

### Guarantee cum indemnity

This deed of Guarantee cum Indemnity executed by \_\_\_\_\_ ( Name of co-operative bank) and having its Registered Office at \_\_\_\_\_

\_\_\_\_\_ (hereinafter referred to as the "Guarantor" which expression shall include its executors, administrators, successors and permitted assigns) in favour of **TJSB Sahakari Bank Ltd.**, a Scheduled Multi State Cooperative Bank and having its Registered Office at TJSB House, Plot no. B-5, Road no.2, Wagle Industrial Estate, Thane 400 604 (hereinafter referred to as the "Bank" which expression shall include its successors and assigns)

#### WHEREAS

- A. At the request of the Guarantor, the Bank has sanctioned a Line of Credit of Rs. \_\_\_\_\_ by way of Non Fund Based Limits (Line of Credit) under which the Bank has agreed to issue Guarantees/ Letter of Credits ( Inland / Foreign) on behalf of the constituents of the Guarantor, upon the request made by the Guarantor in this regard from time to time and on such terms and conditions contained herein and also in the Bank's sanction letter dated \_\_\_\_\_ which shall be treated as an integral part of this deed.
- B The Bank has agreed to issue Guarantees/Letter of Credits on behalf of the constituents of the Guarantor, inter alia on the condition that the repayment of the amounts due under the said Guarantees and LCs issued together with interest, commission and all other monies payable thereunder (herein after collectively referred to as the "said Amounts"), shall be guaranteed by the Guarantor and the Guarantor also agreeing to share and pay the Guarantee and LC commission to the Bank as stipulated as per the terms of Bank's Sanction.
- C. The Guarantor has accordingly agreed to guarantee the repayment of said Amounts and also agrees to the terms and conditions contained herein.

#### **NOW IN CONSIDERATION OF THE SAID PREMISES, IT IS HEREBY AGREED BY THE GUARANTOR AS FOLLOWS :**

1. In consideration of the Bank, having at the request of the Guarantor sanctioned the said Line of Credit, under which the Bank has agreed to issue Bank Guarantees and LC's (said Credit Facilities) as long as the Bank may deem fit to

the Constituents of the Guarantor (hereinafter collectively referred to as the "Borrowers" and individually as "Borrower"), as may be recommended by the Guarantor from time to time, the Guarantor hereby irrevocably and unconditionally guarantee the due repayment by the Borrowers and each one of them and further irrevocably and unconditionally guarantee and undertake to pay to the Bank, within 2(two) days of demand, all and every sum and sums of money which are now or shall at any time be owing by the Borrowers to the Bank under the Guarantees and/or LCs anywhere on any account whatsoever, including without prejudice to the generality of the foregoing any monies for which the Borrowers may be liable to the Bank in respect of any sales or purchases of securities or foreign exchange, made by the Bank in reliance upon the written or oral instructions of the Borrowers or the Borrower's officers, servants or agents or any monies owing to the Bank by the Borrowers in respect of any LC's, Indemnities and Guarantees etc. issued/entered into by the Bank, at the request of the Borrowers, or any monies which the Borrowers may be liable to the Bank, in respect of any services, whether in the nature of normal banking business or not, which may have been performed by the Bank in reliance upon the written or oral instructions of the Borrowers or the Borrower's officers, servants or agents, together with the applicable Interest, costs, commissions and other banking charges that the Bank may in the course of its business charge against the Borrowers and all legal and other costs, charges and expenses (including attorneys fees and legal costs on full indemnity basis) that the Bank may incur in enforcing or obtaining payment of any such monies from the Borrowers or occasioned by or incidental to this or in connection with enforcement of any other security held by or offered to the Bank, for the same indebtedness or otherwise.

2. This Guarantee shall be a continuing guarantee for the purpose of securing the said Amounts together with interest thereon, or on such sum as may be due, at the rate of.....  
..... or at such other rate of interest as the Borrowers shall be liable to pay from time to time under the Guarantees and /or LCs issued on behalf of the Borrowers and such penal/additional interest, costs, commissions and other costs, charges and expenses, payable by the Borrowers under the said Credit facilities, that have accrued or shall accrue due to the Bank at any time before or after the date of the demand. The Guarantor shall be liable for interest on all the monies guaranteed hereunder on daily balance basis or at such other basis, compounded at monthly rests, till the date of actual realisation of the dues by the Bank. The Guarantor shall be bound by the rate/s of interest, as may be fixed by the Bank from time to time, for the said Credit facilities sanctioned to the Borrowers. The Guarantor further agree that Bank shall be within its absolute right to fix and revise the rate/s of Interest and the manner of capitalisation of the same, from time to time, in respect of all or any of the said Credit facilities granted to the Borrowers and in this regard the Guarantor agree that notwithstanding anything contained in this agreement or in any other writings to the contrary, any change/revision in the rate of Interest/manner of capitalisation, shall be binding on the Guarantor also, if the same is published/displayed for the general information of public, in a news paper OR on the website of the Bank OR in the notice board of the Branch office of the Bank from where the

