowers, it is specifically understood agreed and accepted by the Borrowers that, in addition to the specific hypothecation of each such asset, the Bank will for its accounting purposes be reflecting/subdividing the aforesaid

credit facility into separate sub accounts for each such assets financed. It is further agreed that any payment made by the borrowers to the Bank shall be apportioned by the Bank proportionately (either in full or in part) in each of the said sub-account in the manner and ratio as decided appropriate at the sole discretion of the Bank.

- 1.12 The Borrower(s) and the Co-borrower (s) hereby agree to execute and give to the Bank Demand Promissory Notes in respect of the various amounts payable from time to time under this agreement and they further agree that the Bank shall be entitled to negotiate the said promissory note/s and/or to sue upon the same.
- 1.13 It shall be the Borrower's obligation to keep acquainted with the rules of the Bank, in force from time to time. Any changes to the Schedule of charges/ terms of this Agreement pursuant to changes in applicable laws/ rules/ regulations/ market forces shall be communicated to the Borrower in case of account specific changes, and in case of others, the same will be available with the branch, and also published on the website of the Bank at [www.citibank.co.in](http://www.citibank.co.in).

## 2. REPRESENTATION BY THE BORROWER

2.1 The Borrower hereby declares, represents and warrants that:

- a. he/she/it is aware that the Bank is granting the said credit facilities on the basis of the information and representation made by him/her in loan application made for the purchase of the said asset and on the faith of the representations made by the Borrower and believing the same to be true;
- b. he/she/it has chosen the model, make, manufacturer and dealer in respect of the said asset and conveyed the same to the Bank after being satisfied about the same.
- c. that all information given in the application for the loan and the supporting documents is absolutely correct and no misrepresentation, either directly or indirectly or otherwise has been made.
- d. that all the necessary approvals for availing of the said facilities have been obtained and that the borrower will at all times till the amount due to the Bank are paid in full and the said credit facilities fully repaid, keep all such permissions valid and subsisting.
- e. The officer of the Borrowers executing this agreement and the documents executed in pursuance hereof, are duly and properly and fully authorised to execute the same.
- f. This agreement and the documents to be executed in pursuance hereof, when executed, will constitute valid and obligations of the Borrowers;
- g. It has not taken any corporate action nor have any steps been taken or legal proceedings been initiated or threatened against the Borrowers for its winding up, dissolution, administration, reorganization or for appointment of receiver, administrator of the Borrowers or all for any of its assets or undertakings;
- h. As of the date of this agreement, there is no litigation, proceedings or dispute pending or threatened against the Borrowers, the adverse determination of which might substantially, affect the Borrower's ability to repay the credit facilities as described in the Schedule I or have a materially adverse effect on the financial condition of the Borrowers.
- i. The execution of this Agreement and the performances of its obligations hereunder does not
  - 1) contravene any applicable law, statute or regulation or any judgement or decree to which the Borrowers are subject,
  - 2) conflict or result in any breach of any covenants, conditions and stipulation under any existing agreement, to which the Borrower is a party,
  - 3) Conflict or contravene any provision of the Memorandum and Articles of Association of the Borrower,
- j. There has been no material adverse change in the financial condition of the Borrower, nor has any event which is prejudicial to the interest of the Bank taken place since the date of latest audited financials of the Borrower which is likely to materially and/or adversely affect the liability of the Borrower to perform all or any of the obligations under this agreement.
- k. The Borrower shall be exclusively responsible for getting the delivery of the asset from the manufacturer/dealer. the Bank shall not be liable for delay and delivery/disbursement, any demurrage cost or the quality/condition/fitness of the asset. The borrower absolves the Bank from any liability in respect of the above and that the borrower shall not withhold payment of stipulated Monthly Installment's on the pretext that asset has not been delivered.
- l. The Borrower shall inform the Bank the chassis number/engine number/invoice number/serial /s/machine number/registration number of the said asset/s after receipt/installation of the same and authorizes the Bank to fill up the said chassis number/engine number/invoice number/serial number/s/machine number/s/registration number of the said assets in this agreement after receipt of such information either from Borrower/Dealer/Manufacturer/RTO and the Borrower shall not challenge the incorporation of such chassis number/engine number/invoice number/serial number/s/machine number/s/registration number or any other agreed modification in this agreement on any ground whatsoever. The Borrower also agreed that such modification and/or insertion of the hypothecated asset(s) details as provided, shall not invalidate the Loan Agreement and/or any of the terms and conditions of the said Loan Agreement.
- m. The Borrower shall get the name of the Bank endorsed as a financier in the Registration Certificate issued by the Transport authorities. The borrower shall handover a copy of the Registration certificate within 60 ( sixty ) days of the execution of this agreement .
- n. If the asset/s are of the nature that they cannot be registered under the Motor Vehicle Act , then the original invoice pertaining to the asset would be deposited with the Bank and the same will remain in custody of the Bank till the time the Bank receives the entire dues in respect of this agreement to its satisfaction.
- o. Neither the borrower nor any one on the Borrower's board (or a partner in case an Borrower is a partnership firm) is someone who has been identified as a willful defaulter by the RBI.
- p. The credit facility shall be used solely for the purpose of purchase of the said asset/s.
- q. The Borrower shall inform the Bank the chassis number/engine number/invoice number/serial/s/machine number/registration number of the said Asset/s after receipt/installation of the same and authorizes the Bank to fill up the said chassis number/engine number/invoice number/serial number/s/machine number/s/registration number of the said Assets in this Agreement after receipt of such information either from Borrower/Dealer/Manufacturer/RTO and the Borrower shall not challenge the incorporation of such chassis number/engine number/invoice number/serial number/s/machine number/s/registration number or any other agreed modification in this Agreement on any ground whatsoever. The Borrower also agreed that such modification and/or insertion of the Used Asset(s) details as provided, shall not invalidate this Loan Agreement and/or any of the terms and conditions of the said Loan Agreement.

- 2.2 The representations and warranties in clause 2.1 above shall be deemed to be repeated by the Borrower on and as of each day from the date of this agreement until all the moneys due or owing hereunder by the Borrower to the Bank have been repaid in full as if made with reference to the fact and circumstances existing on such day.
- 2.3 The Borrowers shall be exclusively responsible for getting the delivery of the said Asset from the manufacture/dealer/seller or registering the Asset with the appropriate authority and obtain a registration certificate for the Asset, if applicable. The Bank shall not be liable for delay in delivery, any demurrage cost or the quality/condition/fitness of the said Asset or non-registration/non-availability of the registration certificate, if required as per Applicable Laws. The Borrowers absolve the Bank from any liability in respect of above and that the Borrowers shall not withhold payment of stipulated EMIs on the pretext of the above situation or otherwise.
- 3. TERMS OF HYPOTHECATION:**
- 3.1 In consideration of the Bank having agreed to sanction the said credit facilities the Borrower hereby hypothecates to, and charges in favour of the Bank as and by way of a first charge thereon, the assets described in general terms in the Schedule II hereto (which are hereinafter collectively referred to as the "Hypothecated assets") for the payment to the Bank of all monies at any time due and payable by the Borrower to the Bank in respect of the said credit facilities, including the outstanding balance of the said credit facilities, as also the monies due on all Bills of Exchange, promissory notes or other negotiable instruments which the Bank may have discounted or become interested in as also all interest, costs, charges and expenses (including legal cost on full indemnity basis which the Bank may pay or incur in any way in connection with the said credit facilities or the said Hypothecated assets or the repossession or storage or sale or disposal thereof) all of which are hereinafter collectively referred to as the "balance due to the Bank". Any additions, improvements or attachments to the said hypothecated assets whether made and carried out by the Borrower or otherwise and whether at the cost of the Borrower or otherwise and whether with or without the approval of the Bank shall be deemed to constitute be part of the hypothecated assets and shall be subject to the terms and conditions of this agreement in the same manner and to the complete and total extent as the hypothecated asset prior to such addition/improvement or attachment.
- 3.2 The hypothecation shall be deemed to take place immediately on signing of this agreement. In the event the hypothecated asset is treated as 'Motor vehicle' or vehicle under the provisions of the Motor Vehicles Act, 1998, the Borrower shall get an endorsement on the registration certificate that such vehicles are hypothecated with the Bank.
- 3.3 The Borrower further agrees that the Hypothecated assets shall also be security for (a) all other monies that may be due and payable by the Borrower to the Bank on any account whatsoever, whether present or future, including the liability of the Borrower in any other capacity either singly by the borrower or along with any other person and (b) the credit facility/facilities to be granted/continued to the group companies/associate of the Borrower as declared.
- 3.4 The Borrower agrees with, and undertakes to the Bank that the Bank shall have an exclusive charge over the hypothecated assets and that the Borrower shall not create any manner of interest in the Hypothecated assets or any of them in favour of any other person or body, except with the prior written consent of the Bank. The charge/security created by the borrower under this agreement shall continue and remain in force till such time all other dues under this agreement and in respect of other loan facility obtained/to be obtained at the instance of the borrower from the Bank and Citigroup companies are fully discharged and the Bank/Citigroup Companies issue a Certificate of Discharge. The security created under this agreement and the liability of the Borrower shall not be affected, impaired or discharged by winding up (voluntary or otherwise) or by any merger or amalgamation, reconstruction, takeover of the management, dissolution or nationalization (as the case may be) of the borrower. The borrower covenants that the security provided by him shall remain valid for the balance due to the Bank or any other financial benefits given by the Bank at the instance of the Borrower from any of the Citigroup Companies.
- 3.5 The Borrower undertakes to further secure the said credit facilities and create such further security and execute such other documents as may be required by the Bank from time to time in regard to the said credit facilities.
- 3.6 The Borrower hereby declares that all the present Hypothecated assets are the absolute property of and at the sole disposal of, the Borrower and free from any charge or encumbrance of any nature whatsoever and that the future Hypothecated assets shall be likewise the sole unencumbered, absolute and disposable property of the Borrower.
- 3.7 (i) The Borrower shall pay all rents, taxes, outgoing and other charges in respect of the garages and other premises in which the hypothecated assets are stored or may be kept. The Borrower shall also ensure that such garages and other premises are fully insured to the extent of the full market value thereof against loss or damage from fire, civil commotions, lightning, riot, war, theft, pilferage, third party liabilities and such other risks as the Bank may direct. The Borrower shall duly and punctually pay all the premium on such policies as and when due and shall produce to the Bank for inspection the original receipts and furnish duly certified copies thereof for the Bank's record. The Borrowers shall ensure that such policies are kept alive during the subsistence of this security and the borrower shall not do or permit to be done anything by reason of which such insurance may be cancelled. The Borrower shall assign to the Bank every such policy of insurance and shall pay to the Bank all proceeds of any policy received by the Borrower.
- (ii) In the event of the Borrowers failing in the obligation as aforesaid, the Bank, may at its discretion, pay such rents and outgoing and insure the premises or garages and the Borrowers hereby undertakes to reimburse the Bank all monies so paid by the Bank for the purpose. The reimbursement shall be made on demand by the Bank and in default of such payment the Bank shall be at liberty to debit the amount so paid to the Account of the Borrower with the Bank and such amount shall thereafter carry interest at the rate specified in the Schedule III hereto.
- 3.8 (a) The Borrower shall keep the Hypothecated assets fully and comprehensively insured from time to time against all risks such as accident, fire, lightning riots, civil commotion, war, theft, pilferage, third party liabilities and such other risks as may be stipulated by the Bank from time to time, to the extent of full market value thereof. The insurance shall be in joint names of the Borrower and the Bank and the policies of insurance and renewal notes shall be deposited with the Bank. The Borrower shall duly and punctually pay all the premia on such policies as and when due and shall produce to the Bank for inspection the original receipts and furnish duly certified copies thereof for the Bank record. The Borrower shall ensure that such policies of insurance are kept alive during the subsistence of this security and the Borrower shall not do or permit to be done anything by reason of which such insurance may be cancelled.

- (b) On default of the Borrower to keep the Hypothecated assets insured as aforesaid, the Bank may, at its discretion, but without any obligation to do so, effect insurance of the Hypothecated asset and/or pay the premia in respect thereof and the Borrower hereby undertakes to reimburse the Bank on demand all the amounts paid and/or incurred by the Bank in doing so and on default of payment of such amounts by the Borrower, the Bank shall be at the liberty to debit such amounts to the accounts of the Borrower with the Bank and such amounts shall carry interest at the same rates as provided in the Schedule III hereto.
- (c) The First claim on any insurance proceeds shall be that of the Bank the Borrower hereby irrevocably authorizes the Bank to claim insurance proceeds to safeguard the interest of the the Bank and appropriate the proceeds thereof against liability of the borrower to the Bank under these presents. If any amount is received from an Insurance Company under any policy or policies of insurance, the amount so realized may, at the sole discretion of the Bank, be utilized in replacement/repair of the lost or damaged hypothecated assets or in liquidation of the liability of the borrower to the Bank under these presents.
- (d) The Borrower shall pay all rates, assessments, taxes and other outgoings which are now or hereafter may be assessed, imposed or payable for the hypothecated asset by the Government, Municipal, Regional Transport Authority or any other statutory / regulatory Authority.
- 3.9 The Borrower shall keep and maintain the Hypothecated assets in good condition at the cost and risk of the Borrower in all respects and the Borrower shall be liable for any loss or damage caused to the Hypothecated assets for any reason whatsoever, including theft, damage by weather and deterioration in quality.
- 3.10 The Borrower shall not encumber or transfer the Hypothecated assets in any manner whatsoever without the express consent in writing of the Bank. The Borrower undertakes to get the registration certificates wherever required of each asset endorsed with the name of the Bank to further express the fact that the such assets stand hypothecated to the Bank. Any direct or indirect transfer of the asset would be deemed to be criminal breach of trust and a case of cheating entitling the Bank to inter-alia adopt Criminal proceeding against the Borrower.
- 3.11 The Borrower shall, as on the last day of each month, furnish to the Bank statements regarding the Hypothecated asset such as full description thereof, market value, the place or places where they are parked or whether they are in transit and if so the details thereof. Such statements shall be delivered to the Bank within 10 working days from the date to which the statement relates and shall be authenticated by an authorized official of the Borrower. The statements shall be in such form as may be prescribed by the Bank from time to time and supported by such evidence as may be required by the Bank. In addition, the Borrower shall furnish to the Bank, as and when required by the Bank so to do, such information regarding the Hypothecated assets and about the Borrower's business, as may be required by the Bank.
- 3.12 If so required by the Bank, the Borrower shall cause to be displayed at all places whereby any of the Hypothecated assets may be kept, sign boards prominently indicating that the Hypothecated assets are Hypothecated to the Bank; the sign boards to be displayed in such manner and form as may be required by the Bank.
- 3.13 (a) The Borrower hereby declares that all the Hypothecated assets are free from any encumbrance whatsoever and past encumbrances, if any, have been fully cleared to the complete satisfaction of the person in whose favour such encumbrance was created. The Borrower further declares that the said Hypothecated assets and all documents relating thereto shall be held in trust by the Borrower for the Bank.
- (b) The Borrower shall ensure that no charge or encumbrance is created on the Hypothecated assets or any of them and that nothing is done that may adversely affect the security created hereby on the Hypothecated assets in favour of the Bank.
- 3.14 (a) The Borrower covenants with the Bank that the Borrower shall appraise the Bank of the occurrence or likely occurrence of any event which is likely to affect the capacity of the Borrower to repay the said loan or interest thereon or likely to affect the security for the said credit facilities or the obligations of the Borrower to the Bank in respect of the said credit facilities.
- (b) Without prejudice to the generality of the provisions contained in the preceding sub-clauses, the Borrower hereby agrees with, and undertakes to, the Bank that the Borrower shall forthwith inform the Bank on the occurrence or likely occurrence of, inter alia, any of the following events, namely,
- (i) institution of any legal proceedings against the Borrower by any persons making a claim for money against the Borrower, or enforcing against the Borrower any guarantee given by the Borrower.
- (ii) Any damage to the Hypothecated assets for any reason whatsoever;
- (iii) Any distress or other proceed of court being taken against Hypothecated assets;
- (iv) The occurrence of any event which is likely to affect the Borrower's business, including industrial action steps taken by authorities for recovery of statutory dues, etc.
- (v) If there is a change in constitution of ownership of the Borrower which in the opinion of the Bank is adverse.
- 3.15 Notwithstanding anything herein contained, the Bank shall have a lien over all the hypothecated assets of the Borrower and a right of set off against any monies due from the Bank to the Borrower and to combine all accounts of the Borrower for recovery of the Bank's dues.
- 3.16 (A) The Borrower hereby agrees and appoints the Bank and its officers and authorised representatives to be its duly constituted attorneys for all or any of the following purposes, namely:
- (i) To enter any place where any of the Hypothecated assets may be and inspect and value them;
- (ii) To take possession of all or any of the Hypothecated assets and/or the documents relating thereto from whomsoever they may be in possession of including the contents therein and to dispose them of immediately if they are dangerous and perishable in nature;
- (iii) To sell any of he Hypothecated assets for and on behalf of the Borrower and at the risk of the Borrower in all respects and to realize full or any part or portion of the sale proceeds thereof.
- (iv) To take all such steps as may be required for the recovery of any of the Hypothecated assets, including the institution of any claim, suit, petition or other legal process and the signing and execution of all necessary vakalatnamas and documents for the said purpose and the compromising or settlement of such suit or action.
- (v) Generally to do, perform and execute or cause to be done, performed or executed all acts, deeds, matters, things and documents in all matters arising under or out of or concerning or touching these presents as the Borrower could itself do, perform or execute.

