

**DRAFT FORMAT OF DEED OF GUARANTEE TO BE GIVEN BY GOVERNOR/PRESIDENT OF INDIA**

**DEED OF GUARANTEE**

This Deed of Guarantee executed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ by the President of India/Governor of the State of \_\_\_\_\_ hereinafter called the "GUARANTOR" (which expression shall unless repugnant to the context or maning thereof be deemed to include his successors in office and assigns) in favour of the Indian Renewable Energy Development Agency Limited, a Company registered under the Companies Act, 1956 and having its Registered office at Core-4A, East Court, I Floor, India Habitat Centre, Lodi Road, New Delhi 110 003 (hereinafter referred to as the "Lenders" which expression shall unless repugnant to the context or meaning thereof be deemed to include its successor or successors and assigns).

**WHEREAS**

1. M/s \_\_\_\_\_ a Company within the meaning of the Companies Act, 1956 and having its Registered Office at \_\_\_\_\_ (hereinafter called as "the Borrower" which expression shall unless repugnant to the subject or context thereof be deemed to include its sucessor or successors and assigns) has requested the Lenders to grant and advance to it Term Loan of Rs. \_\_\_\_\_ lakhs (Rupees \_\_\_\_\_ Only) for its project envisaging \_\_\_\_\_.

2. The Lenders have agreed in principle to land and advance to the borrower, term loan not exceeding Rs. \_\_\_\_\_ lakhs (Rupees \_\_\_\_\_ Only) hereinafter referred to as "the loan") on the terms and conditions contained in the Loan Sanction letter No. \_\_\_\_\_ dated \_\_\_\_\_ and the Loan Agreement dated \_\_\_\_\_ entered into between the Borrower and the Lenders (hereinafter collectively referred to as "the said Agreement").

3. At the request of the Guarantor, the Lenders have agreed to make to the Borrower, disburseemnts/interim disbursements from out of the said loan.

NOW THIS DEED WITNESSETH AS FOLLOWS :

In consideration of the premises, the Guarantor hereby unconditionally absolutely and irrevocably guarantees to and agrees with the Lenders as follows :

1. The Lenders shall have the sole discretion to make disbursement(s) and/or interim disbursement(s) to the Borrower from out of the said Loan at such time, on such conditions and in such manner as the Lenders may decide.

2. The Borrower shall duly and punctually repay the said Loan together with interest, additional interest, commitment charge, liquidated damages, and all other monies in accordance with the said Agreement between the Borrower and the Lenders and perform and comply with all the other terms, conditions and covenants contained in the said Agreement.

3. In the event of any default on the part of the Borrower in payment of any of the monies referred to above, or in the event of any default on the part of the Borrower to comply with or perform any of the terms, conditions and covenants contained in the said Agreement, the Guarantor shall, upon demand, forthwith pay to the Lenders, without demur, all the amounts payable by the Borrower under the said Agreement.

4. The Guarantor shall also indemnify and keep each of the Lenders indemnified against all losses, damages, costs, claims and expenses whatsoever which the Lenders may suffer, pay or incur by reason of or in connection with any such default on the part of the Borrower including legal proceedings taken against the Borrower and/or the Guarantor for recovery of the monies referred to in clause 2 above.

5. The Guarantor hereby agrees that, without the concurrence of the Guarantor, the Borrower and the Lenders shall be at liberty to vary, alter or modify the terms and conditions of the said Agreement and of the security created and the security documents executed by the borrower in favour of the Lenders and in particular to defer, postpone or revise the repayment of the said Loan and/or the payment of interest and other monies payable by the Borrower to the Lenders on such terms and conditions as may be considered necessary by the Lenders including any increase in the rate of interest. The Lenders shall also be at liberty to absolutely dispense with or release all or any of the security/securities furnished or required to be furnished by the Borrower to the Lenders to secure the said Loan. The Guarantor agrees that the liability under this Guarantee shall in no manner be affected by any such variations, alterations, modifications, waiver, dispensation with or release of security and that no further consent of the Guarantor is required for giving effect to any such

variation, alteration, modification, waiver, dispensation with, or release of security.

6. The Lenders shall have full liberty, without notice to the guarantor and without in any way affecting this Guarantee to exercise at any time and in any manner any power or powers reserved to the Lenders under the said Agreement to enforce or forbear to enforce payment of the said Loan or any part thereof or interest or other monies due to the Lenders from the Borrower or any of the remedies or securities available to the Lenders to enter into any composition or compound with or to grant time to any other indulgence or facility to the Borrower and the Guarantor shall not be released by the exercise by the Lenders of its liberty in regard to the matters referred to above or by any act or omission on the part of the Lenders or by any other matter or thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of so releasing the Guarantor and the Guarantor hereby waives in favour of the Lenders so far as may be necessary to give effect to any of the provisions of this Guarantee, all the suretyship and other rights which the Guarantor might otherwise be entitled to enforce.

7. This Guarantee shall be enforceable against the Guarantor notwithstanding that any security or securities comprised in any instrument(s) executed or to be executed by the Borrower in favour of the Lenders shall, at the time when the proceedings are taken against the Guarantor on this Guarantee, be outstanding or unrealised or lost.