Borrowers has availed the said Credit facilities or through entry of interest charged in the statement of Account/Loan Account of the Borrowers. The revised rates of interest/procedure shall be applicable and binding on the Guarantor from the effective date stated in the said publication/display.

3. Guarantor is fully aware that the Bank has agreed to issue LC's and Bank Guarantees on behalf of the Borrowers in favour of various authorities and departments of the Central and State Governments , Semi- Government bodies, local or public bodies, or authorities and various other persons, companies, corporation or bodies corporate, provided the request is made by the Guarantor along with the Borrowers, from time to time and within the time limits stated in the Sanction letter and the total amount of the liability outstanding under all such Guarantees and LC's does not at any one point of time exceed a sum as under:

and subject to the Bank's right to refuse to issue any guarantee or LC at its sole discretion without assigning any reasons for the same.

4. That except in the event of the Bank being restrained by an order for injunction of a competent Court from doing so, Bank shall be entitled, at its discretion and without any reference to the Guarantor or obtaining the consent of Guarantor, to make payment of all or any part of the sum or sums guaranteed by the Bank under or by virtue of all or any of such guarantees and/or LCs on a request of demand being made on the Bank for this purpose there under. Any request or demand made to or upon the Bank by the beneficiary or beneficiaries of all or any of such guarantees/LCs for payment/s of any sum or sums of money shall be sufficient authority from the Guarantor to the Bank for making such Payments.
5. Notwithstanding the possibility, existence, pendency or continuance of any disputes or difference or of any disputes or difference or of any arbitration proceedings or of any suit or other legal proceedings whatsoever in connection with any Guarantee or LC or which may effect the legality or validity of all or any of the guarantees and /or the LC, the reasonableness of propriety or validity of any such payment/s made by the Bank to such beneficiary or beneficiaries shall not be questioned by the Guarantor on any ground whatsoever and such payment shall be conclusive and binding on the Guarantor so far as concerns the Guarantor's liability to the Bank hereunder :-

- i) To pay to the Bank at \_\_\_\_\_ on demand all costs, charges and expenses (the legal costs, being between Attorney/Advocate and client) paid or incurred by the Bank in anywise concerning all or any of such guarantees/LCs and the Bank's obligations and liability there under and concerning this counter guarantee and indemnity and the Bank's rights hereunder
- ii) That the Bank shall be entitled without any further consent from the Guarantor to debit the Guarantor's Account whether Loan or Cash Credit or Overdraft Savings or Current or Fixed or Short Deposit or any other

Accounts whatsoever with the amount of any payment/s the Bank may make under or in respect of all or any such guarantee and LC:

- iii) This agreement of counter guarantee and indemnity shall be irrevocable and shall be binding on the Guarantor and also our executors, administrators, successors and assigns.
  - iv) The Guarantor also agree and undertake to Indemnify the Bank and keep the Bank fully indemnified and saved, defended and harmless in respect of and against each and every payment made and obligation, liability , loss or damage undertaken or incurred or suffered by the Bank (whether directly or indirectly) under or in connection with all or any of such guarantees and LCs
  - v) That if for any reason the Bank is prevented by any action initiated by the Guarantor and/or the Borrower from making payment to the beneficiary concerned, of the guaranteed amount, the Guarantor shall also be liable to pay the Bank, guarantee commission and other charges and interest for the period of delay.
6. In consideration of the Bank agreeing at the Guarantor's request to open Letters of Credit from time to time on behalf of Borrowers also referred to as the "Opener" the Guarantor hereby guarantee the due fulfilment by the Opener of any and every the engagement to the Bank of the Opener under his applications for opening Letters of Credit or in anywise concerning such Letters of Credit and any and every the engagement under any contract for the purchase of foreign currency entered into by the Opener with the Bank in relation to or in connection with the Letters of Credit to be opened by the Bank on behalf of the Opener with the Bank in relation to or in connection with the Letters of Credit to be opened by the Bank on behalf of the Opener(which said applications for opening Letters of Credit and contracts for purchase of foreign currency are hereafter referred to as "the said Contracts") at the rate of exchange applicable . And without limiting the generality of the obligations imposed by this guarantee, the Guarantor doth agree in particulars as follows :-
- i) To pay on demand any sum or sums becoming due or remaining unpaid to the Bank under or in anywise concerning the said Contracts or any of them.
  - ii) The Bank shall be at liberty without in any way affecting the Guarantor's liability under this guarantee to renew, extend, modify , vary or amend the said Contracts or any of them or any terms of terms thereof or any Letter or Letters of Credit or any term or terms thereof and from time to time to renew, hold over or give up in whole or in part bills , notes, mortgages, charges, liens or other securities received or to be received from the Opener either alone or jointly with any other person or persons or from any other person or persons or bearing the name of the Opener or to discharge or to do or suffer any act or omission the legal consequence of which is to discharge or to enter into any composition or compound with or promise to grant time or any other indulgence or not to see either the Opener or any