- (vi) And for the better and more effectually doing, effecting and performing the several matters and things aforesaid to appoint from time to time or generally such other persons bodies companies organisations or agencies as the Bank. may think fit as its substitute or substitutes to do, execute and perform all or any such acts and things as aforesaid and such substitute or substitutes at pleasure to remove and to appoint other or others in his or their place.
  - (B) The Borrower agrees that the above powers may be exercised without any prior notice to the Borrower and further agrees to ratify and confirm all that the Bank or any substitute or substitutes appointed by the Bank may lawfully do or cause to be done in exercise of the aforesaid power.
  - (C) The Borrower further agrees to give all assistance to the Bank and its officers and authorized representatives for the purpose of exercising any of the powers herein above set out, including endorsing of documents, signing of papers and doing all such things as may be necessary to enable the Bank and its officers to exercise all the powers hereby conferred.
  - (D) The Borrower further agrees that the aforesaid powers have been granted for valuable consideration and as such shall be irrevocable in nature till such time as any amounts remain due, owing or payable under or in respect of or in pursuance of the said credit facilities and/or these presents.
- 3.17 The Borrower further agrees that the Bank shall not be required to continue the said credit facility otherwise than at Its sole discretion and that it will be entitled terminate the said credit facility at any point of time without any prior notice to the Borrower.
- 3.18 The Borrower undertake to get the endorsement of hypothecation done in the registration book with the appropriate authority. The Borrower further undertakes to get the charge created herein registered with the Registrar of Companies under relevant provisions of the Companies Act .
- 3.19 The Borrower shall produce the asset before the Bank whenever called upon by the Bank to do so, to enable the Bank to take inspection of the said asset. The Borrower further agrees that the Bank and its authorized representatives, servants and agents shall be entitled to take inspection of the said asset at all times and shall for the purpose thereof entitled without any notice, to enter upon the premises, godowns or garages where the hypothecated assets are lying or kept and if necessary to break any such place of storage.
- 3.20 The Borrower is aware that and expressly agrees that the breach of any of the terms of this agreement would amount to a criminal offence and that the Bank shall be entitled to criminally prosecute for all or any of such breach or breaches as the case may be.
- 3.21 The borrower hereby irrevocably appoints and constitutes the Bank to be its attorney ( with full power of substitution) and act in its name or otherwise on its behalf and sign , seal , execute , deliver ,perfect and to do all deeds instruments acts and things which may be required or which the company shall think proper or expedient for carrying out any obligations imposed on the Borrower hereunder or for exercising any of the powers her by confirmed or in connection with any sale or disposition or enforcement action of, or exercise of steps in rights in connection with the said hypothecated asset or any part thereof.

#### 4. UNDERTAKING

- i. In consideration of the Bank having advanced the credit facilities as per Schedule I to the Borrower, the Co-borrower(s) hereby agrees/agree and undertakes/undertake that in the event that the Borrower fails, neglects or refuses for any reason whatsoever and howsoever to repay and/or is unable to pay any of the installments or amounts due and payable under this Agreement, the Co-borrower(s) does/do hereby undertake to pay to the Bank the said defaulted installments along with any penalties, costs, charges, commission, expenses and statutory dues, if any, in full on the first demand by the Bank and upon the Bank notifying to the Co-borrower(s) of such defaults by the Borrower, without any demur or protest or contest and without any reference to the Borrower, unconditionally and without raising any objection or issue whatsoever and irrespective of or notwithstanding any dispute or difference in respect of the said amounts falling due to the Bank. In the event the Co-borrower(s) fails to perform the above obligation, the Bank reserves the right to repossess any asset of the Co-borrower(s) which is mortgaged/hypothecated /charged to the Bank towards liquidation of the outstandings of the Borrower.
- ii. Any amounts thus payable by the Co-borrower(s) to the Bank will be paid at the address of its branch as mentioned at the end of this agreement.
- iii. The Co-borrower(s) shall forthwith repay the Bank all such amounts, within seven (7) days from date of a notice from the Bank stating the default through registered post/courier/fax/authenticated telex or cable.
- iv. The Co-borrower(s) hereby agrees/agree that the entries in the books/computer records kept in the ordinary course of business by the Bank with regard to the amounts due from the Borrower and with regard to the installments, costs and expenses debited to the Borrower's account shall be conclusive evidence against the Borrower and the Co-borrower(s) of the transactions and matters therein appearing and of the Borrower's/Co-borrower's(s) liability for the sums shown to be due by such entries.
- v. The Co-borrower(s) hereby consent/consents to the Bank:
  - (a) Making any variations that the Bank may think fit in the terms of this Agreement with the Borrower;
  - (b) Determining, enlarging or varying any contract with the Borrower;
  - (c) Making any compositions with the Borrower;
  - (d) Promising to give time to the Borrower or not to sue the Borrower;
  - (e) Parting with any security that the Bank may hold in respect of the said credit facilities.
- vi. The Co-borrower(s) also agrees/agree that it/they shall not be discharged from its/their liability by the Bank releasing the Borrower or by any act or omission of the Bank the legal consequences of which may be to discharge the Borrower or by any act of the Bank which would, but for this present provision, be inconsistent with the Co-borrower(s) rights or by the Bank's omission to do any act which but for this present provisions, the Bank's duty to the Co-borrower(s) would have required the Bank to do. The Co-borrower(s) agrees/agree that is between the Bank and the, Co-borrower(s) is/are a principal debtor/debtors jointly with the Borrower.
- vii. The Co-borrower(s) agrees/agree that if the Borrower shall be found not to be liable to the Bank in law for the installments or any other charges due to the Bank from the Borrower by reason of his incapacity to borrow or to contract or insolvency or for any other reason, the Co-borrower(s) shall nevertheless be liable as principal debtors to pay to the Bank all the sums that would have been recoverable by the Bank from the Co-borrower(s) as Co-borrowers, if the Borrower had been liable for the installments and other charges and dues.

- viii. The Co-borrower(s) hereby declares/declare that this undertaking is in addition to, and not by way of limitation of, or substitution for, any other undertaking or undertakings that the Co-borrower(s) may have previously given or may hereafter give to the Bank (whether alone or jointly with any other party or parties) and that this undertaking shall not revoke or limit any such other undertaking or undertakings.
- ix. The Co-borrower agrees and declares that the Bank shall not be bound and compelled to take any proceedings, steps or action against the borrower for recovery, enforcement or realization of any of their dues from the Borrower or against the said Asset including repossessing the same under or pursuant to this Agreement and the Co-borrower shall be bound and liable to pay all monies payable under and by virtue of this undertaking notwithstanding that the Bank shall not have taken any step or proceeding against the Borrower.
- x. It is further expressly clarified that this undertaking is irrevocable undertaking having been granted for valuable consideration and shall come into effect simultaneously with the signing of this Agreement.
- xi. The undertaking shall remain in full force and will be valid till the complete discharge of all liabilities of the Borrower under this Agreement as also all costs, commissions and charges hereunder.
- xii. The Co-borrower(s) agree that they are jointly and/or severally liable under the terms of this agreement. The Co-borrower in relation to the Bank is and shall be a principal obligator in respect of all obligations, liabilities and responsibilities undertaken in favour of the Bank under this undertaking and the Bank shall be entitled to proceed against the Co-borrower as if the Co-borrower was the principal debtor of the Bank in respect of all obligations and payments undertaken by the Co-borrower.
- xiii. The address/addresses of the Co-borrower(s) for the purpose of service shall be that mentioned at the end of this Agreement.
- xiv. The Co-borrower(s) shall stand discharged of its/their/his obligations of the Bank receiving all amounts due, owing and payable to the Bank under or in pursuance of the terms of this Agreement.

**5. EVENTS OF DEFAULT:**

The Borrower shall be deemed to have committed an act of default on the happening of, inter-alia, any one or more of the following events, namely:

- (a) Failure to make payment to the Bank of any part of the loan amount on demand or any other rate or charge due and payable under these presents or in respect of the said credit facilities.
- (b) The Borrower misusing the said credit facilities or any part thereof for any purpose other than for which the said credit facilities have been sanctioned.
- (c) The Borrower creating any manner of interest in the Hypothecated assets or any part thereof.
- (d) The representations made by the Borrower being found to be untrue in any manner, whatsoever.
- (e) The Borrower committing a breach of any of the terms, covenants and conditions herein contained.
- (f) The Borrower committing a default in respect of any of the other obligations of the Borrower towards the Bank either under this agreement or under any other agreement and/or under the law or otherwise howsoever.
- (g) The Borrower fails or neglects to observe, perform, adhere to and comply with or commits a breach of any of the terms and conditions of this agreement or of any other agreement entered into by the Borrower with the Bank, and the Borrowers part to be observed, performed, adhered to or complied with.
- (h) The Borrower committing a breach of any other agreement entered into by the Borrower with Citibank N.A or Citigroup Companies or Citigroup entity or any other bank or financial institution or non-banking finance company or any other person body or entity.
- (i) Any of the group companies/associates of the Borrower defaulting in the terms of any of the agreements entered into between any of them and Citibank N.A or any Citigroup company or Citigroup entity.
- (j) The hypothecated assets or any part of portion thereof, being confiscated, attached or taken into custody by any authority or becoming the subject of any legal proceedings;
- (k) An insolvency notice or a winding-up notice is served on the Borrower or a receiver is appointed or attachment is levied on any of the Borrower's properties or assets; or
- (l) The hypothecated assets or any part of them are distrained, endangered or damaged or bodily injury is caused to any third party by an accident involving the hypothecated asset or otherwise, or
- (m) The hypothecated asset or any of them or stolen or is/are a total loss in the opinion of the Bank, or
- (n) Whenever in the absolute discretion of the Bank there is a likelihood of the due money not being paid and or the hypothecated assets or any of them are likely to be transferred to defeat the security and the due amounts of the Bank.
- (o) On the Bank being informed or in the event that information comes to the knowledge of the Bank that there is a change in the management and/or constitution of the Borrower or that there is likely to be a change in the management and/or constitution of the Borrower and such change in the opinion of the Bank would adversely affect the interest of the Bank.
- (p) There existing any other circumstances which in the sole opinion of the Bank, jeopardise the Bank's interests.
- (q) The Borrower transporting goods generally not permitted by law and/or indulging any illegal activity with the aid of the hypothecated asset.
- (r) The Borrower fails to produce the asset for inspection or verification thereof or making valuation by the Bank or its officers, auditors, technical experts, management consultant, valuers or any other person authorized for the purpose by the Bank.
- (s) Any instructions given by the borrower for stop payment of the post dated cheques, for any reason whatsoever including instructions for revocation of instructions under ACH/ECS/SI mode of repayment.
- (t) If without approval of the Bank the asset and/or other security provided under this agreement are sold, transferred, disposed off, charged, encumbered, alienated etc; or there is reasonable apprehension that the Borrower or Co-borrower are likely to transfer, sell etc the asset and/or other security.
- (u) Any defect/infirmity in the undertaking provided by the Co-borrower which renders the undertaking ineffective/inoperative.
- (v) The Borrower fails to pay insurance premium in respect of the hypothecated asset or garage and/or premises where the said assets are stored or kept.
- (w) The Borrower fails to pay any tax, levy, charge, outgoing or any other imposition or to comply with any other formalities required to be completed in respect of hypothecated assets under law from time to time.
- (x) The Borrower fails to supply a copy of the registration certificate of the hypothecated asset to the Bank within the stipulated time as mentioned herein above.
- (y) If the asset/s are of the nature that they cannot be registered under the Motor Vehicle Act, then the non-deposit of the original invoice pertaining to the asset.

**6 THE BANK'S RIGHTS ON DEFAULT:**

In the event of the Borrower committing any act of default, as aforesaid, then, notwithstanding anything to the contrary herein contained, the Bank shall be entitled at its absolute discretion, to interlia:

- (a) Call upon the Borrower to pay forthwith the outstanding balance of the said credit facilities together with interest and all sums payable by the borrower under this Agreement.
- (b) REPOSSESSION OF ASSET: To take possession of the hypothecated assets from wheresoever it may be and remove the hypothecated asset including all accessories, bodywork and fittings and for the said purpose, it shall be lawful for the Bank or the Bank authorized representatives, servants, officers and agents forthwith or at any time to enter upon the premises, or garage or godown where the hypothecated assets shall be lying or kept and to take possession or recover or receive the same and if necessary to break open such place of storage; the Bank will be within its rights to use a tow-van to carry away the assets. Any damage to the land or building caused by removal or the asset shall be the sole responsibility of the Borrower(s).
- (c) To take all necessary steps as fully and effectively as the Borrower could take to dispose off the said hypothecated assets at the risk and cost of the Borrower in all respects and it shall be lawful for the Bank forthwith or at any time thereafter enter upon the premises, or garage where the Hypothecated assets shall be lying or kept and to take possession or recover and receive the same and if necessary to break upon any such place of storage and the Bank shall be entitled to appoint any officer or officers of the Bank or any other person authorized in this behalf as receiver of the said hypothecated assets or any part thereof with power to do all things as fully and effectively as the Borrower could do and/or to sell the said hypothecated assets by public auction or private contract or otherwise dispose of the said hypothecated assets including any material thereon at the risk and costs of the Borrower in all respects with power to rescind or vary any contract for sale without being bound or answerable for any loss or diminution in value and without being bound to exercise any of the powers hereby conferred or being liable for any loss occasioned by the exercise of any such power and to give effectual receipts and discharge for the purchase money and to do all such other acts and things for completing the sale as the Bank or the receiver, shall think proper. The Borrower shall not raise any objection to the regularity of any sale or other disposition made by the Bank nor shall the Bank be responsible for any loss that may arise from any act or default on the part of any broker or auctioneer or other person or body employed by the Bank or the receiver for the purpose of the sale or disposition. the Bank may give a notice for payment of installments to the Borrower and the Co- borrower if there is a default in any single payment of installment. Thereafter, if the borrower continues in defaulting payments, the Bank may give another notice to give one more opportunity to the Borrower and the Co-borrower and in the event of non-payment. the Bank may give a final recall notice to pay the entire outstanding dues together with all other monies in respect of the loan within 7 days of the said notice of recall before taking possession of the hypothecated assets and no such notice will be required in cases where borrower himself has waived notice or agrees to surrender the hypothecated asset(s). Notwithstanding anything contained in this Agreement the Bank shall be entitled to repossess the hypothecated asset whether the entire loan amount has been recalled or not whenever in the absolute discretion of the Bank, there is likelihood of the dues of the Bank not being paid by the borrower and/or the asset is likely to be transferred by the Borrower to defeat the security and/ or payment of the balance due of the Bank. The hypothecated assets will be seized on drawing a seizure report. After seizure of the hypothecated assets, the borrower will be given a final notice for repayment of the loan failing which the hypothecated assets will be put up for sale. If the borrower makes payment of the entire dues and outstanding amount, as demanded in the notice within the stipulated time as mentioned therein the hypothecated asset will be handed over/released to the borrower under a handover report. In case the Borrower fails to make such payment as mentioned herein above, the hypothecated assets will be sold after valuation by inviting market quotations through public auction and/or private treaty and thereafter the hypothecated asset will be sold to the highest/best price offered.
- (d) In the event of there being a surplus available of the net proceeds, after deduction of taxes levies, if any, of such sale after payment in full of the balance due to the Bank, it shall be lawful for the Bank to retain and apply the said surplus together with any money or monies belonging to the Borrower for the time being in the hands of the Bank in or under whatever account as far as the same shall extend against in or towards liquidation of any monies that shall be or may become due from the Borrower or from any of its group companies/associates/directors/promoters to the Bank, Citibank N.A. or Citigroup companies or Citigroup entities whether solely or jointly with any other person or persons firm or company by way of loans, discounted bills, letter of credit, Guarantees, charges or any other debts or liability including bills, notes, credits and other obligations current through not then due and payable or other demands legal or equitable which the Bank or Citibank N.A. or such Citigroup companies, may have against the Borrower or which the law of set-off or mutual credit would in any case admit along with interest thereon from the date on which any and all advance/s in respect thereof shall have been made at the rate or respective rates at which the same have been so advanced.
- (e) That after crediting the net proceeds of the sale towards the outstanding dues of the loan account, if there is any shortfall, then the Borrower and the Co- Borrower shall be liable to pay the shortfall to the Bank for closure of the said Loan Facility account.

**7. CROSS LIABILITY:**

- 7.1 The Borrower expressly accepts that if the Borrower fails to pay any monies when due or which may be declared due prior to the date when it would otherwise have become due or commits any other default under any agreement (including this agreement) with the Bank under which the Borrower is enjoying any financial/credit/other facility; then in such event the Bank shall, without prejudice to any of its specific rights under each of the agreements, be absolutely entitled to exercise all or any of its rights under any of the Borrower's agreement (including this agreement) with the Bank at the sole discretion of the Bank.
- 7.2 The Borrower/Co-borrower acknowledges and accepts that any default in discharging his liabilities under any other agreements entered into/to be entered into with the Bank or with any of the Citigroup Companies shall be deemed to be default under this agreement and vice versa entitling the Bank to recall this loan facility and/or all other loan/facility advanced to the Borrower the Bank shall in the event of such default, be entitled to exercise in its discretion any or all its rights under this agreement and/or other agreements entered into by the Borrower/Co-borrower with the Bank. Further, it is clarified that in the event of default in repayment of the Loan or any other financial facility by the Borrower, the Bank shall be entitled to create a charge over any other security provided by the Borrower in relation to any other loan facilities availed from the Bank.
- 7.3 The term 'Citigroup Companies' appearing in this clause and elsewhere in this agreement shall mean and include any branch of Citibank N.A., and any other associate company/entity of Citibank N.A., and Citicorp Finance (India) Ltd, present or future carrying on operations/business in India.

**8. THE BANK'S RIGHT TO SELL/ASSIGN/DELEGATE/APPOINT:**

8.1 It is agreed that the Borrower introduction, the credit rating and all other acts/steps/duties as are necessary for the Bank to monitor the said credit facilities or any part or portion thereof and/or to recover the amount due to the Bank or any part or portion thereof shall/may be carried out by such other persons, company, body, organization or agency as may from time to time be appointed by the Bank in respect thereof and that the Bank will at all times be entitled to share with such other person, company, body, organization or agency that may thus be appointed by the Bank, all the documents statements of accounts and other information of whatsoever nature pertaining to the Borrower or the said credit facilities.

8.2 The Borrower expressly recognizes and accepts that the Bank shall be absolutely entitled and have full power and authority to sell, assign or transfer in any manner, in whole or in part, and in such manner and on such terms as the Bank may decide, (including reserving a right to the Bank to retain its power hereunder to proceed against the Borrower on behalf of the purchaser, assignee or transferee) any or all outstandings and dues of the Borrower to any third party of the Bank choice without any further reference or intimation to the Borrower. Any such action and any such sale, assignment or transfer shall bind the Borrower to accept such third party as creditor exclusively or as a joint creditor with the Bank as the case may be. Any cost in this behalf, whether on account of such sale, assignment or transfer or enforcement of rights and recovery of outstandings and dues, shall be to the account of the Borrower. Any such action and any such sale, assignment or transfer shall bind the Borrower to accept such third party as creditor exclusively or as a joint creditor with the Bank, or as creditor exclusively with the right to the Bank to continue to exercise all powers here under on behalf of such third party and to pay over such outstanding and dues to such third party and or to the Bank as the Bank may direct.

**9. THE BANK'S SERVICE PROVIDERS:**

It is agreed by the Borrower and the Co-Borrower that without prejudice to any rights of the Bank, all acts / steps as are necessary for the Bank to take in order to monitor the Credit Facility and its finalization and/or the obligations of the Borrower and the Co-Borrower compliance with the terms hereof and / or to recover amounts due to the Bank or any part or portion thereof, shall and/or may be carried out by and / or through such other person (including a company or body corporate) as may from time to time be appointed by the Bank in respect thereof and that the Bank will at all times be entitled to share with any such other person that may thus be appointed by the Bank, all documents statements of accounts and other information of whatsoever nature pertaining to the Obligor(s) and/or the Loan Facility. Further, the Obligor(s) expressly agrees and accepts that the Bank shall, without prejudice to its rights to perform such activities either itself or through its officers or servants, be absolutely entitled and have full power and authority to appoint one or more third parties of the Bank choice and to transfer or delegate to such third parties the right and authority to collect on behalf of the Bank all unpaid amounts and to perform and execute all acts, deeds, matters and things connected therewith or incidental thereto including attending the office/residence of the Borrower and the Co-Borrower, receiving the amounts due, and generally performing all lawful acts as the third party may consider appropriate for such purposes.

If the Borrower and/or the Co-Borrower requests any of the officer(s) and/or person(s)/representatives authorized by the Bank to visit his place of residence, office and/or any other place to collect the repayment, instrument and/or any document(s), the Borrower shall be liable to pay Rs. 200/- per visit or the amount as may be revised from time to time at the sole discretion of the Bank which shall be paid by the Borrower directly or be debited to his loan account.

**10. THE BANK'S LIEN AND SET OFF PRESERVED:**

Notwithstanding anything herein contained, the Bank shall have a lien over all the assets of the Borrower(s) in the Bank control and a right of set-off against any moneys due from the Bank to the Borrower(s) and to combine all accounts of the Borrower(s) for recovery of the Bank dues hereunder. the Bank has agreed to enter into this transaction on condition that the Borrower(s) agrees to the right of the Bank to set off against the amount lying in deposit/in account/in possession with the Bank for the recovery of the Bank dues hereunder.

**11. THESE PRESENTS NOT TO AFFECT OTHER RIGHTS OF THE BANK AGAINST BORROWER/ CO-BORROWER:**

a. The Borrower / Co-Borrower hereby expressly agrees that nothing herein contained shall operate to prejudice the rights and remedies of the Bank in respect of any other obligations of the Borrower /Co-Borrower to the Bank or prejudice or effect any general or particular lien to which the Bank is by law or otherwise entitled to or operate to prejudice the Bank rights or remedies in respect of any present or future security, guarantee or obligation given to the Bank by any other person for any indebtedness or liability of the Borrower/ Co-Borrower .

b. The Borrower /Co-Borrower further agrees that in addition to and without prejudice to any other right or lien enjoyed by the Bank, the Bank will further be entitled at any point of time and without notice to the Borrower Co-Borrower to combine or consolidate all or any of the Borrower's/ Co-Borrower's accounts and all the credits and liabilities therein and set off or transfer any sum standing to the credit of any one or more of such accounts in or towards satisfaction of any of the Borrower's liabilities to the Bank on any account whatsoever, whether such liabilities are actual or contingent, primary or collateral and whether joint or several.

**12. PREPAYMENT:**

"Prepayment" means the repayment of the entire Loan at any point of time by way of one bullet installment and in case of multiple instalments the entire repayment is to be received before the next due date. The Borrower shall be entitled to prepay the entire outstanding amount under this agreement at any point of time by giving the Bank one month prior notice in writing of the Borrower's intention to do so. In the event the Borrower exercises its right to prepay, the Bank will be entitled to charge prepayment/termination charge equivalent to 3% of the outstanding principal over and above other dues payable under this agreement. No partial pre-payment of the loan will be allowed. Any amount received in excess of the installment sum but less than the prepayment amount will be treated as excess and not adjusted with the outstanding principal amount.

**13. INDEMNITY:**

The Borrower and the Co-Borrower shall, without prejudice to any other right of the Bank, indemnify, and hereby agrees to keep indemnified and held saved and harmless the Bank against, and pay and reimburse to the Bank, any losses, costs, charges or expenses (including any costs relating to stamp duty) or outgoings including legal fees and expenses which the Bank shall certify as having sustained or suffered or incurred by the Bank as a consequence of

occurrence of an Event of Default, or laches or acts of omission and commission or breaches including of covenants, representations and undertakings and assurances on the part of the Borrower and the Co-Borrower, or otherwise in respect of the Credit Facility and/or the hypothecated asset/s and/or any terms herein.

**14. THESE PRESENTS TO BE CONTINUING SECURITY:**

The Borrower/ Co-Borrower agree that this agreement and the security hereby created and indemnity and /or undertaking given shall operate as a continuing security and /or indemnities/undertakings for all the obligations/facilities of the Borrower/Co-Borrower in respect of the said credit facilities, notwithstanding the existence of a credit balance in the said account or any partial payments or fluctuation of accounts till the subsistence and full satisfaction of the obligations ,

**15. REIMBURSEMENT:**

The Borrower shall reimburse the Bank all costs and expenses incurred by the Bank in the negotiation, preparation, stamping, execution, administration and enforcement of this Agreement as also any security documents and/or the rights of the Bank hereunder or thereunder.

**16. ARBITRATION:**

All disputes, differences and/or claims arising out of these presents or as to the construction, meaning or effect hereof or as to the rights and liabilities of the parties hereunder shall be settled by arbitration to be held at \_\_\_\_\_ **X11** in accordance with the provisions pertaining to Fast Track Arbitration of the Arbitration and Conciliation Act, 1996 or any statutory amendments thereof or any statute enacted for replacement thereof and shall be referred to the sole arbitration of a person to be nominated/appointed by the Bank. The Borrower and the Co-Borrower unequivocally authorize the Bank to appoint Arbitrator. In the event of death, refusal, neglect, inability or incapability of the persons so appointed to act as an arbitrator, the Bank shall appoint a new arbitrator. The award including the interim award/s of the arbitrator shall be final and binding on all parties concerned. The arbitrator shall follow the procedure pertaining to Fast Track Arbitration in conducting arbitration proceedings and shall conduct arbitration proceedings **Y11** in such manner as he considers appropriate. Any proceedings to be initiated in any court of law in pursuance of this arbitration shall be instituted and held in the court at \_\_\_\_\_ only.

**17. JURISDICTION:**

It has been further agreed between the parties hereto that \_\_\_\_\_ courts alone shall have exclusive **CB** jurisdiction in respect of any matter, claim or dispute arising out of or in any way relating to these presents or to anything to be done pursuant to these presents or in regard to interpretation of these presents or of any clause or provision thereof.

**18. NOTICE COMMUNICATION:**

- a. Any Notice to be given by the Bank to the borrower, shall be effective and deemed to have been duly and sufficiently served on the Borrower, three days after the same shall have been delivered to the post office/couriers properly addressed to the Borrower at the address given at the end of this agreement and if delivered to the Borrower against acknowledgement, it shall be deemed to have been duly served as on the date of delivery.
- b. A certificate by an officer of the Bank that the notice was posted or served, as the case may be, shall be final, conclusive and binding on the Borrower.
- c. Unless otherwise advised in writing by the Bank to the Borrower, any notice to be given by the Borrower to the Bank shall be effective and deemed to have been duly and sufficiently served on the Bank if delivered at its registered office address here instated.

**19. THE BANK STATEMENTS OF ACCOUNTS TO BE ACCEPTED BY THE BORROWER:**

Annual outstanding balance statement for the loan account shall be generated as on 31st March of every year (end of the financial year) and dispatched to the mailing address within 45 days of the statement generation. The Borrower hereby agrees to accept as conclusive proof of the correctness of any sum claimed by the Bank to be due from the Borrower in respect of the said Credit Facilities, a statement of account printed out from computer made out from the books of the Bank without production of any voucher, documents or other paper. Further, borrower also agrees that the statement of account being a computer generated printout does not require any signature of the Bank. Any manifest error in Statement of Account shall be pointed out by the Borrower within 10 (ten) working days after receiving the statement from the Lender.

**20. EXECUTION AND STAMP DUTY:**

- a) This Agreement shall be executed in single; the original copy whereof shall be kept by the Bank and photo copy of the same has been given to and received by the Borrower, the receipt whereof the borrower does hereby admit and acknowledge.
- b) The Borrower shall pay and bear the stamp duty on this agreement as also any penalty or other levies thereon.

**21. WAIVER/FORBEARANCE:**

Any waiver or forbearance or delay on the part of the Bank to insist upon the performance of any terms and conditions of this agreement, or to exercise any right or privilege conferred in this Agreement, or to demand any penalties resulting from any breach of any of the terms or conditions of this Agreement shall not be construed as a waiver on the part of the Bank of any of the terms or conditions of this Agreement or of any of its rights or privileges or of any other default on the part of the Borrower, and all original rights and powers of the Bank under this Agreement will remain in full force, notwithstanding any such forbearance or delay.

**22. ENTIRE AGREEMENT:**

This Agreement and any other documents attached hereto or referred to herein, integrate all the terms and conditions mentioned herein or incidental hereto, and supersede all oral negotiations and prior writings in respect of the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Agreement and any agreement or documents attached hereto or referred to herein, then in such event, the terms, conditions and provisions of this Agreement shall prevail.

**23. SCHEDULES TO FORM PART OF AGREEMENT:**

The Schedules hereto shall be deemed to be part of this Agreement as though the provisions thereof were set out herein in extenso.

X12

Borrower

Y12

Co- Borrower

BC11

**24. REMEDIES AND WAIVERS CUMULATIVE:**

- (a) The rights of the Bank under this agreement:
  - (i) may be exercised as often as necessary;
  - (ii) are cumulative and not exclusive of its rights under the general law or those available to it under the present agreement
  - (iii) may be waived only in writing and specifically.
- (b) Delay in exercising or non-exercise of any right is not a waiver of that right.

**25. PARTIAL INVALIDITY:**

If at any time provision hereof is or becomes illegal, invalid or unenforceable under the law, neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of other provisions shall in any way be affected or impaired thereby.

**26. DISCLOSURE:**

The Borrower and the Co-borrower state and declare that as a pre-condition, relating to grant of the paid credit facilities to the Borrower, the Bank, requires their consent for the disclosures by the Bank of, information and data relating to the Borrower and the Co-borrower in respect of the said credit facility availed of/to be availed, by the Borrower, obligations assumed/to be assumed, by the Borrower and the Co-borrower, in relation thereto and default, if any committed by the Borrower and the Co-borrower in discharge thereof.

- (I) Accordingly, the Borrower and the Co-borrower hereby agree and give consent for the disclosure by the Bank, of all or any such:
  - (a) informations and data relating to the Borrower and the Co-borrower;
  - (b) the information or data relating to any credit facility availed of/to be availed, by the Borrower and the Co-borrower and
  - (c) default, if any committed by the Borrower and the Co-borrower in discharge of the Borrower's and the Co-borrower's obligation, as the Bank may deem appropriate and necessary to disclose and furnish to the Reserve Bank of India or the Credit Information Companies [CICs] and any other agency authorized in this behalf by RBI.
- (II) The Borrower and the Co- Borrower further authorizes the Bank to disclose aforesaid information/documents to Income Tax Authorities, credit Bureaus, Credit Rating agencies, third Parties, Databanks, corporates, other Banks, financial institutions, associated/ group entities of the Bank, service providers or any other Government or Regulatory Authorities/Bodies/Departments. The Borrower and the Co- Borrower also hereby expressly authorizes the Bank that in order to protect its interest and/or for the purpose of credit reference checks etc. the Bank shall be entitled to disclose all/any information/documents relating to him/it as may be required by any of the Citigroup companies for the purpose of executing this agreement and or any other agreement(s). the Bank shall be entitled to exercise this right of disclosure without being required to issue any further notice in this respect to the Borrower. The Borrower specifically waives the privilege of privacy, privity and defamation.
- (III) The Borrower and the Co-borrower declare that the information and data furnished by the Borrower and the Co-borrower to the Bank are true and correct.
- (IV) The Borrower and the Co-borrower undertake that:
  - a. The RBI or the Credit Information Companies [CICs] and any other agency so authorized may use, process the said information and data disclosed by the Bank in the manner as deemed fit by them and
  - b. The RBI or the Credit Information Companies [CICs] and any other agency so authorized may furnish for consideration, the processed information and data or products thereof prepared by them, to banks/financial institutions and other credit grantors or registered users, as may be specified by the Reserve Bank in this behalf. The expression "Bank" includes lending institutions for the purpose.

**27. NOTICE FOR CHANGES IN THE TERMS:**

The changes as and when done which are applicable to loan terms and conditions, rate of interest, charges etc shall be displayed on our website, which shall constitute sufficient notice to the Borrowers. Also, the said changes if any would be made available at the branches. However in case the change is only limited to an individual contract/loan and is not applicable to all customers then the same shall be intimated in form of a letter / email on the registered address or /SMS/Call on the registered number.

**28. ACCEPTANCE:**

I/We have read the entire agreement constituting of 28 clauses and 3 schedules which have been filled in my/our presence.

I/We shall be bound by all the conditions mentioned there in.

The aforesaid Agreement and other documents have been explained to me/us in the language understood by me/us and I/We have understood the entire meaning of various clauses.

I/We am/are aware that the Bank shall agree to become a party to this Agreement only after satisfying itself with regard to all conditions and details filled by me/us in the loan application made by me/us.

X13

Borrower

Y13

Co- Borrower



Specimen copy

**Schedule I & II attached to and forming part of the Loan cum Hypothecation Agreement describing particulars of the amount payable**

**SCHEDULE - I**

**DESCRIPTION OF CREDIT FACILITIES**

X15

Loan of Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 disbursed in favour of Manufacturer/Dealer as per the instructions of the Borrower, repayable in \_\_\_\_\_ monthly instalments as mentioned in Schedule III secured by hypothecation of the Assets as mentioned in Schedule II.

**SCHEDULE II**

**DESCRIPTION OF HYPOTHECATED ASSET**

S. no.	Asset	Reg. No.	Serial / Machine/ Engine No.	Chassis No.
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				

Y15

CB

For Citibank N.A.

X16

Y16

\_\_\_\_\_  
Borrower

\_\_\_\_\_  
Co-Borrower

\_\_\_\_\_  
Authorised Signatory

BC15

Specimen copy

**Schedule III attached to and forming part of the Loan cum  
Hypothecation Agreement describing particulars  
of the amount payable**

1.	Loan amount sanctioned	:	Rs. _____	
2.	Loan Term	:	_____	
3.	Rate of interest (annualized)	:	_____ % p.a. (Fixed) to be computed with monthly rests on the outstanding balance.	
4.	Service/processing charge (Maximum upto 3% of the loan amount)	:	Rs. _____ + Taxes as applicable.	X17
5.	<b>Service/processing charge for Micro &amp; Small Enterprise (MSE) Borrowers for loans upto Rs. 5 lakhs.</b>	:	<b>NIL</b>	
6.	Stamp Duty	:	At Actual + Taxes as applicable.	
7.	<b>Additional interest payable by way of liquidated damages (Penal Charges)</b>	:	<b>2.50 % p.m / 30% p.a on the defaulted amount + Taxes as applicable.</b>	
8.	Present value of hypothecated asset	:	Rs. _____	
9.	Any other charge incurred for recovery	:	At Actual + Taxes as applicable.	
10.	<b>Loan Pre-payment Charges</b>	:	<b>3 % of the Principal Outstanding + Taxes as applicable.</b>	
11.	<b>Loan Pre-payment Charges for Micro &amp; Small Enterprises (MSE) borrowers for fixed rate loans upto Rs.50 lacs.</b>	:	<b>NIL</b>	
12.	Charge for cheque/DD/ECS/ACH dishonour	:	Rs.200/- per dishonour + Taxes as applicable.	
13.	Cheque/DD pickup	:	Rs.200/- per visit + Taxes as applicable.	
14.	Total Amount Payable	:	_____	
15.	Place of Payment	:	_____	

**MONTHLY INSTALLMENT SCHEDULE**

S. No.	Date		Installment Amount	No. of Installments	
	From	To			
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					CB
11.					
12.					
13.					
14.					
15.					

For Citibank N.A.

X18

Y18

\_\_\_\_\_  
Borrower

\_\_\_\_\_  
Co-Borrower

\_\_\_\_\_  
Authorised Signatory

BC17

Specimen copy

**IRREVOCABLE POWER OF ATTORNEY**

TO ALL WHOM THESE PRESENTS SHALL COME I/WE \_\_\_\_\_  
son/daughter/wife of \_\_\_\_\_ residing at \_\_\_\_\_

(hereinafter called the "Borrower(s)" which expression shall include his/her heirs, executors, administrators, legal representatives and assigns/his successors and assigns) OR M/s. \_\_\_\_\_ a Company incorporated under the Companies Act 1956, and having its Registered Office at \_\_\_\_\_

**X19**

(hereinafter called the "Borrower(s)" which expression shall include its successors and assigns) OR M/s. \_\_\_\_\_  
\_\_\_\_\_ a partnership firm having its principal place of business at \_\_\_\_\_

and constituted by and between Mr./Mrs. \_\_\_\_\_ and Mr./Mrs. \_\_\_\_\_  
and Mr./Mrs. \_\_\_\_\_ and Mr./Mrs. \_\_\_\_\_  
and Mr./Mrs. \_\_\_\_\_ (hereinafter called the "Borrower (s)" which expression shall include the partner or the partners for the time being of the said firm and the survivor or survivors of them and their heirs, executors, administrators and assigns/of such survivor (s).

**SEND GREETINGS**

WHEREAS CITIBANK N.A. a corporate body having its registered office at 399, Park Avenue, Borough of Manhattan, City of New York and a branch office in India at \_\_\_\_\_

\_\_\_\_\_ (hereinafter called the "the Bank")

has granted Credit Facilities for Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ ) to me/us.

AND WHEREAS the Borrower has executed a Loan cum Hypothecation Agreement dated \_\_\_\_\_ with and in favour of the Bank:

AND whereas an irrevocable Power of Attorney is to be executed in favour of the Bank to do the following acts for and on behalf of the Borrower(s).

NOW KNOW YE ALL AND THESE PRESENTS WITNESS THAT I/WE do irrevocably nominate/constitute upon the Bank acting through any of its officers as my/our true and lawful attorney for me/our behalf and at my/our cost and risk to do, execute and perform all or any of the following acts, deeds, matters and things that is to say:-

1. To take inspection directly or to engage any Advocate, Chartered Accountant or registered trade practitioner for taking inspection of my/our Income tax return/s and Assessment proceedings, Appeal proceedings etc relating to the current and previous Assessment years.
2. This authority is being given to the Bank to enable the Bank to verify the veracity of various representations made by the undersigned for obtaining Credit Facilities from the Bank
3. This authority shall be binding upon the undersigned and its legal successors prior and post to the grant of the Credit Facilities and shall be irrevocable during the tenure of the said Credit Facilities.
4. To get requisite information from employer as may be expedient to ascertain material particulars.
5. To appear before the office of the Regional Transport Officer, Sales Tax Officer and other authorities through Advocates or any authorized person deemed necessary by the Bank to effect endorsement of hypothecation in Registration certificate and transfer the vehicle.
6. To take possession of the Hypothecation vehicles in case of default as per the terms of the Loan cum Hypothecation agreement.

7. To take all necessary steps as fully and effectually as I/We could take to dispose of the motor vehicle and for this purpose to enter upon the premises, garage or godown where the motor vehicle shall be lying or kept, to take possession and recover and receive the motor vehicle and if necessary to break open any place of storage. The Bank shall also be entitled to appoint any officer/s or any other person as the receiver of the motor vehicle with the power to sell the vehicle by the public auction or private contract or otherwise dispose of the motor vehicle at our risk and costs with the further power to rescind or vary any such contract for sale without being bound or answerable for any loss or diminution in value and without being liable for any loss occasioned by the exercise of such powers.
8. To transfer, sell or dispose of the said vehicle(s) and to sign and execute all contracts, declarations and instruments as may be necessary or expedient for giving delivery thereof.
9. To appoint or engage any broker for effecting any such transfer, sale or disposition or realization as the case may be.
10. To give notice to the appropriate authority for the registration of the said vehicle(s) upon the sale thereof.
11. To receive the consideration on the sale, transfer, disposition of the said vehicle and to give proper receipt and valid and effectual discharge of the same.
12. To take delivery and possession of the vehicle(s) as and when deemed necessary by the Bank.
13. And generally to do, perform and execute all acts, deeds, matters and things relating to or concerning or touching these presents as fully and effectually as if I/We were personally and had done, performed or executed the same myself/ourselves.
14. And I/We hereby agree to ratify and confirm all and whatsoever the Bank shall do or cause to be done in or about the premises by virtue of these presents.
15. To sign, execute, carry out, deliver and complete all papers, correspondence, vouchers, agreements, contracts, forms, applications, petitions, transfers, receipts and all other deeds and assurance and documents for the due completion and performance of any of the transactions, which may now be subsisting in the ordinary course of business.
16. AND ALSO for the better and more effectually doing, effecting and performing the several matters and things aforesaid to appoint from time to time or generally such person or persons as the Attorneys may think fit as their substitute or substitutes to do execute and perform all or any such matters and things as aforesaid and any such substitute or substitutes at pleasure to remove and appoint another or others in his or their place and we hereby agree at all times to ratify and confirm whatsoever the Attorneys or any such substitute or substitutes shall lawfully do or cause to be done in or about the premises.

IN WITNESS whereof I/We hereunto set my/our hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of  
\_\_\_\_\_ Christian Year \_\_\_\_\_ SIGNED AND DELIVERED by the  
above named.

**X 20**

\_\_\_\_\_  
in the presence of  
(Notary Seal and Stamp)



## LOAN DOCUMENTATION

**Customer Name** : \_\_\_\_\_

**Contract No.** : \_\_\_\_\_

**Disbursement Date** : \_\_\_\_\_

**Asset Type** : \_\_\_\_\_

### COMMERCIAL VEHICLE / EQUIPMENT / MACHINERY FINANCE

(GUARANTOR)

\_\_\_\_\_ FROM \_\_\_\_\_



## LOAN CUM HYPOTHECATION AGREEMENT

THIS AGREEMENT OF HYPOTHECATION CUM GUARANTEE is made at the place and on the day, month and year set out at the end of this Agreement;

### AMONGST

The "Borrower" the details whereof are given at the end of this Agreement, of the First Part

### AND

The "Guarantor" wherever applicable, the details whereof are given at the end of this Agreement, of the Second Part

### AND

CITIBANK N. A., a corporate body having its registered office at 399, Park Avenue, Borough of Manhattan, City of New York and a representative/sales/Branch Office inter-alia at the place mentioned in the end of this Agreement (hereinafter referred to as "Bank") of the Third Part.

### RULES OF INTERPRETATION

- a) The Expression 'Borrower', 'Guarantor' and 'BANK' shall unless it be repugnant to the meaning or context thereof mean and include their Legal heirs, Executors, Permitted Assigns, Administrators, Official Receivers, Successors in business or title etc. as the case may be.
- b) Reference to any gender shall include all genders and reference to words in the singular shall include words in the plural and vice versa in the context thereto.
- c) The word 'including' shall be construed without limitation.
- d) A provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation.
- e) A day is a reference to a calendar day.
- f) Any approval or consent required from or any waiver given by the Bank will only be effective if issued by the Bank in writing.
- g) The headings of a clause, sub-clause or schedule in this Agreement are for convenience only and shall not constrain or affect its construction or interpretation in any way whatsoever.

### WHEREAS

- i) The Borrower and Guarantor have approached the Bank for loan to the Borrower for purchase of some equipment/s/ vehicle/s along with accessories (hereinafter referred to as "the said assets" and more particularly described in the Schedule III hereto). The Borrower has identified a seller of the same and has inspected and approved the same. The Borrower now has requested the Bank to grant to the Borrower loan, particulars whereof are given in the Schedule I hereto and which are hereinafter referred to as the "said credit facilities";
- ii) The Borrower and Guarantor have requested for the grant of said credit facilities by the Bank to the Borrower for purchasing the said assets;
- iii) One of the conditions stipulated by the Bank for sanction of the said credit facilities, is that the Borrower and the Guarantor shall execute in favour of the Bank a Loan-cum-hypothecation agreement being these presents, to record, inter-alia, the terms and conditions of the said sanction, and in consideration of the Bank having agreed to sanction the said credit facilities the Borrower and the Guarantor hereby executes these presents;
- iv) In consideration of the Bank having agreed to sanction the said Credit Facilities, upon execution of this Agreement recording the following terms and conditions which have been duly accepted by the Borrower and the Guarantor.

### NOW THIS AGREEMENT WITNESSETH AS UNDER: DEFINITIONS

- (a) "Agreement" means and includes this Agreement and the attachment(s) annexed hereto. Agreement shall also include application, supplementary agreement(s), modifications, alterations, addendums, attachments and schedules subsequently executed during the tenure of this Agreement.

For Citibank N.A.

X1

Borrower

Y1

Guarantor

Authorised Signatory

BG1

- (b) "Automated Clearing House (ACH)" means Debit Clearing Service by an electronic funds-transfer system run by the National Automated Clearing House Association (NACHA) implemented by National Payments Corporation of India (NPCI), participation in which has been confirmed by the Borrower in writing for facilitating payment of EMI.
- (c) "Applicable Laws" means, all central, state, provincial and local (i) laws, ordinances, regulations and codes and (ii) orders, requirements, directives, decrees, decisions, judgments, interpretive letters, guidance and other official releases of any Judiciary/ Regulatory/ Governmental authority that are applicable to the subject matter of this Agreement.
- (d) "Borrower(s)" means and includes any person to whom the Bank has agreed to grant the Loan Facility and has received the same pursuant to this Agreement as mentioned herein.
- (e) "Business Day" means, unless specified otherwise, a day on which banks are open for business in India (excluding Saturdays, Sundays and public holidays).
- (f) "Credit/Loan Facility" means the loan amount set out in Schedule I of this Agreement, including any additional financial facility availed from the Bank by the Borrower, along with all interests, costs, charges and expenses as mentioned under this Agreement.
- (g) "Delayed Payment Charge" means fees assessed for a payment delayed beyond the due date of the Equated monthly Installment (EMI).
- (h) "Effective Date" means unless specified otherwise, the date on which the Credit Facility amount is approved/ sanctioned.
- (i) "Electronic Clearance Service (ECS)" means Debit Clearing Service notified by the Reserve Bank of India, participation in which has been confirmed by the Borrower in writing for facilitating payment of EMI.
- (j) "Equated Monthly Installments (EMI)" means and includes the amount of monthly payment required to repay the principal amount of Credit Facility, Interest and any other monies due and payable by the Borrower to the Bank in accordance with Schedule III of this Agreement.
- (k) "Events of Default" means and includes the happening of any one or more events of default as stipulated in clause 5 of this Agreement.
- (l) "Guarantor" means and includes the person guaranteeing the repayment of the entire loan/credit facility amount, jointly and/or severally with the borrower.
- (m) "Interest" means and includes the rate of interest chargeable by the Bank from the Borrowers on the Credit Facility as mentioned under this Agreement.
- (n) "National Electronic Funds Transfer" or "NEFT" is an Indian system of electronic transfer of funds from one bank or bank branch to another.
- (o) "Outstanding Balance" means the balance of the Credit Facility including amounts in respect of any other financial facility, outstanding and unpaid along with interest, costs, charges and expenses in relation thereto.
- (p) "Prepayment" means premature repayment of the Credit Facility by the Borrower as mentioned under this Agreement.
- (q) "Real-time gross settlement systems" or "RTGS" are specialist funds transfer systems where the transfer of money or securities takes place from one bank to another on a "real time" and on a "gross" basis.
- (r) "Repayment" means and includes repayment of all dues in respect of the Credit Facility which shall be construed to include principal amount of Credit Facility, Interest, all taxes, levies, charges, legal fees, expenses and costs, etc., provided for in this Agreement.
- (s) "Standing Instruction (SI)" means and includes onetime written instruction provided by the Borrower for debiting their account towards the regular payment of EMIs.

#### 1.1 LOAN AMOUNT, INTEREST AND REPAYMENT;

Subject to the other terms and conditions herein contained, the Bank shall grant to the Borrower the said credit facilities, particulars whereof are given in the Schedule I hereto.

- 1.2 The borrower has requested that the said credit facility amount be paid by the Bank directly to the Manufacturer/Dealer and/or to the borrower himself on the request in writing. It is therefore agreed by and between the parties that all such amounts shall be paid by the Bank directly to the Manufacturer/Dealer and such payment shall be deemed to be the credit facilities granted to and availed of by the Borrower.
- 1.3 (A) The Borrower shall represent, warrant and assure to make regular payment of installments consisting of the principal and interest thereon under the said credit facilities. The Borrower acknowledge their full understanding about the amortization details such as interest rate, number of installments, due dates and amounts in respect of the installments are specified in the Schedule III hereto. The repayment schedule is without prejudice to the right of the Bank, to be paid on demand, the entire credit facilities along with other dues. The said credit facility under this agreement shall come to an end only upon the Bank having, to its satisfaction received all outstanding dues and payments required to be made to the Bank.
- (B) The Borrower shall, in addition to interest, pay or reimburse to the Bank, as the case may be, interest tax and any other tax or levy as may be levied on or in respect of the interest payment under these presents. The Borrower shall bear all such taxes and duties which are payable and/or may be levied from time to time by the Government or any other Authority and/or payment to be made by the Borrower.
- (C) The Borrower shall on or before the date of the disbursement of the said facilities pay to the Bank non-refundable service charges/processing fees at the rate mentioned in the Schedule III hereto.
- (D) The annualized rate of interest as mentioned in the Schedule III is fixed is computed with monthly rests on the balance outstanding and charged on reducing balance of principal outstanding amount. Provided that the rate of interest payable by the borrower shall be subject to the changes in interest rates made by the Reserve Bank of India (RBI) from time to time.
- 1.4 The Borrower agrees that the said credit facilities shall be repayable on demand and that the Bank can, at any time, in its sole discretion, recall the said credit facilities by giving to the Borrower seven working days notice in writing. However for the sake of convenience the Loan amount and the interest thereon shall be repaid in equated monthly installments (EMI) as per the details stated in the Schedule III. It is however specified that this repayment schedule is without prejudice to the Bank's aforesaid right to recall in the entire credit facility and to be paid on demand the said entire credit facility along with all other dues in respect thereof or arising in pursuance thereof.

X2

Borrower

BG2

Y2

Guarantor

1.5 Strict compliance with the repayment schedule is an essential condition for the grant of this credit facility. All sums payable under this agreement shall be paid in full without set-off or counterclaim or any restriction or condition and free and clear of any Taxes or other deductions or withholdings of any nature, except to the extent that is required by applicable law to make payment subject to any Taxes.

1.6 In the event the Borrower commits a default in the payment of sum due hereunder, whether by way of repayment of the outstanding balance of the said Credit Facility or by way of payment of interest or any other payment due and payable by the Borrower or the Borrower commits any breach or default of any other condition of this Agreement or under any other instrument in respect of the said credit facilities, the Borrower shall, in respect of the outstanding amount and in respect of interest or other amount in default, pay, by way of liquidated damages, additional interest at the rate specified in the Schedule III, from the date of default till the date of payment. The Borrower expressly agree that the rate of such additional interest is a fair estimate of the loss likely to be suffered by the Bank by reason of such delay/default on the part of the Borrower. The payment of additional interest shall not absolve the Borrower of any other obligations in respect of such default or affect any of the other rights of the Bank in respect of the default including the right of gaining full and complete possession of the said assets hypothecated by the Borrower/Guarantor. It is expressly specified that the above is in addition to and the Bank expressly reserves all other rights that may accrue to the Bank on any default by the Borrower. In addition, and without prejudice, to what is stated above, the Borrower shall also be liable for all costs, charges and expenses which the Bank may pay or incur in any way resulting from the foregoing defaults and from exercise of the Bank remedies including expenses incurred on repossession or storage or sale of disposal of the Hypothecated Assets and legal cost on full indemnity basis thereof all of which are hereinafter collectively referred to as the "balance due to the Bank".

**1.7 REPAYMENT INSTRUCTIONS:**

All the payments, if the Bank so decides may be collected through post-dated cheques handed over at the office of the Bank towards any balance due to the Bank and submission of such post-dated cheques shall be deemed to be an unconditional and irrevocable authority given by the borrower to the Bank to present the cheques delivered in advance on their respective dates.

1.8 The Borrower may also repay the credit facility through any of the following mode:

- a) Automated Clearing House (ACH)
  - b) Electronic Clearance Service (ECS); or
  - c) Real Time Gross Settlement Systems (RTGS)
  - d) National Electronic Funds Transfer(NEFT)
- or any mode approved by the Bank from time to time.  
Cash as a mode of payment will not be accepted by the Bank.

The Borrower undertakes that his consent to participate in the ACH/ECS/SI mode for payment of the Monthly Installment's shall not be revoked during the tenure of this agreement except with the approval of the Bank. In case the borrower revokes his consent to participate in the ACH/ECS/SI mode it may be presumed that the same has been done to cheat the Bank and therefore, will make the borrower liable for criminal action under the laws applicable for the time being in force.

If any Cheque/Electronic Funds transfer instruction given by the Borrowers to the Bank is dishonoured for any reason whatsoever then without prejudice to the Bank's other rights, whether under Negotiable Instruments Act, the Indian Penal Code, The Payment and Settlement Act or otherwise howsoever, for every instance of such dishonour the Borrowers shall be liable to pay the Bank, charges as specified in the Schedule III hereto. It is also further agreed and understood that non-presentation of the cheque / Electronic Funds transfer or any of them on the part of the Bank for any reason whatsoever, shall not in any manner affect the liability of the Borrower. If any or more than one or all of the post-dated Cheque/s /Electronic Funds transfer instruction delivered to the Bank by the Borrowers pursuant to the above clauses is/are lost, destroyed or misplaced while in the custody of the Bank; or become non-encashable due to death, insolvency, lunacy, termination of authority or otherwise of the signatory or any or more of the signatories (if more than one) or the liquidation of the drawee Bank or any moratorium or requires replacement for any reason for whatsoever in the discretion of the Bank, then in that event, the borrowers shall within three working days of receipt of such intimation from the Bank substitute/replace any such Cheques/Electronic Funds transfer instruction with a fresh Cheque/s/Electronic Funds transfer instruction payable on the same day and for the same amount as the previous Cheque/s/Electronic Funds transfer instruction which is/are being substituted.

The Bank may consider a request of the Borrowers not to take full Post Dated Cheques as stated above for all the installments instead but take only few Cheques which can be used in case of any outstanding payment of dues under this agreement by the Borrowers. the Bank shall be entitled to present the Cheques/Electronic Funds for the entire tenure or till prepayment of the loan, notwithstanding any advance/excess payment made in the loan account. The Borrowers under no circumstances will claim any interest for any advance/excess payment made in respect of the said Credit Facility.

If the borrower pays any amount to the lender before the due date of the EMI, the lender shall be entitled to appropriate the same in such manner as it deems fit and the credit in respect of such excess payment shall be given by the lender to the borrower only on the due date of the EMI.

1.9 The Borrower agree, that notwithstanding any specific instructions issued by the Borrower, the Bank will have absolute discretion to appropriate any payment received from the Borrower in the order that the Bank deems fit, in the following manner/chronology:

- (i) cost, charges and expenses incurred by the Bank
- (ii) additional interest
- (iii) dues payable by Borrower under any other agreement entered with the Bank as Borrower/Guarantor
- (iv) repayment of installments.

If the borrower pays any amount to the lender before the due date of the installment, the Bank shall be entitled to appropriate the same in such manner as it deems fit and the credit in respect of such excess payment shall be given by the Bank to the borrower only on the due date of the installment.

- 1.10 All repayments to be made under this agreement by the Borrower shall be made at the Place specified in the Schedule III hereto. "(Repayment schedule)".
- 1.11 In cases where the end use of a single credit facility is intended to be utilized for acquiring more than one asset by the borrower, it is specifically understood agreed and accepted by the Borrower that, in addition to the specific hypothecation of each such asset, the Bank will for its accounting purposes be reflecting/subdividing the aforesaid credit facility into separate sub accounts for each such assets financed. It is further agreed that any payment made by the borrowers to the Bank shall be apportioned by the Bank proportionately (either in full or in part) in each of the said sub-account in the manner and ratio as decided appropriate at the sole discretion of the Bank.
- 1.12 The Borrower(s) and the Guarantor(s) hereby agree to execute and give to the Bank Demand Promissory Notes in respect of the various amounts payable from time to time under this agreement and they further agree that the Bank shall be entitled to negotiate the said promissory note/s and/or to sue upon the same.
- 1.13 It shall be the Borrower's obligation to keep acquainted with the rules of the Bank, in force from time to time. Any changes to the Schedule of charges/terms of this Agreement pursuant to changes in applicable laws/rules/regulations/market forces shall be communicated to the Borrower in case of account specific changes, and in case of others, the same will be available with the branch, and also published on the website of the Bank at [www.citibank.co.in](http://www.citibank.co.in)

## 2. REPRESENTATION BY THE BORROWER

- 2.1 The Borrower hereby declares, represents and warrants that:
  - a. He/she/it is aware that the Bank is granting the said credit facilities on the basis of the information and representation made by him/her in loan application form made for the purchase of the said asset and on the faith of the representations made by the Borrower and believing the same to be true;
  - b. he/she/it has chosen the model, make, manufacturer and dealer in respect of the said asset and conveyed the same to the Bank after being satisfied about the same
  - c. that all information given in the application form for the loan facility and the supporting documents is absolutely correct and is devoid of any misrepresentation, either directly or indirectly or otherwise has been made
  - d. that all the necessary approvals for availing of the said facilities have been obtained and that the borrower will at all times till the amount due to the Bank are paid in full and the said credit facilities fully repaid, keep all such permissions valid and subsisting.
  - e. The officer of the Borrower executing this agreement and the documents executed in pursuance hereof, is fully authorised to execute the same and are duly and properly executed.
  - f. This agreement and the documents to be executed in pursuance hereof, when executed, will constitute valid and binding obligations of the Borrower;
  - g. It has not taken any corporate action nor have any steps been taken or legal proceedings been initiated or threatened against the Borrower for its winding up, dissolution, administration, reorganization or for appointment of receiver, administrator of the Borrower or all for any of its assets or undertakings;
  - h. As of the date of this agreement, there is no litigation, proceedings or dispute pending or threatened against the Borrower, the adverse determination of which might substantially, affect the Borrower's ability to repay the Credit Facility as described in the Schedule I or have a materially adverse effect on the financial condition of the Borrower.
  - i. The execution of this Agreement and the performances of its obligations hereunder does not
    - 1) contravene any applicable law, statute or regulation or any judgement or decree to which the Borrower is subject,
    - 2) conflict or result in any breach of any covenants, conditions and stipulation under any existing agreement, to which the Borrower is a party,
    - 3) Conflict or contravene any provision of the Memorandum and Articles of Association of the Borrower;
  - j. There has been no material adverse change in the financial condition of the Borrower, nor has any event which is prejudicial to the interest of the Bank taken place since the date of latest audited financials of the Borrower which is likely to materially and/or adversely affect the liability of the Borrower to perform all or any of the obligations under this agreement.
  - k. The Borrower shall be exclusively responsible for getting the delivery of the asset from the manufacturer/dealer. the Bank shall not be liable for delay and delivery/disbursement, any demurrage cost or the quality/condition/fitness of the asset. The borrower absolves the Bank from any liability in respect of the above and that the borrower shall not withhold payment of stipulated EMI's on the pretext that asset has not been delivered.
  - l. The Borrower shall inform the Bank the chassis number/engine number/invoice number/serial /s/machine number/registration number of the said asset/s after receipt/installation of the same and authorizes the Bank to fill up the said chassis number/engine number/invoice number/serial number/s/machine number/registration number of the said assets in this agreement after receipt of such information from the Borrower/Dealer/Manufacturer/RTO and the Borrower shall not challenge the incorporation of such chassis number/engine number/invoice number/serial number/s/machine number/registration number or any other agreed modification in this agreement on any ground whatsoever. The Borrower also agreed that such modification and/or insertion of the hypothecated asset(s) details as provided, shall not invalidate the Loan Agreement and/or any of the terms and conditions of the said Loan Agreement.
  - m. The Borrower shall get the name of the Bank endorsed as a financier in the Registration Certificate issued by the Transport authorities for the hypothecated asset. The borrower shall handover a copy of the Registration certificate within 60 (sixty days) of the execution of this Agreement.
  - n. If the asset/s are of the nature that they cannot be registered under the Motor Vehicle Act, then the original invoice pertaining to the asset would be deposited with the Bank and the same will remain in custody of the Bank till the time the Bank receives the entire dues in respect of this agreement to its satisfaction.
  - o. Neither the borrower nor any one on the Borrower's board (in case of a company) or a partner (in case an Borrower is a partnership firm) is someone who has been identified as a willful defaulter by the RBI.
  - p. The credit facility shall be used solely for the purpose of purchase of the said asset/s.

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Borrower

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Guarantor

- q. That the proceeds of the Credit Facility shall not be used for any other purposes, as may be specifically prohibited by law and/or regulations applicable in India.
- r. The Borrower shall be liable to pay or reimburse the Bank all payments and expenses including costs of collection of monthly installments legal costs, fees and costs to take possession, store, insure and sell the vehicle as and when incurred by the Bank. The Borrower shall also be liable for expenses incurred by the Bank along with interest while pursuing any remedy under the Negotiable Instrument Act, Criminal Procedure Code or under any other applicable laws.
- 2.2 The representations and warranties in clause 2.1 above shall be deemed to be repeated by the Borrower on and as of each day from the date of this agreement until all the moneys due or owing hereunder by the Borrower to the Bank have been repaid in full as if made with reference to the fact and circumstances existing on such day.
- 2.3 The Borrower shall be exclusively responsible for getting the delivery of the said Asset from the manufacture/dealer/seller or registering the Asset with the appropriate authority and obtain a registration certificate for the Asset, if applicable. The Bank shall not be liable for delay in delivery, any demurrage cost or the quality/condition/fitness of the said Asset or non-registration/ non-availability of the registration certificate, if required as per Applicable Laws. The Borrower absolves the Bank from any liability in respect of above and that the Borrower shall not withhold payment of stipulated EMIs on the pretext of the above situation or otherwise.
- 3. TERMS OF HYPOTHECATION:**
- 3.1 In consideration of the Bank having agreed to sanction the said Credit Facility the Borrower hereby hypothecates to, and charges in favour of the Bank as and by way of a first charge thereon, the assets described in general terms in the Schedule II hereto (which are hereinafter collectively referred to as the "Hypothecated assets") for the payment to the Bank of all monies at any time due and payable by the Borrower to the Bank in respect of the said Credit Facility, including the outstanding balance of the said credit facilities, as also the monies due on all Bills of Exchange, promissory notes or other negotiable instruments which the Bank may have discounted or become interested in as also all interest, costs, charges and expenses (including legal cost on full indemnity basis which the Bank may pay or incur in any way in connection with the said credit facilities or the said Hypothecated assets or the repossession or storage or sale or disposal thereof) all of which are hereinafter collectively referred to as the "balance due to the Bank". Any additions, improvements or attachments to the said hypothecated assets whether made and carried out by the Borrower or otherwise and whether at the cost of the Borrower or otherwise and whether with or without the approval of the Bank shall be deemed to constitute as part of the hypothecated assets and shall be subject to the terms and conditions of this agreement in the same manner and to the complete and total extent as the hypothecated asset prior to such addition/improvement or attachment.
- 3.2 The hypothecation shall be deemed to take place immediately on signing of this agreement. In the event the Hypothecated asset is treated as 'Motor vehicle' or vehicle under the provisions of the Motor Vehicles Act, 1998, the Borrower shall get an endorsement on the registration certificate that such vehicles are hypothecated with the Bank.
- 3.3 The Borrower further agrees that the Hypothecated assets shall also be security for (a) all other monies that may be due and payable by the Borrower to the Bank on any account whatsoever, whether present or future, including the liability of the Borrower in any other capacity either singly by the borrower or along with any other person and (b) the credit facility/facilities to be granted/continued to the group companies/associate of the Borrower as declared.
- 3.4 The Borrower agrees with, and undertakes to the Bank that the Bank shall have an exclusive charge over the hypothecated assets and that the Borrower shall not create any manner of interest in the Hypothecated assets or any of them in favour of any other person or body, except with the prior written consent of the Bank. The charge/security created by the Borrower under this agreement shall continue and remain in force till such time all other dues under this agreement and in respect of other loan facility obtained/to be obtained at the instance of the borrower from the Bank and Citigroup companies are fully discharged and the Bank/Citigroup Companies issue a Certificate of Discharge. The security created under this agreement and the liability of the Borrower shall not be affected, impaired or discharged by winding up (voluntary or otherwise) or by any merger or amalgamation, reconstruction, takeover of the management, dissolution or nationalization (as the case may be) of the borrower. The borrower covenants that the security provided by him shall remain valid for the balance due to the Bank or any other financial benefits given by the Bank at the instance of the Borrower from any of the Citigroup Companies
- 3.5 The Borrower undertakes to further secure the said credit facilities and create such further security and execute such other documents as may be required by the Bank from time to time in regard to the said Credit Facility/Facilities.
- 3.6 The Borrower hereby declares that all the present Hypothecated assets are the absolute property of and at the sole disposal of, the Borrower and free from any charge or encumbrance of any nature whatsoever and that the future Hypothecated assets shall be likewise the sole unencumbered, absolute and disposable property of the Borrower.
- 3.7 (i) The Borrower shall pay all rents, taxes, outgoings and other charges in respect of the garages and other premises in which the hypothecated assets are stored or may be kept. The Borrower shall also ensure that such garages and other premises are fully insured to the extent of the full market value thereof against loss or damage from fire, civil commotions, lightening, riot, war, theft, pilferage, third party liabilities and such other risks as the Bank may direct. The Borrower shall duly and punctually pay all the premium on such policies as and when due and shall produce to the Bank for inspection of the original receipts and furnish duly certified copies thereof for the Bank's record. The Borrowers shall ensure that such policies are kept alive during the subsistence of this security and the borrower shall not do or permit to be done anything by reason of which such insurance may be cancelled. The Borrower shall assign to the Bank every such policy of insurance and shall pay to the Bank all proceeds of any policy received by the Borrower.
- (ii) In the event the Borrower failing to fulfil its obligations aforesaid, the Bank, may at its discretion, pay such rents and outgoings and insure the premises or garages and the Borrowers hereby undertakes to reimburse the Bank all monies so paid by the Bank for the purpose. The reimbursement shall be made on demand by the Bank and in default of such payment the Bank shall be at liberty to debit the amount so paid to the Account of the Borrower with the Bank and such amount shall thereafter carry interest at the rate specified in the Schedule III hereto.
- 3.8 (a) The Borrower shall keep the Hypothecated assets fully and comprehensively insured from time to time against all risks such as accident, fire, lightening riots, civil commotion, war, theft, pilferage, third party liabilities and

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Borrower

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Guarantor

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- such other risks as may be stipulated by the Bank from time to time, to the extent of full market value thereof. The insurance shall be in joint names of the Borrower and the Bank and the original policies of insurance and renewal notes shall be deposited with the Bank. The Borrower shall duly and punctually pay all the premia on such policies as and when due and shall produce to the Bank for inspection the original receipts and furnish duly certified copies thereof for the Bank record. The Borrower shall ensure that such policies of insurance are kept alive during the subsistence of this security and the Borrower shall not do or permit to be done anything by reason of which such insurance may be cancelled.
- (b) On default of the Borrower to keep the Hypothecated assets insured as aforesaid, the Bank may, at its discretion, but without any obligation to do so, effect insurance of the Hypothecated asset and/or pay the premia in respect thereof and the Borrower hereby undertakes to reimburse the Bank on demand all the amounts paid and/or incurred by the Bank in doing so and on default of payment of such amounts by the Borrower, the Bank shall be at the liberty to debit such amounts to the accounts of the Borrower with the Bank and such amounts shall carry interest at the same rates as provided in the Schedule III hereto.
- (c) The first claim on any insurance proceeds shall be that of the Bank. The Borrower hereby irrevocably authorizes the Bank to claim insurance proceeds to safeguard the interest of the Bank and appropriate the proceeds thereof against liability of the borrower to the Bank under these presents. If any amount is received from an Insurance Company under any policy or policies of insurance, the amount so realized may, at the sole discretion of the Bank, be utilized in replacement/repair of the lost or damaged hypothecated assets or in liquidation of the liability of the borrower to the Bank under these presents.
- (d) The Borrower shall pay all rates, assessments, taxes and other outgoings which are now or hereafter may be assessed, imposed or payable for the hypothecated asset by the Government, Municipal, Regional Transport Authority or any other statutory/regulatory Authority
- 3.9 The Borrower shall keep and maintain the Hypothecated assets in good condition at the cost and risk of the Borrower in all respects and the Borrower shall be liable for any loss or damage caused to the Hypothecated assets for any reason whatsoever, including theft, damage by weather and deterioration in quality.
- 3.10 The Borrower shall not encumber or transfer the Hypothecated assets in any manner whatsoever without the express consent in writing of the Bank. The Borrower undertakes to get the registration certificates wherever required of each Hypothecated asset endorsed with the name of the Bank to further express the fact that such assets stand hypothecated to the Bank. Any direct or indirect transfer of the asset would be deemed to be criminal breach of trust and a case of cheating entitling the Bank to inter-alia adopt Criminal proceedings against the Borrower as per applicable laws of India.
- 3.11 The Borrower shall, as on the last day of each month, furnish to the Bank statements regarding the Hypothecated asset such as full description thereof, market value, the place or places where they are parked or whether they are in transit and if so the details thereof. Such statements shall be delivered to the Bank within 10 working days from the date to which the statement relates and shall be authenticated by an authorized official of the Borrower. The statements shall be in such form as may be prescribed by the Bank from time to time and supported by such evidence as may be required by the Bank. In addition, the Borrower shall furnish to the Bank, as and when required by the Bank so to do, such information regarding the Hypothecated assets and about the Borrower's business, as may be required by the Bank.
- 3.12 If so required by the Bank, the Borrower shall cause to be displayed at all places whereby any of the Hypothecated assets may be kept, sign boards prominently indicating that such assets are Hypothecated to the Bank; the sign boards to be displayed in such manner and form as may be required by the Bank.
- 3.13 (a) The Borrower hereby declares that all the Hypothecated assets are free from any encumbrance whatsoever and past encumbrances, if any, have been fully cleared to the complete satisfaction of the person in whose favour such encumbrance was created. The Borrower further declares that the said Hypothecated assets and all documents relating thereto shall be held in trust by the Borrower for the Bank.
- (b) The Borrower shall ensure that no charge or encumbrance is created on the Hypothecated assets or any of them and that nothing is done that may adversely affect the security created hereby on the Hypothecated assets in favour of the Bank.
- 3.14 (a) The Borrower covenants with the Bank that the Borrower shall appraise the Bank of the occurrence or likely occurrence of any event which is likely to affect the capacity of the Borrower to repay the said loan or interest thereon or likely to affect the security for the said credit facilities or the obligations of the Borrower to the Bank in respect of the said credit facilities.
- (b) Without prejudice to the generality of the provisions contained in the preceding sub-clauses, the Borrower hereby agrees with, and undertakes to, the Bank that the Borrower shall forthwith inform the Bank on the occurrence or likely occurrence of, inter alia, any of the following events, namely,
- (i) institution of any legal proceedings against the Borrower by any persons making a claim for money against the Borrower, or enforcing against the Borrower any guarantee given by the Borrower.
- (ii) Any damage to the Hypothecated assets for any reason whatsoever;
- (iii) Any distress or other proceedings of court being taken against Hypothecated assets;
- (iv) The occurrence of any event which is likely to affect the Borrower's business, including industrial action steps taken by authorities for recovery of statutory dues, etc.
- (v) If there is a change in constitution of ownership of the Borrower which in the opinion of the Bank is adverse.
- 3.15 Notwithstanding anything herein contained, the Bank shall have a lien over all the Hypothecated assets of the Borrower and a right of set off against any monies due from the Bank to the Borrower and to combine all accounts of the Borrower for recovery of the Bank's dues.
- 3.16 (A) The Borrower hereby agrees and appoints the Bank and its officers and authorised representatives to be its duly constituted attorneys for all or any of the following purposes, namely:
- (i) To enter any place where any of the Hypothecated assets may be and inspect and value them;
- (ii) To take possession of all or any of the Hypothecated assets and/or the documents relating thereto from whomsoever they may be in possession of including the contents therein and to dispose them of immediately if they are dangerous and perishable in nature;

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Borrower

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Guarantor

- (iii) To sell any of the Hypothecated assets for and on behalf of the Borrower and at the risk of the Borrower in all respects and to realize full or any part or portion of the sale proceeds thereof.
  - (iv) To take all such steps as may be required for the recovery of any of the Hypothecated assets, including the institution of any claim, suit, petition or other legal process and the signing and execution of all necessary vakalatnamas and documents for the said purpose and the compromising or settlement of such suit or action.
  - (v) Generally to do, perform and execute or cause to be done, performed or executed all acts, deeds, matters, things and documents in all matters arising under or out of or concerning or touching these presents as the Borrower could itself do, perform or execute.
  - (vi) And for the better and more effectually doing, effecting and performing the several matters and things aforesaid to appoint from time to time or generally such other persons bodies companies organisations or agencies as the Bank may think fit as its substitute or substitutes to do, execute and perform all or any such acts and things as aforesaid and such substitute or substitutes at pleasure to remove and to appoint other or others in his or their place.
- (B) The Borrower agrees that the above powers may be exercised without any prior notice to the Borrower and further agrees to ratify and confirm all that the Bank or any substitute or substitutes appointed by the Bank may lawfully do or cause to be done in exercise of the aforesaid power.
- (C) The Borrower further agrees to give all assistance to the Bank and its officers and authorized representatives for the purpose of exercising any of the powers herein above set out, including endorsing of documents, signing of papers and doing all such things as may be necessary to enable the Bank and its officers to exercise all the powers hereby conferred.
- (D) The Borrower further agrees that the aforesaid powers have been granted for valuable consideration and as such shall be irrevocable in nature till such time as any amounts remain due, owing or payable under or in respect of or in pursuance of the said credit facilities and/or these presents.
- 3.17 The Borrower further agrees that the Bank shall not be required to continue the said credit facility otherwise than at its sole discretion and that it will be entitled terminate the said credit facility at any point of time without any prior notice to the Borrower.
- 3.18 The Borrower undertake to get the endorsement of hypothecation done in the registration book with the appropriate authority. The Borrower further undertakes to get the charge created herein registered with the Registrar of Companies under relevant provisions of the Companies Act, 2013.
- 3.19 The Borrower shall produce the asset before the Bank whenever called upon by the Bank to do so, to enable the Bank to take inspection of the said asset. The Borrower further agrees that the Bank and its authorized representatives, servants and agents shall be entitled to take inspection of the said asset at all times and shall for the purpose thereof entitled without any notice, to enter upon the premises, godowns or garages where the hypothecated assets are lying or kept and if necessary to break any such place of storage.
- 3.20 The Borrower is aware that and expressly agrees that the breach of any of the terms of this agreement would amount to a criminal offence and that the Bank shall be entitled to criminally prosecute for all or any of such breach or breaches as the case may be.
- 3.21 The borrower hereby irrevocably appoints and constitutes the Bank to be its attorney ( with full power of substitution) and act in its name or otherwise on its behalf and sign, seal, execute, deliver, perfect and to do all deeds instruments acts and things which may be required or which the Bank shall think proper or expedient for carrying out any obligations imposed on the Borrower hereunder or for exercising any of the powers hereby confirmed or in connection with any sale or disposition or enforcement action of, or exercise of steps in rights in connection with the said asset or any part thereof

#### 4. GUARANTEE

- i. In consideration of the Bank having advanced the credit facilities as per Schedule I to the Borrower, the Guarantor(s) hereby agrees/agree and undertakes/undertake that in the event that the Borrower fails, neglects or refuses for any reason whatsoever and howsoever to repay and/or is unable to pay any of the installments or amounts due and payable under this Agreement, the Guarantor(s) does/do hereby guarantee and undertake to pay to the Bank the said defaulted installments along with any penalties, costs, charges, commission, expenses and statutory dues, if any, in full on the first demand by the Bank and upon the Bank notifying to the Guarantor(s) of such defaults by the Borrower, without any demur or protest or contest and without any reference to the Borrower, unconditionally and without raising any objection or issue whatsoever and irrespective of or notwithstanding any dispute or difference in respect of the said amounts falling due to the Bank. In the event the Guarantor(s) fails to perform the above obligation, the Bank reserves the right to repossess any asset of the Guarantor(s) which is mortgaged/hypothecated/charged to the Bank towards liquidation of the outstandings of the Borrower.
- ii. Any amounts thus payable by the Guarantor(s) to the Bank will be paid at the address of its branch as mentioned at the end of this agreement.
- iii. The Guarantor(s) shall forthwith repay the Bank all such amounts, within 7 days from date of a notice from the Bank stating the default through registered post/courier/fax/authenticated telex or cable.
- iv. The Guarantor(s) hereby agrees/agree that the entries in the books/computer records kept in the ordinary course of business by the Bank with regard to the amounts due from the Borrower and with regard to the installments, costs and expenses debited to the Borrower's account shall be conclusive evidence against the Borrower and the Guarantor(s) of the transactions and matters therein appearing and of the Borrower's/Guarantors(s) liability for the sums shown to be due by such entries.
- v. The Guarantor(s) hereby consent/consents to the Bank:
  - (a) Making any variations that the Bank may think fit in the terms of this Agreement with the Borrower;
  - (b) Determining, enlarging or varying any contract with the Borrower;
  - (c) Making any compositions with the Borrower;
  - (d) Promising to give time to the Borrower or not to sue the Borrower;
  - (e) Parting with any security that the Bank may hold in respect of the said credit facilities.

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Borrower

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Guarantor

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- vi. The Guarantor(s) also agrees/agree that it/they shall not be discharged from its/their liability by the Bank releasing the Borrower or by any act or omission of the Bank the legal consequences of which may be to discharge the Borrower or by any act of the Bank which would, but for this present provision, be inconsistent with the Guarantor(s) rights as sureties or by the Bank's omission to do any act which but for this present provisions, the Bank's duty to the Guarantor(s) would have required the Bank to do. Though as between the Borrower and the Guarantor(s), the Guarantor(s) is/are a surety only, the Guarantor(s) agrees/agree that is between the Bank and the Guarantor(s), Guarantor(s) is/are a principal debtor/debtors jointly with the Borrower and accordingly the Guarantor(s) shall not be entitled to any of the rights conferred on sureties by Section-133, 134, 135, 139 and 141 of the Indian Contract Act.
- vii. The Guarantor(s) agrees/agree that if the Borrower shall be found not to be liable to the Bank in law for the installments or any other charges due to the Bank from the Borrower by reason of his incapacity to borrow or to contract or insolvency or for any other reason, the Guarantor(s) shall nevertheless be liable as principal debtors to pay to the Bank all the sums that would have been recoverable by the Bank from the Guarantor(s) as Guarantors, if the Borrower had been liable for the installments and other charges and dues.
- viii. The Guarantor(s) hereby declares/declare that this guarantee is in addition to, and not by way of limitation of, or substitution for, any other guarantee or guarantees that the Guarantor(s) may have previously given or may hereafter give to the Bank (whether alone or jointly with any other party or parties) and that this guarantee shall not revoke or limit any such other guarantee or guarantees.
- ix. The Guarantor agrees and declares that the Bank shall not be bound and compelled to take any proceedings, steps or action against the borrower for recovery, enforcement or realization of any of their dues from the Borrower or against the said Asset including repossession of the same under or pursuant to this Agreement and the Guarantor shall be bound and liable to pay all monies payable under and by virtue of this Guarantee notwithstanding that the Bank shall not have taken any step or proceeding against the Borrower.
- x. It is further expressly clarified that this guarantee is irrevocable guarantee having been granted for valuable consideration and shall come into effect simultaneously with the signing of this Agreement.
- xi. The Guarantee shall remain in full force and will be valid till the complete discharge of all liabilities of the Borrower under this Agreement as also all costs, commissions and charges hereunder.
- xii. The Guarantor(s) agree that they are jointly and/or severally liable under the terms of the guarantee. The Guarantor in relation to the Bank is and shall be a principal obligator in respect of all obligations, liabilities and responsibilities undertaken in favour of the Bank under this guarantee and the Bank shall be entitled to proceed against the Guarantor as if the Guarantor was the principal debtor of the Bank in respect of all obligations and payments guaranteed by the Guarantor.
- xiii. The address/addresses of the Guarantor(s) for the purpose of service shall be that mentioned at the end of this Agreement.
- xiv. The Guarantor(s) shall stand discharged of its/their/his obligations of the Bank receiving all amounts due, owing and payable to the Bank under or in pursuance of the terms of this Agreement.

#### 5. EVENTS OF DEFAULT:

- The Borrower shall be deemed to have committed an act of default on the happening of, inter-alia, any one or more of the following events, namely:
- (a) Failure to make payment to the Bank of any part of the loan amount on demand or any other rate or charge due and payable under these presents or in respect of the said credit facilities.
  - (b) The Borrower misusing the said credit facilities or any part thereof for any purpose other than for which the said credit facilities have been sanctioned.
  - (c) The Borrower creating any manner of interest in the Hypothecated assets or any part thereof.
  - (d) The representations made by the Borrower being found to be untrue in any manner, whatsoever.
  - (e) The Borrower committing a breach of any of the terms, covenants and conditions herein contained.
  - (f) The Borrower committing a default in respect of any of the other obligations of the Borrower towards the Bank either under this agreement or any other agreement and/or under the law or otherwise howsoever.
  - (g) The Borrower fails or neglects to observe, perform, adhere to and comply with or commits a breach of any of the terms and conditions of this agreement or of any other agreement entered into by the Borrower with the Bank, and the Borrowers part to be observed, performed, adhered to or complied with.
  - (h) The Borrower committing a breach of any other agreement entered into by the Borrower with Citibank N.A or Citigroup Companies or Citigroup entity or any other bank or financial institution or non-banking finance company or any other person body or entity.
  - (i) Any of the group companies/associates of the Borrower defaulting in the terms of any of the agreements entered into between any of them and Citibank N.A or any Citigroup company or Citigroup entity.
  - (j) The hypothecated assets or any part of portion thereof, being confiscated, attached or taken into custody by any authority or becoming the subject of any legal proceedings;
  - (k) An insolvency notice or a winding-up notice is served on the Borrower or a receiver is appointed or attachment is levied on any of the Borrower's properties or assets; or
  - (l) The hypothecated assets or any part of them are distrained, endangered or damaged or bodily injury is caused to any third party by an accident involving the hypothecated asset or otherwise, or
  - (m) The hypothecated asset or any of them or stolen or is/are a total loss in the opinion of the Bank, or
  - (n) Whenever in the absolute discretion of the Bank there is a likelihood of the due money not being paid and or the hypothecated assets or any of them are likely to be transferred to defeat the security and the due amounts of the Bank.
  - (o) On the Bank being informed or in the event that information comes to the knowledge of the Bank that there is a change in the management and/or constitution of the Borrower or that there is likely to be a change in the management and/or constitution of the Borrower and such change in the opinion of the Bank would adversely affect the interest of the Bank
  - (p) There existing any other circumstances which in the sole opinion of the Bank, jeopardise the Bank's interests.
  - (q) The Borrower transporting goods generally not permitted by law and/or indulging any illegal activity with the aid of the hypothecated asset
  - (r) The Borrower fails to produce the asset for inspection or verification thereof or making valuation by the Bank or its officers, auditors, technical experts, management consultant, valuers or any other person authorized for the purpose by the Bank
  - (s) Any instructions given by the borrower for stop payment of the post dated cheques, for any reason whatsoever including instructions for revocation of instructions under ACH/ECS/SI mode of repayment.
  - (t) If without approval of the Bank the asset and/or other security provided under this agreement are sold,

- transferred, disposed off, charged, encumbered, alienated etc; or there is reasonable apprehension that the Borrower are likely to transfer, sell etc the asset and/or other security.
- (u) Any defect/infirmity in the undertaking provided by the Guarantor which renders the undertaking ineffective/inoperative.
  - (v) The Borrower fails to pay insurance premium in respect of the Hypothecated asset or garage and/or premises where the said Assets are stored or kept.
  - (w) The Borrower fails to pay any tax, levy, charge, outgoing or any other imposition or to comply with any other formalities required to be completed in respect of hypothecated assets under law from time to time.
  - (x) The Borrower fails to supply a copy of the registration certificate of the hypothecated asset to the Bank within the stipulated time as mentioned herein above.
  - (y) If the asset/s are of the nature that they cannot be registered under the Motor Vehicle Act , then the non- deposit of the original invoice pertaining to the asset.

## **6 THE BANK'S RIGHTS ON DEFAULT:**

- In the event of the Borrower committing any act of default, as aforesaid, then, notwithstanding anything to the contrary herein contained, the Bank shall be entitled at its absolute discretion, to interlia:
- (a) Call upon the Borrower to pay forthwith the outstanding balance of the said credit facilities together with interest and all sums payable by the borrower under this Agreement.
  - (b) REPOSSESSION OF ASSET: To take possession of the hypothecated assets from wheresoever it may be and remove the hypothecated asset including all accessories, bodywork and fittings and for the said purpose, it shall be lawful for the Bank or the Bank authorized representatives, servants, officers and agents forthwith or at any time to enter upon the premises, or garage or godown where the hypothecated assets shall be lying or kept and to take possession or recover or receive the same and if necessary to break open such place of storage; the Bank will be within its rights to use a tow-van to carry away the assets. Any damage to the land or building caused by removal or the asset shall be the sole responsibility of the Borrower(s).
  - (c) To take all necessary steps as fully and effectively as the Borrower could take to dispose off the said hypothecated assets at the risk and cost of the Borrower in all respects and it shall be lawful for the Bank forthwith or at any time thereafter enter upon the premises, or garage where the Hypothecated assets shall be lying or kept and to take possession or recover and receive the same and if necessary to break upon any such place of storage and the Bank shall be entitled to appoint any officer or officers of the Bank or any other person authorized in this behalf as receiver of the said hypothecated assets or any part thereof with power to do all things as fully and effectively as the Borrower could do and/or to sell the said hypothecated assets by public auction or private contract or otherwise dispose of the said hypothecated assets including any material thereon at the risk and costs of the Borrower in all respects with power to rescind or vary any contract for sale without being bound or answerable for any loss or diminution in value and without being bound to exercise any of the powers hereby conferred or being liable for any loss occasioned by the exercise of any such power and to give effectual receipts and discharge for the purchase money and to do all such other acts and things for completing the sale as the Bank or the receiver, shall think proper. The Borrower shall not raise any objection to the regularity of any sale or other disposition made by the Bank nor shall the Bank be responsible for any loss that may arise from any act or default on the part of any broker or auctioneer or other person or body employed by the Bank or the receiver for the purpose of the sale or disposition. the Bank may give a notice for payment of installments to the Borrower and the Guarantor if there is default in any single payment of installment. Thereafter, if the borrower continues in defaulting payments, the Bank may give another notice to give one more opportunity to the Borrower and the Guarantor and in the event of non-payment. the Bank may give a final recall notice to the Borrower and Guarantor to pay the entire outstanding dues together with all other monies in respect of the Loan facility within 7 days of the said notice of recall before taking possession of the hypothecated assets and no such notice will be required in cases where borrower himself has waived notice or agrees to surrender the hypothecated asset(s). Notwithstanding anything contained in this Agreement the Bank shall be entitled to repossess the hypothecated asset whether the entire loan amount has been recalled or not whenever in the absolute discretion of the Bank , there is likelihood of the dues of the Bank not being paid by the borrower and/or the asset is likely to be transferred by the Borrower to defeat the security and/ or payment of the balance due of the Bank. The hypothecated assets will be seized on drawing a seizure report. After seizure of the hypothecated assets, the borrower will be given a final notice for repayment of the loan failing which the hypothecated assets will be put up for sale. If the borrower makes payment of the entire dues and outstanding amount, as demanded in the notice within the stipulated time as mentioned therein the hypothecated asset will be handed over/released to the borrower under a handover report. In case the Borrower fails to make such payment as mentioned hereina above, the hypothecated assets will be sold after valuation by inviting market quotations through public auction and/or private treaty and thereafter the hypothecated asset will be sold to the highest/best price offered.
  - (d) In the event of there being a surplus available of the net proceeds after deduction of taxes levies, if any of such sale after payment in full of the balance due to the Bank, it shall be lawful for the Bank to retain and apply the said surplus together with any money or monies belonging to the Borrower for the time being in the hands of CFIL in or under whatever account as far as the same shall extend against in or towards liquidation of any monies that shall be or may become due from the Borrower or from any of its group companies/associates/directors/promoter to, Citibank N.A. or Citigroup companies or Citigroup entities whether solely or jointly with any other person or persons firm or company by way of loans, discounted bills, letter of credit, Guarantees, charges or any other debts or liability including bills, notes, credits and other obligations current through not then due and payable or other demands legal or equitable which Citibank N.A. or such Citigroup companies, may have against the Borrower or which the law of set-off or mutual credit would in any case admit along with interest thereon from the date on which any and all advance/s in respect thereof shall have been made at the rate or respective rates at which the same have been so advanced.
  - (e) That after crediting the net proceeds of the sale towards the outstanding dues of the Loan Facility of the Borrower, if there is any shortfall, then the Borrower and the Guarantor shall be liable to pay the shortfall to the Bank for closure of the said Loan Facility account.

## **7. CROSS LIABILITY:**

- 7.1 The Borrower expressly accepts that if the Borrower fails to pay any monies when due or which may be declared due prior to the date when it would otherwise have become due or commits any other default under any agreement (including this agreement) with the Bank under which the Borrower is enjoying any financial/credit/other facility;

- then in such event the Bank shall, without prejudice to any of its specific rights under each of the agreements, be absolutely entitled to exercise all or any of its rights under any of the Borrower's agreement (including this agreement) with the Bank at the sole discretion of the Bank.
- 7.2 The Borrower/Guarantor acknowledges and accepts that any default in discharging his liabilities under any other agreements entered into/to be entered into with the Bank or with any of the Citigroup Companies shall be deemed to be default under this agreement and vice versa entitling the Bank to recall this loan facility and/or all other loan/facility advanced to the Borrower the Bank shall in the event of such default, be entitled to exercise in its discretion any or all its rights under this agreement and/or other agreements entered into by the Borrower/Guarantor with the Bank. Further, it is clarified that in the event of default in repayment of the Loan or any other financial facility by the Borrower, the Bank shall be entitled to create a charge over any other security provided by the Borrower/Guarantor in relation to any other loan facilities availed from the Bank.
- 7.3 The term 'Citigroup Companies' appearing in this clause and elsewhere in this agreement shall mean and include any branch of Citibank N.A., and any other associate company/entity of Citibank N.A., and Citicorp Finance (India) Ltd, present or future carrying on operations/business in India.
- 8. THE BANK'S RIGHT TO SELL/ASSIGN/DELEGATE/APPOINT:**
- 8.1 It is agreed that the Borrower introduction, the credit rating and all other acts/steps/duties as are necessary for the Bank to monitor the said credit facilities or any part or portion thereof and/or to recover the amount due to the Bank or any part or portion thereof shall/may be carried out by such other persons, company, body, organization or agency as may from time to time be appointed by the Bank in respect thereof and that the Bank will at all times be entitled to share with such other person, company, body, organization or agency that may thus be appointed by the Bank, all the documents statements of accounts and other information of whatsoever nature pertaining to the Borrower or the said credit facilities.
- 8.2 The Borrower expressly recognizes and accepts that the Bank shall be absolutely entitled and have full power and authority to sell, assign or transfer in any manner, in whole or in part, and in such manner and on such terms as the Bank may decide, (including reserving a right to the Bank to retain its power hereunder to proceed against the Borrower on behalf of the purchaser, assignee or transferee) any or all outstandings and dues of the Borrower to any third party of the Bank choice without any further reference or intimation to the Borrower. Any such action and any such sale, assignment or transfer shall bind the Borrower to accept such third party as creditor exclusively or as a joint creditor with the Bank as the case may be. Any cost in this behalf, whether on account of such sale, assignment or transfer or enforcement of rights and recovery of outstandings and dues, shall be to the account of the Borrower. Any such action and any such sale, assignment or transfer shall bind the Borrower to accept such third party as creditor exclusively or as a joint creditor with the the Bank, or as creditor exclusively with the right to the the Bank to continue to exercise all powers here under on behalf of such third party and to pay over such outstanding and dues to such third party and or to the Bank as the the Bank may direct.
- 9. THE BANK'S SERVICE PROVIDERS**
- It is agreed by the Borrower and the Guarantor that without prejudice to any rights of the Bank, all acts / steps as are necessary for the Bank to take in order to monitor the Credit Facility and its finalization and/or the obligations of the Borrower and the Guarantor compliance with the terms hereof and / or to recover amounts due to the Bank or any part or portion thereof, shall and/or may be carried out by and / or through such other person (including a company or body corporate) as may from time to time be appointed by the Bank in respect thereof and that the Bank will at all times be entitled to share with any such other person that may thus be appointed by the Bank, all documents statements of accounts and other information of whatsoever nature pertaining to the Obligor(s) and/or the Loan Facility. Further, the Obligor(s) expressly agrees and accepts that the Bank shall, without prejudice to its rights to perform such activities either itself or through its officers or servants, be absolutely entitled and have full power and authority to appoint one or more third parties of the Bank choice and to transfer or delegate to such third parties the right and authority to collect on behalf of the Bank all unpaid amounts and to perform and execute all acts, deeds, matters and things connected therewith or incidental thereto including attending the office/residence of the Borrower and the Guarantor, receiving the amounts due, and generally performing all lawful acts as the third party may consider appropriate for such purposes.
- If the Borrower and/or the Guarantor requests any of the officer(s) and/or person(s)/representatives authorized by the Bank to visit his place of residence, office and/or any other place to collect the repayment, instrument and/or any document(s), the Borrower shall be liable to pay Rs.200/- per visit or the amount as may be revised from time to time at the sole discretion of the Bank which shall be paid by the Borrower directly or be debited to his loan account.
- 10. THE BANK'S LIEN AND SET OFF PRESERVED**
- Notwithstanding anything herein contained, the Bank shall have a lien over all the assets of the Borrower(s) in the Bank control and a right of set-off against any moneys due from the Bank to the Borrower(s) and to combine all accounts of the Borrower(s) for recovery of the Bank dues hereunder. the Bank has agreed to enter into this transaction on condition that the Borrower(s) agrees to the right of the Bank to set off against the amount lying in deposit/in account/in possession with the Bank for the recovery of the Bank dues hereunder.
- 11. THESE PRESENTS NOT TO AFFECT OTHER RIGHTS OF THE BANK AGAINST BORROWER AND GUARANTOR :**
- a. The Borrower/Guarantor hereby expressly agrees that nothing herein contained shall operate to prejudice the rights and remedies of the Bank in respect of any other obligations of the Borrower /Guarantor to the Bank or prejudice or effect any general or particular lien to which the Bank is by law or otherwise entitled to or operate to prejudice the Bank rights or remedies in respect of any present or future security, guarantee or obligation given to the Bank by any other person for any indebtedness or liability of the Borrower/Guarantor.
- b. The Borrower/Guarantor further agrees that in addition to and without prejudice to any other right or lien enjoyed by the Bank, the Bank will further be entitled at any point of time and without notice to the Borrower /Guarantor to combine or consolidate all or any of the Borrower's/Guarantor's accounts and all the credits and liabilities therein and set off or transfer any sum standing to the credit of any one or more of such accounts in or towards satisfaction of any of the Borrower's liabilities to the Bank on any account whatsoever, whether such liabilities are actual or contingent, primary or collateral and whether joint or several.

**12. PREPAYMENT:**

“Prepayment” means the repayment of the entire Loan at any point of time by way of one bullet installment and in case of multiple instalments the entire repayment is to be received before the next due date. The Borrower shall be entitled to prepay the entire outstanding amount under this agreement at any point of time by giving the Bank one month prior notice in writing of the Borrower’s intention to do so. In the event the Borrower exercises its right to prepay, the Bank will be entitled to charge prepayment/termination charge equivalent to 3% of the outstanding principal amount over and above other dues payable under this agreement. No partial pre-payment of the loan will be allowed. Any amount received in excess of the installment sum but less than the prepayment amount will be treated as excess and not adjusted with the outstanding principal amount.

**13. INDEMNITY:**

The Borrower and the Guarantor shall, without prejudice to any other right of the Bank, indemnify, and hereby agrees to keep indemnified and held saved and harmless the Bank against, and pay and reimburse to the Bank, any losses, costs, charges or expenses (including any costs relating to stamp duty) or outgoings including legal fees and expenses which the Bank shall certify as having sustained or suffered or incurred by the Bank as a consequence of occurrence of an Event of Default, or laches or acts of omission and commission or breaches including of covenants, representations and undertakings and assurances on the part of the Borrower and the Guarantor, or otherwise in respect of the Credit Facility and/or the Hypothecated Asset/s and/or any terms herein.

**14. THESE PRESENTS TO BE CONTINUING SECURITY:**

The Borrower/ Guarantor agree that this agreement and the security hereby created and indemnity and /or undertaking given shall operate as a continuing security and /or indemnities/undertakings for all the obligations/facilities of the Borrower / Guarantor in respect of the said credit facilities, notwithstanding the existence of a credit balance in the said account or any partial payments or fluctuation of accounts till the subsistence and full satisfaction of the obligations.

**15. REIMBURSEMENT:**

The Borrower shall reimburse the Bank all costs and expenses incurred by the Bank in the negotiation, preparation, stamping, execution, administration and enforcement of this Agreement as also any security documents and/or the rights of the Bank hereunder or thereunder.

**16. ARBITRATION:**

All disputes, differences and/or claims arising out of these presents or as to the construction, meaning or effect hereof or as to the rights and liabilities of the parties hereunder shall be settled by arbitration to be held at \_\_\_\_\_ in accordance with the provisions pertaining to Fast Track Arbitration of the Arbitration and Conciliation Act, 1996 or any statutory amendments there of or any statute enacted for replacement thereof and shall be referred to the sole arbitration of a person to be nominated/appointed by the Bank. The Borrower and the Guarantor unequivocally authorize the Bank to appoint Arbitrator. In the event of death, refusal, neglect, inability or incapability of the persons so appointed to act as an arbitrator, the Bank shall appoint a new arbitrator. The award including the interim award/s of the arbitrator shall be final and binding on all parties concerned. The arbitrator shall follow the procedure pertaining to Fast Track Arbitration in conducting arbitration proceedings and shall conduct arbitration proceedings in such manner as he considers appropriate. Any proceedings to be initiated in any court of law in pursuance of this arbitration shall be instituted and held in the court at \_\_\_\_\_ only.

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**17. JURISDICTION:**

It has been further agreed between the parties hereto that \_\_\_\_\_ courts alone shall have exclusive jurisdiction in respect of any matter, claim or dispute arising out of or in any way relating to these presents or to anything to be done pursuant to these presents or in regard to interpretation of these presents or of any clause or provision thereof.

CB

**18. NOTICE COMMUNICATION:**

- a. Any Notice to be given by the Bank to the borrower, shall be effective and deemed to have been duly and sufficiently served on the Borrower, three days after the same shall have been delivered to the post office/couriers properly addressed to the Borrower at the address given at the end of this agreement and if delivered to the Borrower against acknowledgement, it shall be deemed to have been duly served as on the date of delivery.
- b. A certificate by an officer of the Bank that the notice was posted or served, as the case may be, shall be final, conclusive and binding on the Borrower.
- c. Unless otherwise advised in writing by the Bank to the Borrower, any notice to be given by the Borrower to the Bank shall be effective and deemed to have been duly and sufficiently served on the Bank if delivered at its registered office address hereinstated.

**19. THE BANK STATEMENTS OF ACCOUNTS TO BE ACCEPTED BY THE BORROWER:**

Annual outstanding balance statement for the loan account shall be generated as on 31st March of every year (end of the financial year) and dispatched to the mailing address within 45 days of the statement generation. The Borrower hereby agrees to accept as conclusive proof of the correctness of any sum claimed by the Bank to be due from the Borrower in respect of the said Credit Facilities, a statement of account printed out from computer made out from the books of the Bank without production of any voucher, documents or other paper. Further, borrower also agrees that the statement of account being a computer generated printout does not require any signature of the Bank. Any manifest error in Statement of Account shall be pointed out by the Borrower within 10 (ten) working days after receiving the statement from the Lender.

**20. EXECUTION AND STAMP DUTY:**

- a) This Agreement shall be executed in single; the original copy whereof shall be kept by the Bank and photo copy of the same has been given to and received by the Borrower, the receipt whereof the borrower does hereby admit and acknowledge.
- b) The Borrower shall pay and bear the stamp duty on this agreement as also any penalty or other levies thereon.

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Borrower

Y12

Guarantor

BG11

**21. WAIVER/FORBEARANCE:**

Any waiver or forbearance or delay on the part of the Bank to insist upon the performance of any terms and conditions of this agreement, or to exercise any right or privilege conferred in this Agreement, or to demand any penalties resulting from any breach of any of the terms or conditions of this Agreement shall not be construed as a waiver on the part of the Bank of any of the terms or conditions of this Agreement or of any of its rights or privileges or of any other default on the part of the Borrower, and all original rights and powers of the Bank under this Agreement will remain in full force, notwithstanding any such forbearance or delay.

**22. ENTIRE AGREEMENT:**

This Agreement and any other documents attached hereto or referred to herein, integrate all the terms and conditions mentioned herein or incidental hereto, and supersede all oral negotiations and prior writings in respect of the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Agreement and any agreement or documents attached hereto or referred to herein, then in such event, the terms, conditions and provisions of this Agreement shall prevail.

**23. SCHEDULES TO FORM PART OF AGREEMENT:**

The Schedules hereto shall be deemed to be part of this Agreement as though the provisions thereof were set out herein in extenso.

**24. REMEDIES AND WAIVERS CUMULATIVE**

- (a) The rights of the Bank under this Agreement:
  - (i) May be exercised as often as necessary;
  - (ii) Are cumulative and not exclusive of its rights under the general law or those available to it under the present agreement.
  - (iii) May be waived only in writing and specifically.
- (b) Delay in exercising or non-exercise of any right is not a waiver of that right.

**25. PARTIAL INVALIDITY:**

If at any time provision hereof is or becomes illegal, invalid or unenforceable under the law, neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of other provisions shall in any way be affected or impaired thereby.

**26. DISCLOSURE:**

The Borrower and the Guarantor state and declare that as a pre-condition, relating to grant of the paid credit facilities to the Borrower, the Bank, requires their consent for the disclosures by the Bank of, information and data relating to the Borrower and the Guarantor in respect of the said credit facility availed of/to be availed, by the Borrower, obligations assumed/to be assumed, by the Borrower and the Guarantor, in relation thereto and default, if any committed by the Borrower and the Guarantor in discharge thereof.

- (I) Accordingly, the Borrower and the Guarantor hereby agree and give consent for the disclosure by the Bank, of all or any such:
  - (a) informations and data relating to the Borrower and the Guarantor;
  - (b) the information or data relating to any credit facility availed of/to be availed, by the Borrower and the Guarantor and
  - (c) default, if any committed by the Borrower and the Guarantor in discharge of the Borrower's and the Guarantor's obligation, as the Bank may deem appropriate and necessary to disclose and furnish to the Reserve Bank of India or the Credit Information Companies [CICs] and any other agency authorized in this behalf by RBI.
- (II) The Borrower and the Guarantor further authorizes the Bank to disclose aforesaid information/documents to Income Tax Authorities, credit Bureaus, Credit Rating agencies, third Parties, Databanks, corporates, other Banks, financial institutions associated/group entities of the Bank, its service providers or any other Government or Regulatory Authorities/Bodies/Departments. The Borrower and the Guarantor also hereby expressly authorizes the Bank that in order to protect its interest and/or for the purpose of credit reference checks etc. the Bank shall be entitled to disclose all/any information/documents relating to him/it as may be required by any of the Citigroup companies for the purpose of executing this agreement and or any other agreement(s). the Bank shall be entitled to exercise this right of disclosure without being required to issue any further notice in this respect to the Borrower. The Borrower specifically waives the privilege of privacy, privity and defamation.
- (III) The Borrower and the Guarantor declare that the information and data furnished by the Borrower and the Guarantor to the Bank are true and correct.
- (IV) The Borrower and the Guarantor undertake that:
  - (a) The RBI or the Credit Information Companies [CICs] and any other agency so authorized may use, process the said information and data disclosed by the Bank in the manner as deemed fit by them and
  - (b) The RBI or the Credit Information Companies [CICs] and any other agency so authorized may furnish for consideration, the processed information and data or products thereof prepared by them, to banks/financial institutions and other credit grantors or registered users, as may be specified by the Reserve Bank in this behalf. The expression "Bank" includes lending institutions for the purpose.

**27. NOTICE FOR CHANGES IN THE TERMS:**

The changes as and when done which are applicable to the loan terms and conditions, rate of interest, charges etc shall be displayed on our website, which shall constitute sufficient notice to the Borrower/Guarantor. Also, the said changes if any would be made available at the branches. However in case there is any change in an individual contract/loan then the same shall be intimated in form of a letter / email on the registered address or /SMS/Call on the registered number



Specimen copy

**Schedule I & II attached to and forming part of the Loan cum Hypothecation Agreement describing particulars of the amount payable**

**SCHEDULE - I**

**DESCRIPTION OF CREDIT FACILITIES**

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Loan of Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 disbursed in favour of Manufacturer/Dealer as per the instructions of the Borrower, repayable in \_\_\_\_\_ monthly instalments as mentioned in Schedule III secured by hypothecation of the Assets as mentioned in Schedule II.

**SCHEDULE II**

**DESCRIPTION OF HYPOTHECATED ASSET**

S. no.	Asset	Reg. No.	Serial / Machine/ Engine No.	Chassis No.
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				

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X16

\_\_\_\_\_  
Borrower

Y16

\_\_\_\_\_  
Guarantor

BG15

Specimen copy

**Schedule III attached to and forming part of the Loan cum Hypothecation Agreement describing particulars of the amount payable**

1.	Loan amount sanctioned	:	Rs. _____	
2.	Loan Term	:	_____	
3.	Rate of interest (annualized)	:	_____ % p.a. (Fixed) to be computed with monthly rests on the outstanding balance.	
4.	Service/processing charge (Maximum upto 3% of the loan amount)	:	Rs. _____ + Taxes as applicable.	X17
5.	<b>Service/processing charge for Micro &amp; Small Enterprise (MSE) Borrowers for loans upto Rs 5 lakhs.</b>	:	<b>NIL</b>	
6.	Stamp Duty	:	At Actual + Taxes as applicable.	
7.	<b>Additional interest payable by way of liquidated damages (Penal Charges)</b>	:	<b>2.50 % p.m / 30% p.a on the defaulted amount + Taxes as applicable.</b>	
8.	Present value of hypothecated asset	:	Rs. _____	
9.	Any other charge incurred for recovery	:	At Actual + Taxes as applicable.	
10.	<b>Loan Pre-payment Charges</b>	:	<b>3 % of the Principal Outstanding + Taxes as applicable.</b>	
11.	<b>Loan Pre-payment Charges for Micro &amp; Small Enterprises (MSE) borrowers for fixed rate loans up to Rs.50 lacs.</b>	:	<b>NIL</b>	
12.	Charge for cheque/DD/ECS/ACH dishonour	:	Rs.200/- per dishonour + Taxes as applicable.	
13.	Cheque/DD pickup	:	Rs.200/- per visit + Taxes as applicable.	
14.	Total Amount Payable	:	_____	
15.	Place of Payment	:	_____	

**MONTHLY INSTALLMENT SCHEDULE**

S. No.	Date		Installment Amount	No. of Installments
	From	To		
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				

X18

Borrower

Y18

Guarantor

BG17

Specimen copy

### IRREVOCABLE POWER OF ATTORNEY

TO ALL WHOM THESE PRESENTS SHALL COME I/WE \_\_\_\_\_  
son/daughter/wife of \_\_\_\_\_ residing at \_\_\_\_\_

(hereinafter called the "Borrower(s)" which expression shall include his/her heirs, executors, administrators, legal representatives and assigns/his successors and assigns) OR M/s. \_\_\_\_\_ a Company incorporated under the Companies Act 1956, and having its Registered Office at \_\_\_\_\_

X19

(hereinafter called the "Borrower(s)" which expression shall include its successors and assigns) OR M/s. \_\_\_\_\_  
\_\_\_\_\_ a partnership firm having its principal place of business at \_\_\_\_\_

and constituted by and between Mr./Mrs. \_\_\_\_\_ and Mr./Mrs. \_\_\_\_\_  
and Mr./Mrs. \_\_\_\_\_ and Mr./Mrs. \_\_\_\_\_  
and Mr./Mrs. \_\_\_\_\_ (hereinafter called the "Borrower (s)" which expression shall include the partner or the partners for the time being of the said firm and the survivor or survivors of them and their heirs, executors, administrators and assigns/of such survivor (s).

#### SEND GREETINGS

WHEREAS CITIBANK N.A. a corporate body having its registered office at 399, Park Avenue, Borough of Manhattan, City of New York and a branch office in India at \_\_\_\_\_

\_\_\_\_\_ (hereinafter called the "the Bank")

has granted Credit Facilities for Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ ) to me/us.

AND WHEREAS the Borrower has executed a Loan cum Hypothecation Agreement dated \_\_\_\_\_ with and in favour of the Bank:

AND whereas an irrevocable Power of Attorney is to be executed in favour of the Bank to do the following acts for and on behalf of the Borrower(s).

NOW KNOW YE ALL AND THESE PRESENTS WITNESS THAT I/WE do irrevocably nominate/constitute upon the Bank acting through any of its officers as my/our true and lawful attorney for me/our behalf and at my/our cost and risk to do, execute and perform all or any of the following acts, deeds, matters and things that is to say:-

1. To take inspection directly or to engage any Advocate, Chartered Accountant or registered trade practitioner for taking inspection of my/our Income tax return/s and Assessment proceedings, Appeal proceedings etc relating to the current and previous Assessment years.
2. This authority is being given to the Bank to enable the Bank to verify the veracity of various representations made by the undersigned for obtaining Credit Facilities from the Bank
3. This authority shall be binding upon the undersigned and its legal successors prior and post to the grant of the Credit Facilities and shall be irrevocable during the tenure of the said Credit Facilities.
4. To get requisite information from employer as may be expedient to ascertain material particulars.
5. To appear before the office of the Regional Transport Officer, Sales Tax Officer and other authorities through Advocates or any authorized person deemed necessary by the Bank to effect endorsement of hypothecation in Registration certificate and transfer the vehicle.
6. To take possession of the Hypothecation vehicles in case of default as per the terms of the Loan cum Hypothecation agreement.

7. To take all necessary steps as fully and effectually as I/We could take to dispose of the motor vehicle and for this purpose to enter upon the premises, garage or godown where the motor vehicle shall be lying or kept, to take possession and recover and receive the motor vehicle and if necessary to break open any place of storage. The Bank shall also be entitled to appoint any officer/s or any other person as the receiver of the motor vehicle with the power to sell the vehicle by the public auction or private contract or otherwise dispose of the motor vehicle at our risk and costs with the further power to rescind or vary any such contract for sale without being bound or answerable for any loss or diminution in value and without being liable for any loss occasioned by the exercise of such powers.
8. To transfer, sell or dispose of the said vehicle(s) and to sign and execute all contracts, declarations and instruments as may be necessary or expedient for giving delivery thereof.
9. To appoint or engage any broker for effecting any such transfer, sale or disposition or realization as the case may be.
10. To give notice to the appropriate authority for the registration of the said vehicle(s) upon the sale thereof.
11. To receive the consideration on the sale, transfer, disposition of the said vehicle and to give proper receipt and valid and effectual discharge of the same.
12. To take delivery and possession of the vehicle(s) as and when deemed necessary by the Bank.
13. And generally to do, perform and execute all acts, deeds, matters and things relating to or concerning or touching these presents as fully and effectually as if I/We were personally and had done, performed or executed the same myself/ourselves.
14. And I/We hereby agree to ratify and confirm all and whatsoever the Bank shall do or cause to be done in or about the premises by virtue of these presents.
15. To sign, execute, carry out, deliver and complete all papers, correspondence, vouchers, agreements, contracts, forms, applications, petitions, transfers, receipts and all other deeds and assurance and documents for the due completion and performance of any of the transactions, which may now be subsisting in the ordinary course of business.
16. AND ALSO for the better and more effectually doing, effecting and performing the several matters and things aforesaid to appoint from time to time or generally such person or persons as the Attorneys may think fit as their substitute or substitutes to do execute and perform all or any such matters and things as aforesaid and any such substitute or substitutes at pleasure to remove and appoint another or others in his or their place and we hereby agree at all times to ratify and confirm whatsoever the Attorneys or any such substitute or substitutes shall lawfully do or cause to be done in or about the premises.

IN WITNESS whereof I/We hereunto set my/our hand and seal at \_\_\_\_\_ this \_\_\_\_\_ day of  
\_\_\_\_\_ Christian Year \_\_\_\_\_ SIGNED AND DELIVERED by the  
above named.

**X 20**

\_\_\_\_\_  
in the presence of  
(Notary Seal and Stamp)