

ESCROW AGREEMENT

This Escrow Agreement ("**Escrow Agreement**") dated this _____ day of _____ by and between:

1. _____, a company incorporated under the provisions of Companies Act, 1956, with its corporate office at _____ (hereinafter referred to as the "**Buyer**" which expression shall, unless repugnant to or inconsistent with the context, mean and include their successors and permitted assigns) of the **FIRST PART**.

AND

2. _____, a company incorporated under the provisions of the Companies Act, 1956 with its registered office at _____ (hereinafter referred to as "**Seller**", which expression shall unless repugnant to the context or meaning thereof, be deemed to mean and include its successor or successors and permitted assigns) of the **SECOND PART**.

AND

3. _____, a banking company incorporated in England by Royal Charter in 1853, having its principal office at _____, and having its branch office at _____, (hereinafter referred to as the "**Escrow Agent**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include, its legal heirs, administrators, successors and permitted assigns) of the **THIRD PART**.

(The Buyer, Seller and the Escrow Agent are hereinafter collectively referred to as the "**Parties**" and individually as a "**Party**")

WHEREAS:

- A. The Seller and the Buyer have executed an agreement to sell of even date pursuant to which the Buyer has agreed to acquire _____ acres of land from the Seller at a rate of Rs _____/- (Rupees _____ only) per acre. ("**Agreement to Sell**")
- C. Pursuant to the Agreement to Sell, Buyer and the Seller have entered into certain arrangements in terms of which the Buyer has agreed to deposit the sale consideration of Rs _____/- (Rupees _____ only) ("**Escrow Amount**" or "**Escrowed Amount**") in the Escrow Account with the Escrow Agent.
- D. It is in this connection that the Buyer and the Seller have agreed to appoint the Escrow Agent upon the terms and conditions of this Escrow Agreement.
- E. The Escrow Agent has agreed to its appointment in terms of this Escrow Agreement.

Accordingly, in consideration of the foregoing and other consideration, the sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

Article 1 Definitions and Interpretation

1.1 Definitions

In this Escrow Agreement the following capitalized words and expressions have the following meanings:

"Business Day" means a day (excluding Saturdays and Sundays) on which banks generally are open in Delhi, India for the transaction of normal banking business;

"Escrow Account" has the meaning assigned to it in Article 3.2.1 hereof;

"Buyer's Instruction" has the meaning assigned to it in Article 3.3.1 (a) hereof;

"Award" means any order, judgement, direction etc. given by any court of law or award passed by any arbitration tribunal or sole arbitrator during any arbitration proceeding;

1.2 Interpretation

Except where the context requires otherwise, in this Escrow Agreement:

- (i) any reference to a statutory provision, rule, ordinance or other law shall include any amendment or replacement thereof;
- (ii) references to Articles, Schedules and Annexures are, unless otherwise stated, to articles of and schedules and annexures to this Escrow Agreement;
- (iii) words importing the singular include the plural and vice versa, words importing a gender include every gender and references to persons include bodies, corporate or unincorporated;
- (iv) the headings to the articles, schedules and annexures are for convenience only and shall not affect the construction or interpretation of this Escrow Agreement;
- (v) the terms "hereof", "herein", "hereby", "hereto" and derivative or similar words refer to this entire Escrow Agreement or specified articles of this Escrow Agreement, as the case may be;
- (vi) reference to the word "include" shall be construed without limitation; and
- (vii) any word or phrase defined in the body of this Escrow Agreement shall have the meaning assigned to it in such definition throughout this Escrow Agreement, unless the contrary is expressly stated or the contrary clearly appears from the context.

Article 2 APPOINTMENT OF ESCROW AGENT

- 2.1 The Seller and the Buyer hereby designate and appoint the Escrow Agent as an escrow agent for the purposes of operating and maintaining the Escrow Account and the Escrow Agent hereby accepts such designation and appointment in accordance with the terms of this Escrow Agreement. The term "Escrow Agent" shall include the Escrow Agent for the time being and all its Successors further to the provisions of Article 10.

Article 3 Establishment of Escrow

- 3.1 Delivery of the Escrowed Amount

Simultaneously with execution of agreement to sell dated _____, the Buyer shall deliver to the Escrow Agent an amount equal to the Escrowed Amount by transferring the same into the Escrow Account.

- 3.2 Escrow Account

- 3.2.1 As soon as practicable, but no later than 3 Business Days from execution of this Escrow Agreement, the Escrow Agent shall open the escrow account in the name of _____ Branch _____ (the "**Escrow Account**"). The Escrow Agent undertakes to the other Parties that it shall operate the Escrow Account strictly in accordance with the provisions of this Escrow Agreement.
- 3.2.2 The Escrow Agent shall accept deposit of the Escrowed Amount in the Escrow Account upon delivery of the same by the Buyer in accordance with Article 3.1. The Escrow Agent hereby confirms that it shall not claim any right or lien over the Escrowed Amount. The Escrow Agent shall hold the Escrowed Amount for the benefit of the Buyer and the Seller. The Escrow Agent shall place the Escrowed Amount or any part thereof into interest bearing term deposits of _____ ("**Fixed Deposit**"), provided such deposits are made on a full liquidity basis and shall be available for withdrawal or disbursements as contemplated by this Escrow Agreement and within the time frame prescribed hereunder. The Escrowed Amount shall be deposited in the Fixed Deposit for 7 (seven) days each on an automatic rollover basis along with the interest accrued on the earlier deposit till the Escrow Agent receives the Buyer's Instructions or _____ whichever is earlier and the withdrawal shall be subject to break cost as applicable.
- 3.3 Instructions to Escrow Agent
- 3.3.1 The Escrow Agent shall release the Escrowed Amount only,
- (a) Forthwith also with interest accrued on the escrowed amount to the account of the Seller by way of wire transfer, on receipt of the written instruction of the Buyer from the Seller in form set out in Schedule A ("**Buyer's Instruction**") ; or
 - (b) If the Escrow Agent receives a copy of an Award, in which event the Escrow Agent shall act as per the instructions set forth in such Award; or
 - (c) On the Buyer intimating the Escrow Agent in writing of the non registration of the sale deed as on _____, in which event the Escrow Agent shall forth with release the Escrowed Amount lying in the Escrow Account to the Buyer together with applicable interest which shall be competitively determined by the Escrow Agent at its sole discretion as per the market conditions and shall issue a written intimation of such release to the Sellers.
- 3.3.2 No notice, instruction or document shall be sent by any of the other Parties to the Escrow Agent via a facsimile.

Article 4

Representation and Warranties

- 4.1 The Parties have the necessary power, authority and the legal right to agree to these terms and have taken all necessary actions required for the validity, enforceability and performance of their respective obligations / duties in terms hereof;
- 4.2 This Escrow Agreement constitutes a legally, valid and binding obligations of the Parties, enforceable against the Parties in accordance with applicable law;
- 4.3 The entry into and performance by the Parties of its obligations / duties under this Escrow Agreement and any other document related hereto does not and will not violate, in any respect:
- (a) any law, regulation, judgement, decree or order of any legislative, executive, judicial, quasi – judicial or regulatory authority (hereinafter referred to as "**Government Authority**") having jurisdiction or control over the Parties ;

- (b) the organizational documents of the Parties; or
 - (c) any document, contract or other undertaking to which any of the Parties is a party or which is binding on the either of them or any of its assets;
- 4.4 All consents, licenses, approvals or authorisations of or declarations to or registrations or filings with any Government Authority and the payment of all stamp and other transaction related duties, taxes and fees in India, and elsewhere, required to make the arrangements contemplated herein, legal, valid and enforceable have been obtained or made and are in full force and effect and shall continue to remain in full force and effect till the arrangements are terminated in accordance with the terms in this Escrow Agreement;
- 4.5 The role of the Escrow Agent shall be limited to such functions as expressly laid out in this Escrow Agreement or required by the written instructions of the Parties (or such of them as may properly provide the instructions in accordance with terms in this Escrow Agreement);
- 4.6 The Escrow Agent shall not be obliged to make available any sum which the other Parties are expecting to receive from the Escrow Account unless clear funds have been credited into and are available in the Escrow Account.

Article 5

Terms and Conditions

The following terms and conditions shall govern the escrow arrangement under this Escrow Agreement:

- 5.1 Any interest that may accrue on the Escrowed Amount deposited with the Escrow Agent shall be paid to the Seller upon occurrence of the sale pursuant to the Agreement to Sell and the receipt of confirmation of such sale from the Seller.
- 5.2 The interest shall be payable by the Escrow Agent on the Escrow Amount only from the date of deposit upto the date of withdrawal of the Escrow Amount.
- 5.3 However if the sale is not completed for whatever reason, the monies lying in the Escrow Account shall automatically revert to the Buyer along with the interest accrued thereon. The Escrow Agent shall transfer monies to the account of the Buyer on the close of business on _____.
- 5.4 The Escrow Agent shall have the obligation to keep and maintain the Escrow Account held by it hereunder with the same degree of care which it gives its own property or goods.
- 5.5 The Escrow Agent shall act in strict accordance with the terms and conditions set out in this Escrow Agreement and agree to hold the Escrowed Amount in trust for the Buyer and the Seller in its capacity as an agent.
- 5.6 The Escrow Agent shall not hand over the Escrowed Amount to any third party without obtaining the prior written consent of the Buyer.
- 5.7 The Escrow Agent will hold the Escrowed Amount as a custodian and in case of insolvency, liquidation or winding-up of the Escrow Agent, the Escrowed Amount will not be treated as a property of the Escrow Agent.

Article 6

Fees, expenses and Costs

- 6.1 In consideration of the Escrow Agent agreeing to perform the obligations hereunder, the Escrow Agent shall be paid an amount of INR _____/- (Rupees _____ only) at the time of execution of this Escrow Agreement for the term of this Agreement (exclusive of service tax and other applicable statutory levies) as its professional fees.

- 6.2 All amounts payable to the Escrow Agent under this Escrow Agreement shall be borne by the Buyer.
- 6.3 In the event the Escrow Agent apprehends that it would incur any costs or expenses attributed to any act, omission and or negligence of the Seller or of the Buyer, in the performance of its obligation, it shall first intimate the Buyer and Seller of such an occurrence. In the event that either the Buyer or the Seller fail to remedy the event, the Escrow Agent shall be entitled to recover from the other Parties all reasonable expenses and costs actually incurred by the Escrow Agent in the performance of its obligations under this Escrow Agreement, except costs and/or expenses incurred by the Escrow Agent due to its own wilful negligence, fraud, misconduct or breach of this Escrow Agreement. The other Parties shall within _____ Business Days of a written notice by the Escrow Agent pay, the reasonable expenses and costs claimed by the Escrow Agent. The Escrow Agent shall not be authorised under any circumstance to debit and appropriate from the money lying in the Escrow Account..

Article 7

Term and Termination

- 7.1 This Escrow Agreement shall remain in force until terminated as set out in this Escrow Agreement and the Agreement to Sell.
- 7.2 This Escrow Agreement shall automatically terminate once the Escrowed Amount has been released by the Escrow Agent in accordance with the provisions of this Escrow Agreement.
- 7.3 Termination of this Escrow Agreement shall be without prejudice to rights that have already accrued in favour of a Party.

Article 8

Miscellaneous

- 8.1 The Escrow Agent shall not be obliged to supervise, control or perform any acts or responsibilities of the Parties or any other third party.
- 8.2 The Escrow Agent shall not be under any duty or obligation to:
- (a) Exercise any greater degree of care in respect of moneys standing to the credit of the Escrow Account than it gives to its own account.
 - (b) Verify or ascertain whether the Seller and Buyer have fulfilled their obligations under the Agreement to Sell or any other agreements relating to the Escrow Account or any moneys standing to the credit thereof, other than this Escrow Agreement.
- 8.3 The Escrow Agent is acting in a purely administrative capacity and this Escrow Agreement expressly sets forth all the duties and obligations of the Escrow Agent. The Escrow Agent shall not be bound by (and shall be deemed not to have notice of) the provisions of any agreement between the Seller/Seller's Representative and/or the Buyer/Buyer's Representatives except this Escrow Agreement and any implied duties or obligations of the Escrow Agent are excluded to the fullest extent permitted by law.
- 8.4 The Seller / Seller's Representative and the Buyer / Buyer's Representative hereby represent and warrant to the Escrow Agent as follows for the duration of this Escrow Agreement:
- (a) that the entry into and performance by it of, and the underlying transaction referred to in the recitals above to which it is a Party, and any instructions issued hereunder do not and will not conflict with any rules binding upon it or applicable to the underlying transaction; and
 - (b) it and its assets are not entitled to any immunity (whether on the grounds of sovereignty or otherwise) from any legal or other proceedings or from attachment

(whether in aid of execution before judgment or otherwise) or from execution of judgment.

- 8.5 The Parties hereto agree that the obligations of the Escrow Agent under this Escrow Agreement are limited to those set out in this Escrow Agreement. The Escrow Agent shall assume no responsibility at all, other than to deal with the Escrowed Amount, in accordance with the provisions of this Escrow Agreement. No implied authorities, duties, obligations or responsibilities shall be read into this Escrow Agreement to devolve on the Escrow Agent. The Escrow Agent shall exercise no discretion whatsoever, and shall not be expected or required by any Party to exercise any discretion.
- 8.6 The Escrow Agent shall be entitled to act and rely upon any statement, request, notice or instruction or other writing with respect to this Escrow Agreement given to the Escrow Agent in accordance with the terms of this Escrow Agreement. The Escrow Agent shall not be required to determine the authenticity or the correctness of any facts stated therein or the validity of service thereof, or the authority of the person signing the same, and the Escrow Agent shall be entitled to presume that the same is genuine and has been duly signed by the Person who has purported to sign the same, and where such person is signing on behalf of any other Person/Party, the Escrow Agent shall be entitled to presume that the Person who has signed is authorised to sign on behalf of such Person/Party.
- 8.7 If any of the instructions are not in the form set out in this Escrow Agreement, the Escrow Agent shall be entitled to refrain from acting on such instructions, until the instructions are clarified and/or such ambiguity is removed, to the Escrow Agent's satisfaction. All instructions to the Escrow Agent shall be in writing and to the satisfaction of the Escrow Agent, under this Escrow Agreement.
- 8.8 Any instruction to the Escrow Agent shall continue to be in full force and effect until cancelled or superseded by another instruction. If an instruction has already been acted upon, it shall not be cancelled.
- 8.9 The Escrow Agent shall not be liable for any acts or omissions done pursuant to a decree, ruling, judgement, Award or order of a court, executive or regulatory authority.
- 8.10 Any act to be done by the Escrow Agent shall be done only on a Business Day, during banking business hours and in the event that any day on which the Escrow Agent is required to do an act, under the terms of this Escrow Agreement, is a day on which banking business is not, or cannot for any reason be conducted, then the Escrow Agent shall do those acts on the next succeeding Business Day.

8.11 CONFIDENTIALITY

- (a) Each Party shall keep confidential all information and other materials passing between it and the other Parties in relation to the transactions contemplated by this Escrow Agreement, which was either designated as confidential or which was by its nature, confidential (the "**Confidential Information**"), and shall not without the prior written consent of the other Parties, divulge such information to any other person or use such Confidential Information other than for carrying out the purposes of this Escrow Agreement.
- (b) For the purposes of this Escrow Agreement, Confidential Information shall not include information:
- (i) that is in the public domain as on the date of execution of this Escrow Agreement;
 - (ii) that is generally available to the public otherwise than as a breach of this Escrow Agreement; and
 - (iii) that any Party (or its affiliate(s)) is under an obligation to disclose, pursuant to any applicable Law, process of court, any applicable regulatory requirements and/or rules of the stock exchange.
- (c) No announcements or other disclosure concerning the transactions forming the subject matter of this Escrow Agreement or any terms and conditions hereof shall be made by any

Party, save in the form agreed to in writing by the Parties or where required by Law, any applicable regulatory requirements and/or rules of the stock exchange.

8.12. DISCLOSURE CLAUSE FOR BRANCHES

- 8.12.1 The Parties hereby consent to the Escrow Agent, its officers and agents disclosing information relating to the Escrow Account and/or dealing relationship(s) with the Escrow Agent pursuant to this Escrow Agreement, to
- (i) the head office of the Escrow Agent, any of its subsidiaries or subsidiaries of its holding company, affiliates, representative and branch offices in any jurisdiction (the **"Permitted Parties"**) who shall assume similar confidentiality obligations as provided under Article 8.11 above;
 - (ii) professional advisers and service providers of the Permitted Parties who are under a duty of confidentiality to the Permitted Parties;
 - (iii) any insurer or insurance broker of, or direct or indirect provider of credit protection to any Permitted Party;
 - (iv) any court or tribunal or regulatory, supervisory, governmental or quasi-governmental authority with jurisdiction over the Permitted Parties, to the extent required by such court, tribunal or regulatory, supervisory, governmental or quasi-governmental authority.
- 8.13 The termination or expiry of this Escrow Agreement shall not adversely affect the fees and reimbursable expenses payable to the Escrow Agent and the indemnification of the Escrow Agent hereunder.
- 8.14 The Buyer and the Seller hereby agree that in no event shall the Escrow Account be overdrawn.
- 8.15 The Escrow Agent shall not be required to perform any of its obligations under this Escrow Agreement if it is prevented from so doing by the occurrence of any event due to any cause beyond its reasonable control or if such performance would result in the Escrow Agent or its immediate or ultimate holding company being in breach of any law, regulation, ordinance, rule, directive, judgment, order or decree, in each case having the force of law (collectively, the **"Rules"**) binding on the Escrow Agent or its property or on its immediate or ultimate holding company.
- 8.16 Any corporation into which any of the Escrow Agent in its individual capacity may be merged or converted or with which it may be consolidated or any corporation resulting from any merger conversion or consolidation to which any of the Escrow Agent in its individual capacity shall be a party or any corporation to which substantially all the corporate trust business of any of the Escrow Agent in its individual capacity may be transferred, shall be the Escrow Agent under this Escrow Agreement without further act.
- 8.17 This Escrow Agreement is and shall always be construed as the sole repository of the Parties' rights and obligations in relation to the Escrowed Amount and shall supersede cancel and replace all or any previous agreements writings or understandings in this behalf between the Parties except that nothing contained herein shall affect the effectiveness of or supersede, cancel or replace any agreements, documents or arrangement between the Seller and the Buyer.
- 8.18 The Escrow Agent shall not be bound by any modification of this Escrow Agreement, , unless such modification has been made with the consent of the Escrow Agent. However, the transfer of any interest hereunder can be made by giving intimation to the Escrow Agent for the same.
- 8.19 The Parties expressly agree that the provisions of this Escrow Agreement cannot be modified save and except by the mutual written agreement of all the Parties. In particular, no instructions shall be given to the Escrow Agent (by whatever name such instruction

may be called), which are contrary to or inconsistent with this Escrow Agreement and in the event of any such contrary or inconsistent instructions being given, the same shall be null and void and the Escrow Agent shall not be obliged to act upon and shall be entitled to ignore, such instruction(s) and continue to comply with the provisions of this Escrow Agreement.

For the removal of doubts it is provided that notwithstanding anything to the contrary contained herein, where an instruction is issued to the Escrow Agent jointly by the Seller and the Buyer, the Escrow Agent shall be obligated to carry out the instructions irrespective of whether they are contrary or inconsistent with this Escrow Agreement or otherwise.

8.20 No duty or obligation

The Escrow Agent is under no duty or obligation to—

- (a) ensure that any funds released from Escrow Account in accordance with this Escrow Agreement are actually applied for the purpose agreed between the Seller and the Buyer; or
- (b) ensure that any instruction, direction or notice by any of the Parties is accurate, correct or duly authorised provided that the same is issued in accordance with the provisions of this Escrow Agreement and nothing has come to its attention which leads it to believe that such document is not correct or genuine.

8.21 Reliance by the Escrow Agent

The Escrow Agent shall be entitled to rely upon any order, judgment, decree, ruling, award or decision of arbitrators or any third party contemplated in any other document between the Parties as a means to resolve disputes, certification, demand, notice or other written instrument delivered to it under this Escrow Agreement without being required to determine the authenticity or the correctness of any fact, finding or other statement stated therein or the validity thereof or the propriety or validity of the service thereof, provided that nothing has come to its attention which leads it to believe that such document is not correct or genuine and/or the service thereof is not proper or valid. The Escrow Agent may act in reliance upon any instruction, direction or notice or signature issued in accordance with the terms of this Escrow Agreement and which it believes to be genuine and may assume that any person purporting to give receipt or advice or make any statement or execute any document in connection with the provisions of this Escrow Agreement has been duly authorised to do so.

8.22 Ability to consult professional advisors

The Escrow Agent at its cost may consult counsel or professional advisers ¹ over any question as to the provisions of this Escrow Agreement or its duties. The Escrow Agent may act pursuant to the advice of its counsel or other professional advisers with respect to any matter relating to this Escrow Agreement, provided that the Escrow Agent has given prior notice of 4 (four days) business days to the other Parties prior to acting on such advice, and shall not be liable for any action taken or omitted by it in good faith in accordance with such advice.

8.23 Liability of the Escrow Agent

- 8.23.1 The Escrow Agent shall not be liable to any person or entity for any loss, liability, claim, action, damages or expenses arising out of or in connection with anything done or omitted to be done by it pursuant to and in accordance with the provisions of this Escrow Agreement save as are caused by its own gross negligence, fraud, wilful misconduct and/or breach of the provisions of this Escrow Agreement and liability of the Escrow Agent is to hold and release the Escrow Amount in accordance with the terms of this Escrow Agreement.

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8.23.2 Notwithstanding the foregoing, under no circumstances will the Escrow Agent be liable to any party whether in contract, tort or otherwise, for any consequential loss (including, but not limited to, loss of business, goodwill, opportunity or profit) even if advised of the possibility of such loss or damage.

8.23.3 Notwithstanding the foregoing, under no circumstances will the Escrow Agent be liable to any party whether in contract, tort or otherwise, for any consequential loss (including, but not limited to, loss of business, goodwill, opportunity or profit) even if advised of the possibility of such loss or damage.

8.24 Other Business

The Escrow Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any other party to this Escrow Agreement.

Article 9 INDEMNITY

9.1 The Escrow Agent shall not be required to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or the exercise of any right, power or authority hereunder.

9.2 The Seller and the Buyer shall indemnify the Escrow Agent and its directors, officers and employees (each an "Indemnified Party") and hold each of them harmless from and against any and all losses, liabilities, claims, actions, damages, fees and expenses (including, without limitation, legal charges, fees and disbursements of the Indemnified Party's counsel), incurred or suffered by the Escrow Agent arising out of or in connection with (a) its appointment as Escrow Agent under, and execution, delivery or its performance of, this Escrow Agreement, and (b) the exercise of its rights and powers as Escrow Agent under this Escrow Agreement or (c) in relation to this Escrow Agreement or relating to the Escrow Amount (or any part thereof) and/ or (d) the enforcement of any provision of, this Escrow Agreement, including, but not limited to, the reliance by the Escrow Agent on any instruction, save as are caused by its (or their) own gross negligence, fraud, wilful misconduct and /or breach of any of the provisions of this Escrow Agreement. The indemnity in this Article 9.2 shall survive the termination of this Escrow Agreement, or the removal of the Escrow Agent.