person or persons liable on any of the said Contracts, Letters of Credit, bills, notes, mortgages, charges, liens or other securities or any person liable as surety or collaterally liable for the Opener or any other person or persons and the Guarantor give its consent to the Bank for so doing at the discretion of the Bank.

- iii) If the Guarantor has or shall hereafter take any security from the Opener in respect of the Guarantor's liability under this guarantee the Guarantor will not prove in the bankruptcy or insolvency or winding up of the Opener in respect thereof to the Bank prejudice and such security shall stand as security for the Bank and shall forthwith be deposited with the Bank.
  - iv) This guarantee shall be enforceable against the Guarantor without regard to any other sources from which the Bank may be entitled to seek payment and without regard to the nature of the defaults involved and notwithstanding that any negotiable or other securities referred to herein or to which it may extend or be applicable shall at the time of proceeding been taken against the Guarantor on this guarantee be outstanding or in circulation.
7. The Guarantor expressly agree that Bank shall have full discretionary power, without any further consent from the Guarantor and without in any way affecting the Guarantor liability under this guarantee, to pay and/or renew all or any of the LC's and/or Bank Guarantees issued on behalf of the Borrowers. Bank shall be at liberty without in any way affecting the Guarantor liability under this guarantee to vary any contract or any term or terms of any contract entered into with the Borrowers and/or to release or discharge and/or to do any act or omission and/or to enter into any composition or compound with or promise to grant time or any other indulgence or not sue, either the Borrowers or any person or persons, liable on any such bills, notes, mortgages, charges, liens, or other securities or any person liable as surety, or collaterally liable for the Borrowers, or any other person or persons otherwise liable to the Bank.
8. In addition to Bank's right of general lien or similar right to which Bank as banker may be entitled by law, Bank shall also have the right at any time or times and without prior notice to the Guarantor to combine/consolidate all or any of the Accounts and Deposits of the Guarantor pending with any one or more of the Bank's branch/es either before or after maturity thereof and/or set off the credit balance due to the Guarantor against the liabilities of the Guarantor under this Guarantee and also against any of the Guarantor liabilities to any one or more of Bank's Branch/es whether as Borrowers or guarantor, without prejudice to the right of the Bank to proceed against the Guarantor for the balance.
9. Bank may hold all securities, goods, negotiable instruments, documents of title to goods or other properties belonging to the Guarantor which are in Bank's possession or which may at any time hereafter come into Bank's possession and Bank may also liquidate any or all of these securities, goods, negotiable instruments, title to goods or properties and other properties etc. without notice to the Guarantor and apply the proceeds thereof towards repayment of the liabilities of the Guarantor under this agreement and also towards liquidation of any of the Guarantor's liabilities to any one or more of Bank's branches whether

as Borrowers or guarantor, without prejudice to the right of the Bank to proceed against the Guarantor for the balance.