8. The Guarantor hereby agrees and gives consent to the sale, mortgage on prior, pari passu or second charge basis, release, etc of any of the assets by the Borrower from time to time as may be approved by the Lenders or the transfer of any of the assets of the Borrower from one unit to the other or to the release or leasing out by the Lenders of any or whole of the assets charged to the Lenders on such terms and conditions as the Lenders may deem fit and this may be treated as a standing and continuing consent for each and every individual act of transfer, mortgage or release of any of such assets of the Borrower. The Guarantor hereby declares and agrees that no separate consent for each such transfer, mortgage or release of any of such assets would be necessary in future.

9. The Guarantor hereby agrees and declares that the Borrower will be free to avail of further loans or other facilities from the Lenders or any other financial institution or bank in addition to the said Loan and/or to secure the same during the subsistence of this guarantee and in that event, the guarantee herein contained will not be affected or vitiated in any way whatsoever but will remain in full force and effect and binding on the Guarantor.

10. The rights of the Lenders against the Guarantor shall remain in full force and effect notwithstanding any arrangement which may be reached between the Lenders and the other Guarantor(s), if any, or notwithstanding the release of the other or others from liability and notwithstanding that any time hereinafter the other Guarantor/s may cease for any reason to be liable to the Lenders, the Lenders shall be at liberty to require the performance of the Guarantor of its obligation hereunder to the same extent in all respects as if the Guarantor had at all times been solely liable to perform the said obligations.

11. To give effect to this guarantee, the Lenders may act as though the Guarantor was the principal debtor to the Lenders.

12. The Guarantor hereby declares and agrees that it has not received and shall not, without the prior consent in writing of the Lenders receive any security or commission from the borrower for giving this Guarantee so long as any monies remain due and payable by the borrower to the Lenders under the said Agreement.

13. The Guarantor shall not in the event of the liquidation of the borrower prove in competition with the Lenders in the liquidated proceedings.

14. A certificate in writing signed by a duly authorised official of the Lenders shall be conclusive evidence against the Guarantor of the amount for the time being due to the Lenders from the Borrower in any action or proceeding brought on this guarantee against the Guarantor.

15. This Guarantee shall not be wholly or partially satisfied or exhausted by any payments made to or settled with the Lenders by the Borrower and shall be valid and binding on the Guarantor and operative until repayment in full of all monies due to the Lenders under the said Agreement.

16. This Guarantee shall be irrevocable and the obligations of the Guarantor hereunder shall not be conditional on the receipt of any prior notice by the Guarantor or by the Borrower and the demand or notice by the Lenders, as provided in clause 20 hereof shall be sufficient notice to or demand on the Guarantors.

17. The liability of the Guarantor under this Guarantee shall not be affected by :

- i. any change in the constitution or winding up of the borrower or any absorption, merger or amalgamation of the borrower with any other company, corporation or concern, or

- ii. any change in the management of the borrower or take over of the management of the borrower by Central or State Government or by any other authority; or
- iii. acquisition or nationalisation of the borrower and/or any of its undertaking(s) pursuant to any law; or
- iv. any change in the constitution of the Lenders; or
- v. the absence or deficiency of powers on the part of the Guarantor to give Guarantees and/or Indemnities or any irregularity in the exercise of such powers.

18. This Guarantee shall be a continuing one and shall remain in full force and effect till such time the borrower repays in full the said loan together with interest, commitment charges, liquidated damages, costs, charges and all other monies that may from time to time become due and payable and remain unpaid to the Lenders under the said Agreement.

19. The liability of the Guarantor hereunder shall not exceed the sum of Rs. \_\_\_\_\_ lakhs (Rupees \_\_\_\_\_ lakhs only) plus interest, commitment charge, liquidated damages, costs, charges and other monies payable by the borrower to the lenders under the said Agreement.

20. Any demand for payment or notice under this guarantee shall be sufficiently given if sent by post to or left at the last known address of the Guarantor or his successors or assigns, as the case may be, such demand or notice is to be made or given and shall be assumed to have reached the addressee in the course of post, if given by post, and no period of limitation shall commence to run in favour of the Guarantor until after demand for payment in writing shall have been made or given as aforesaid and in proving such notice when sent by post it shall be sufficiently proved that the envelope containing the notice was posted and a certificate by any of the responsible officers of Lenders that to the best of his knowledge and belief, the envelope containing the said notice was so posted shall be conclusive as against the Guarantor, even though it was returned unserved on account of refusal of the Guarantor or otherwise.

21. The Guarantor doth hereby declare that the Legislature of the State of \_\_\_\_\_ has not fixed any limit under Article 293(1) of the Constitution of India in respect of guarantees given by the State Government from time to time.

IN WITNESS WHEREOF the Guarantor has caused Shri \_\_\_\_\_  
duly authorised in this behalf to put his hand for and on behalf of the  
Guarantor to these presents, the day , month and year first above  
written.

SIGNED BY SHRI \_\_\_\_\_

For and on behalf of President of India/  
Governor of the State of \_\_\_\_\_  
in the presence of :

Signature : \_\_\_\_\_

Designation : \_\_\_\_\_