9.3 Fax Indemnity

Pending the receipt and/or submission of any formal notice, instruction or document to be given and/or submitted, by the Seller or the Buyer in accordance with the terms of this Escrow Agreement, the Escrow Agent is hereby authorised not to accept facsimile transmissions of such notice, instruction or document, and in consideration thereof, the other Parties hereby irrevocably release and discharge the Escrow Agent from all liabilities for any losses or damage suffered by, the Parties and/or any third party, arising from non – compliance of such facsimile, sent or transmitted by such Party, arising from non – compliance of such facsimile, whether sent or transmitted by the Parties or by a person authorized by the Parties to send such facsimile, on behalf of any of the Parties. The Parties shall hold the Escrow Agent harmless and shall sufficiently indemnify and keep indemnified the Escrow Agent against all actions, proceedings, claims liabilities, demands, damages, costs and expenses whatsoever, arising out of or in connection with the Escrow Agent's not carrying out any act, deed or thing based on such facsimile, even if such facsimile is issued in accordance with the terms of this Escrow Agreement and appears to be prima facie correct and genuine. The indemnity contained herein shall not apply in case of gross negligence, fraud, wilful misconduct and /or breach of any of the provisions of this Escrow Agreement by the Escrow Agent.

Article 10 REPLACEMENT AND REMOVAL OF THE ESCROW AGENT

- 10.1 The Escrow Agent may resign as Escrow Agent at any time by giving at least _____ Business Days' prior written notice to each of the Seller and the Buyer, such resignation to be effective upon (i) a Successor being appointed by the Seller and the Seller and the Buyer in accordance with Article 10.2 of this Escrow Agreement; and (ii) the Escrow Agent having transferred the Escrowed Amount to such Successor.
- 10.2 In the event a notice of resignation or removal is issued pursuant to Article 10.1 above, a successor escrow agent shall be appointed by the Seller and the Buyer within _____ Business Days ("**Successor**"). The Escrow Agent shall, upon notification by the Seller and Buyer of the name and other details of the Successor, do all such things that are necessary to effectively transfer the Escrowed Amount to the Successor. Any such Successor shall indicate its acceptance of such appointment by delivery to the Seller and the Buyer a deed of adherence to this Escrow Agreement, and thereupon it shall succeed to all the rights and duties of the escrow agent hereunder.

Article 11 **Governing Law and Dispute Resolution Mechanism**

- 11.1 The Parties agree that this Escrow Agreement shall be governed by and construed in accordance with the laws of India.
- 11.2 In the event a dispute, difference, claim or controversy arises in connection with the interpretation or implementation of this Escrow Agreement or the performance of any obligation hereunder (each a "**Dispute**"), the Parties shall attempt in the first instance to resolve such dispute through friendly consultations. The Buyer and the Sellers hereby agree and undertake not to make the Escrow Agent a party to any Dispute that arises amongst them, unless a claim of fraud, wilful misconduct or negligence is being alleged against the Escrow Agent. Accordingly for purposes of this Article 11, the Escrow Agent will not be construed as a "Party".
- 11.3 If the Dispute is not resolved through friendly consultations within _____ days from the date of commencement of discussions, then such matter shall be finally settled by arbitration same shall be referred to the arbitration to be held at New Delhi The reference shall be to a single arbitrator to be mutually appointed, or in case of disagreement as to the appointment of a sole Arbitrator, by 3 Arbitrators of which each party shall appoint one Arbitrator and the two appointed Arbitrators shall jointly appoint the third Arbitrator. The arbitration shall be governed by the provisions of the Arbitration and Conciliation Act, 1996 or any law relating to arbitration in force at the time of such reference. All arbitration proceedings shall be conducted in English. The arbitration award shall be in writing and shall be final and binding on the parties. The arbitrators shall have the power to award the costs and reasonable expenses (including reasonable fees of counsel) incurred in the arbitration as also interest on any amounts payable by a Party to another.
- 11.4 Nothing shall preclude either Party from seeking interim or permanent equitable or injunctive relief, or both, from any court having jurisdiction to grant the same. The pursuit of equitable or injunctive relief shall not be a waiver of the duty of the Parties to pursue any remedy for monetary damages through the arbitration described in this Article 11.

Article 12 **Severability**

If any provision of this Escrow Agreement is held to be unenforceable, this Escrow Agreement shall be considered divisible and such provision shall be deemed inoperative to the extent it is deemed unenforceable, and in all other respects this Escrow Agreement shall remain in full force and effect; provided, however, that if any such provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by applicable law.

Article 13 **Waivers**

No forbearance, indulgence or relaxation of any Party at any time to require performance

of any provision of this Escrow Agreement shall in any way affect, diminish or prejudice the right of such Party to require performance of the same provision and any waiver or acquiescence by any Party of any breach of any provision of this Escrow Agreement shall not be construed as a waiver or acquiescence of any continuing or succeeding breach of such provisions, a waiver of any continuing or succeeding breach of such provisions, a waiver of any right under or arising out of this Escrow Agreement or acquiescence to or recognition of rights and/or position other than as expressly stipulated in this Escrow Agreement.

Article 14

Notices

- 14.1 Any notice, communication, request or correspondence required or permitted under the terms of this Escrow Agreement shall be in writing, in the English language (it being understood that any such communication in a language other than English shall be of no force and effect), and shall be delivered at the address(es) or contact number(s) provided below: Any change in the address shall be notified in writing to the other Parties within 7 days of such change:

Name of the Party	Address	Contact Person
Buyer		
Sellers		
Escrow Agent		

- 14.2 A written notice may only be sent in the following manner and is deemed to have been received:
- 14.2.1 if delivered by hand, on the Business Day of delivery or on the first (1st) Business Day after the date of delivery if delivered on a day other than a Business Day; or
- 14.2.2 if sent by certified, registered mail or by courier, on the second (2nd) Business Day after the date of posting; or
- 14.2.3 if sent by facsimile transmission, on a valid transmission report confirming good receipt being generated.

Article 15

Amendments

No modifications or amendment of this Escrow Agreement and no waiver of the terms or conditions hereto shall be binding unless made specifically in writing duly executed by the authorized representative of the Parties.

Article 16

Binding

This Escrow Agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns, heirs and legal representatives, but shall not be assigned by any parties without the written consent of the others.

Article 17

Counterparts, Annexuers, Schedules

- 17.1 This Escrow Agreement may be executed in one or more counterparts, each of its counterparts shall be deemed an original and all of which shall constitute one and the same instrument.
- 17.2 It is expressly agreed by and between the Parties hereto that all Schedules and Annexures as amended from time to time shall be deemed to be a part of this Escrow Agreement.

IN WITNESS WHEREOF, the Parties have entered into this Escrow Agreement the day and year first above written.

Signed and delivered on behalf of

Signed and delivered by

Signed and delivered by
Escrow Agent

SCHEDULE A

Form of Buyer's Instructions/Confirmation

Date: _____

To,

Attention: Mr. _____

Re: **Escrow Agreement** dated _____ executed between
_____ (Buyer) and
_____ (Seller) (the "Escrow Agreement").

1. In accordance with the provisions of Article 3.3.1(a), you are hereby instructed to release the amount lying in the Escrow Account ("**Escrowed Amount**") together with interest accrued on the Escrowed Amount by way of [RTGS] in favour of the Seller within 1 business day from the date of this confirmation.

For Buyer,

(Buyer's Representative)