10. That in the case of the Borrowers being a firm, this guarantee and the Guarantor obligation hereunder shall not be affected by any change in the constitution of such firm, by death or insolvency of the Partner/s, number of Partners reducing to a single individual etc. and the Guarantor liability under this guarantee shall continue notwithstanding the happening of any of such events.
11. The Guarantor agree that a copy of the account/s of the Borrowers contained in Bank's books of account signed by an officer of the Bank, shall be conclusive evidence against the Guarantor of the amount for the time being due to Bank from the Borrowers in any action or other proceeding brought against the Guarantor upon this guarantee.
12. The Guarantor waive in Bank's favour all or any of the Guarantor rights against Bank or the Borrowers so far as may be necessary to give effect to any of the provisions of this guarantee and the Guarantor agree that the Guarantor shall not be entitled to claim the benefit of any legal consequences of any variation of any contract entered into by the Borrowers with Bank, the liability in respect of which is guaranteed under this deed.
13. The Guarantor will not prove in the bankruptcy or insolvency or winding-up of the Borrowers in competition with Bank.
14. If the Borrowers is a body corporate or an unincorporated body or firm, the absence or infirmity of borrowing powers on the part of the Borrowers or any irregularity in the exercise thereof, shall not affect the Guarantor liability and the said Credit facilities and/or any moneys advanced to the Borrowers at the request of the Guarantor shall be deemed due and owing notwithstanding such absence, infirmity or irregularity. This guarantee shall also not be affected by any change in the name or constitution or death or insolvency or winding up or reconstitution of the Borrowers. Release of the Borrowers and/or the co-sureties or forbearance to sue the Borrowers and/or the co-sureties shall also not affect the obligations of the Guarantor under this Guarantee.
15. Though as between the Guarantor and the Borrowers, the Guarantor is surety for the Borrowers, yet as between the Guarantor and the Bank, the Guarantor shall be deemed to be principal debtor for all the monies, the payment of which is hereby guaranteed and accordingly the Guarantor shall not be discharged nor shall the Guarantor liability be affected by any fact or circumstance or any act, thing, omission or means whatsoever, whereby the Guarantor's liability would have been discharged.
16. The Guarantor also confirm the rights of the Bank to securitise, assign and transfer the said Credit facilities or any of them, granted to the Borrowers (either with or without the underlying securities created by the Borrowers/Guarantor in favour of the Bank) and the Guarantor hereby confirm that the Guarantee/s executed by the Guarantor shall also be assignable/transferable to any Bank/s and/or Financial Institution/s or Special Purpose Vehicle (SPV) or third parties

without giving any notice to the Guarantor and on such terms and conditions as the Bank may deem fit at the Guarantor costs and expenses. While doing so, Bank may either reserve the right to collect the dues and/or to proceed against the Guarantor/ Borrowers on behalf of the purchaser/s/ assignee/s or transferee/s. In the event of Bank assigning, securitising, transferring as above, the Bank/Assignee may if it so desires and at its sole discretion appoint a Trustee or a Company or a SPV for the benefit of such purchasers/assignees and may transfer/assign the securities and the security/loan documents executed by the Borrowers/Guarantor in favour of such Trustee/Company/SPV for holding the same on behalf and for the benefit of the Assignees/Purchasers/Investors and such Trustee/Company/SPV may raise funds for such purchase on the strength of the assigned securities, Borrower's and the Guarantor obligations by issuing Pass Through/Pay Through Certificates, Bonds or other instruments to the Investors on such terms and conditions they may deem fit. While entering into such transactions mentioned above, Bank may if it so desires reserve its rights for repurchase of the said Credit facilities and the securities transferred and may give option to the Purchaser/Assignee/Investors to re-assign the assigned facility and the security to the Bank on such terms and conditions as the Bank may deem fit.

17. Any such securitisation, sale, assignment or transfer and the related actions in respect thereof shall bind the Guarantor and the Guarantor shall accept such Bank/s, Financial Institutions, Trustee/ SPV/Company or Investors or third party/ies as creditor exclusively or as a joint creditor with the Bank, as the case may be. The Guarantor further agree that, consequent to such sale, assignment, transfer, the Guarantor shall be bound by the terms and conditions as may be stipulated by the Assignee/Transferee in respect of the said Credit Facilities including the Rate of Interest which may be fixed by the said Assignee/Transferee from time to time. The Guarantor shall also execute any further documents as may be required by the Bank/Assignee in this connection, for further effecting the said transactions at the Guarantor costs and expenses. The Guarantor shall not be entitled to directly or indirectly assign the benefit or obligation under this Guarantee without the express prior written permission of the Bank.
18. The Guarantor understand that as a pre-condition, relating to grant of the said Credit facilities to the Borrowers, the Bank requires the Guarantor consent for the disclosure by the Bank of, information and data relating to the Guarantor in respect of the obligations assumed/to be assumed, by the Guarantor and default, if any, committed by the Guarantor in discharge thereof. Accordingly, the Guarantor hereby agree and give consent for the disclosure by the Bank of all or any such information and data relating to the Guarantor, the information or data relating to the said Credit facilities and the default, if any, committed by the Guarantor in discharge of the Guarantor obligations, to any Government, RBI, any Bank/FI or authority including the Credit Information Bureau (India) Ltd. and any other agency authorised in this behalf by Reserve Bank of India or the Bank. The Guarantor further confirm and undertake that the information and data furnished by the Guarantor are/shall be true and correct and further agree that the Credit Information Bureau (India) Ltd. and/or any other agency so authorised may use, process the said information and data disclosed by the Bank in the manner as deemed fit by them; and 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. Guarantor further agrees that it shall obtain similar undertaking from Borrowers for whom Bank is issuing Guarantees / Letters of Credit at the request of the Guarantor so that Bank can disclose the details of the Borrowers to the Government/Statutory/Regulatory etc. if so required.

19. The Guarantor are further aware that Bank may also be required to provide information regarding the said Credit facilities and/or the Guarantor details to third parties, pursuant to the provisions of the Right to Information Act or such other similar Acts. Such disclosure made by the Bank to third parties about the Guarantor and/or the Borrowers shall not be objected to or challenged by the Guarantor and the Guarantor further agrees that it shall obtain such consent from Borrowers for whom Bank is issuing Guarantees / Letters of Credit at the request of the Guarantor.
20. The Guarantor further agree that this guarantee shall be a continuing security to Bank and shall not be terminable till the entire dues to the Bank are fully paid to the satisfaction of the Bank and the Bank discharges the Guarantor in writing. This Guarantee can be invoked any number of times in respect of the liability of each Borrower under the Guarantees and/or LCs issued and the same shall not affect the validity of this guarantee.
21. This guarantee shall be additional to any other guarantee for the Borrowers, signed by the Guarantor or any other person, that Bank may at any time hold. That the Guarantee hereby given is independent and distinct from any security that the Bank has taken/shall take in any manner whatsoever and the Guarantor shall have no right to the benefit of any such security that may be held by the Bank until the entire dues to the Bank under the said Credit facilities and any other accommodation provided to the Borrowers shall have been satisfied in full. Further that notwithstanding the provisions of Section 140 and 141 of the Indian Contract Act (1872) or any other provisions of the said Act or any other law, the Guarantor shall not claim to be discharged on account of the Bank's failure to take any security or for losing any security for any reason whatsoever, including reasons attributable to the Bank's default and negligence and to the operation of law. The Guarantor specifically waive the Guarantor rights as a surety available under Section 133, 134, 135 and 139 of the Indian Contract Act or any other law for the time being in force.
22. The Guarantor hereby expressly agrees that, notwithstanding anything contained herein or any other writings, an admission or acknowledgement in writing by the Borrowers or by any person authorised by the Borrowers or by any person authorised to draw on the account of the Borrowers under the said Credit facilities, or a certificate signed by any of the Managers, Agents or other officers of the Borrowers, concerning his/its obligations under the said Credit facilities/loan agreements or of the amount of indebtedness of the Borrowers to the Bank shall be binding on and conclusive as against the Guarantor, in any court of law or otherwise as if such admission or acknowledgement as aforesaid has been given or made or executed by the Borrowers as the Guarantor's agent, the intention being that for all purpose of any claim or demand under this guarantee the Borrowers is/are empowered to give such admission,



acknowledgement and/or consent on the Guarantor's behalf and any consent so given by the Borrowers shall be deemed to have been given by the Guarantor and shall bind the Guarantor in all respects as if the same has been given by the Guarantor in writing on this behalf.

23. A demand in writing shall be deemed to have been duly given to the Guarantor by sending the same by post addressed to the Guarantor at the address registered with the Bank and shall be effectual notwithstanding any change of residence or death and notwithstanding notice thereof to the Bank, and such demand shall be deemed to be received by the Guarantor as the case may be 24 hours after the posting thereof and shall be sufficient if signed by any official of the Bank, and in proving such service it shall be sufficient to prove that the letter containing the demand was properly addressed and posted.
24. The Guarantor have the power to execute this Guarantee as per the Guarantor's constitutional documents and permissions if any required from Co-operative Registrar and/or from RBI or from any other authority for availing the said line of credit and for executing this guarantee have been obtained and executant/s have been empowered by resolution no.....dt..... of the Board of directors of the Guarantor, for executing this Guarantee.

Executed at .....on this .....day of.....20....

Address: