

FORM OF GENERAL AGREEMENT FOR AVAILING OF REFINANCE FROM THE INDIA INFRASTRUCTURE FINANCE COMPANY LIMITED (IIFCL) IN RESPECT OF LOANS TO INFRASTRUCTURE PROJECTS

MEMORANDUM OF AGREEMENT made at _____ this the _____ day of _____ 20____ between (Name of lending bank . (*As per Annexure +A+) _____ having its registered/principal/head office at _____ (hereinafter referred to as %the Bank+) of the one part and the India Infrastructure Finance Company Limited, a company incorporated under the Companies Act, 1956 with its Registered Office at 1201-1207, %Naurang House+, 21, Kasturba Gandhi Marg, New Delhi . 110 001 (hereinafter referred to as %IIFCL+) on the other part.

WHEREAS

1. The Bank is desirous of granting loans and advances to its constituents for the purpose of the infrastructure projects set up/ to be set up by them and is desirous of applying to IIFCL for refinance of the loans and advances granted to %infrastructure projects+in road and port sectors on such terms and conditions as may, from to time, be agreed to between the Bank and IIFCL.
2. The Bank has requested IIFCL to refinance such loans and advances to the infrastructure projects on terms and conditions to be mutually agreed upon.
3. IIFCL has agreed to grant refinance to the Bank in respect of such loans and advances to the infrastructure projects upon the terms and conditions hereinafter appearing.

NOW IT IS HEREBY AGREED by and between the parties hereto as follows:

1. IIFCL may in its absolute discretion but without any obligation on its part to do so, sanction refinance to the Bank in respect of loans and advances granted by the Bank whether before or after the date of this agreement, as mentioned above, for the purpose of their infrastructure projects (hereinafter referred to as %the said loans+) to such an extent and on such terms and conditions as IIFCL may from time to time decide.
2. The refinance sanctioned by IIFCL in respect of the said loans shall be disbursed in accordance with a schedule of disbursement wherever stipulated by IIFCL in its letter of sanction in respect of each of the said loans (hereinafter referred to as %the said letter of sanction+). The refinance shall be repaid by the Bank in accordance with the schedule of repayment indicated by the Bank in its letter of request for disbursement or in a subsequent letter and accepted by IIFCL or as may be stipulated by IIFCL in its absolute discretion, as the case may be. The said schedule of disbursement and of repayment may be varied by mutual agreement.
3. i) The refinance shall bear interest at the lending rate of IIFCL for refinance prevailing on the date of sanction of the said refinance. The interest shall be payable monthly as on the last day of each calendar month. IIFCL shall have the right to alter from time to time the periodicity and the dates, at its discretion, for payment of interest.

ii) Notwithstanding the foregoing, the Bank shall pay to IIFCL interest at such other rate(s) as shall, from time to time, be fixed by IIFCL and intimated to the Bank but so that such rate(s) shall not, at any point of time exceed the rate at which term loans are advanced by Banks.

Provided that in the event of increase in the rate(s) on interest:

- a) the Bank shall have an option to prepay to IIFCL forthwith on receipt of such intimation the entire outstanding of the refinance together with all outstanding interest thereon and ;
- b) in the alternative, the Bank shall have an option to make such prepayment together with interest, at the increased rate(s) as intimated, till payment, at any time during a period of two years after receipt of such intimation.

4. The Bank undertakes .

- a) that without the prior approval in writing of IIFCL, it shall not, during the currency of this Agreement, increase the effective rate of interest on the said loans refinanced by IIFCL;
- b) that where the refinance or part thereof has been availed of at the concessional rate of interest of IIFCL for refinance, it shall not charge to the concerned constituent, interest on the said loans or part thereof, in excess of the rates specified by IIFCL at the time of sanction of refinance;
- c) that in the event of its charging to any constituent in respect of the said loans or any part thereof, interest in excess of the said rate of interest as specified by IIFCL at the time of sanction of the refinance, it shall refund to IIFCL in every such case the amount of difference between the rate of interest charged by the Bank and ceiling rate of interest specified by IIFCL in the letter communicating the sanction of the said refinance.

It is further mutually agreed that the provisions at (b) and (c) above would not be applicable when such additional interest is charged by the Bank by way of penal interest and/or payments/repayment of the interest/instalment(s) of principal or other amounts due and payable by the borrowing infrastructure projects provided the Bank repays the corresponding refinance instalments to IIFCL in due date(s).

5. The terms of the Bank's applicable for refinance in respect of the said loans (each of which application is hereinafter referred to as ~~the Bank's~~ application) are hereby declared to constitute the basis of this Agreement and of the refinance granted hereunder.

6. The Bank undertakes that, except to the extent otherwise indicated in writing by IIFCL, all amounts received by it from the constituent in repayment of the said loans shall be applied by it forthwith in repayment of the relative refinance that, pending such application, shall be held by the Bank for and on behalf of IIFCL.

7. The Bank shall hold the securities mentioned in the Bank's Application (including the properties; particulars whereof are given in the Security documents) as security for refinance. The Bank declares that the security documents to be obtained by it shall not contain provision for repayment of the said loans on demand except under certain circumstances when the borrowing unit/s has/have committed default in repayment of the said loans or any part thereof on due date/s or otherwise committed any breach of agreement.

8. The Bank agrees and undertakes that if and whenever it realises the said securities (including the properties) referred to in clause 7 above or any part thereof, it shall forthwith pay over to IIFCL all such realisations to the extent required to repay and Bank's obligations hereunder and shall, pending such payment, hold all sums so realised for and on behalf of IIFCL.
9. The Bank agrees:
 - a) that it shall not allow on any account of the constituents any operation inconsistent with the said loans or likely to jeopardise the said loans;
 - b) to inspect periodically the concerns of the constituents and to submit a report of such inspections to IIFCL, once a year, unless otherwise required by IIFCL, indicating the progress made by the concerns and whether the said loans have been utilised by the constituents for the purpose for which they were granted;
 - c) to furnish to IIFCL all such information as IIFCL may require from time to time regarding the constituents or about the Bank itself, particularly regarding the account or accounts maintained by it / them with any bank;
 - d) to furnish to IIFCL whenever called upon to do so by IIFCL copies of all security documents obtained by it as security for the said loans;
 - e) that IIFCL shall have the right to inspect the refinanced loan accounts in its books.
10. The Bank agrees that notwithstanding anything contained in this Agreement, IIFCL shall have the right by notice in writing to require the Bank forthwith to discharge in full or in part its liabilities to IIFCL in respect of any of the said loans refinanced by IIFCL, whether due or not, upon the happening of any of the following events, viz.
 - a) the Bank committing any default in making any payment or repayment in accordance with this Agreement or any other agreement between the Bank and IIFCL;
 - b) the Bank committing any breach or default in the performance or observance of this Agreement and/or the Bank's Application and/ or the provisions of the Refinancing Scheme and/or any instruction is issued by IIFCL from time to time;
 - c) the Bank's Application or any enclosure thereto containing any false or untrue statement or information, turning out to be wrong or untrue as a result of supervising circumstances.
 - d) the borrowing unit has committed breach of any terms of the Concession Agreement, wherever applicable, and the said Concession Agreement has been terminated by the Statutory Authority.

On the question whether any of the above events has happened, the decision of IIFCL shall be final, conclusive and binding on the Bank and IIFCL shall be at liberty to advise Reserve Bank of India or any other bank with which the Bank maintain its account or accounts to debit such account or accounts, as IIFCL may specify, with the amount to be paid, and to pay the same to IIFCL. This will be without prejudice to the right to IIFCL to recover the amount directly from the Bank or where necessary, by resorting to set off dues against proceeds or refinance to be disbursed to the concerned Bank.

11. The Bank undertakes also that any debit made by the Reserve Bank of India or by any other bank with which the Bank maintains an account or accounts, in pursuance of an advice received from IIFCL shall, as between the Bank and the Reserve Bank of India or the aforesaid bank or banks a copy of this clause and the preceding clause, authenticated by IIFCL, and that thereupon, this clause and the preceding clause shall have the effect as a mandate given by the Bank directly in favour of the

Reserve Bank of India or the aforesaid bank or banks which shall not be revocable by the Bank without the prior consent in writing of IIFCL.

12. The Bank shall, notwithstanding any enquiry made by or information furnished to IIFCL in respect of the credit of its constituents, remain always liable as a principal debtor to IIFCL for due repayment of any refinance granted by IIFCL in respect of the said loans. The Bank also agrees that in case it fails to repay on due date(s) the instalments of refinance and/or to pay interest accrued on refinance and/or commitment charge on undrawn refinance as may be claimed by IIFCL, IIFCL shall have the right to recover from Bank interest/additional interest on the amount(s) of default by reason of the non-payment of the dues as above. Such interest/additional interest shall be subject to the following:
 - a) The additional interest recoverable on defaulted instalments of refinance shall not exceed 2% p.a. over and above the rate of interest applicable in respect of the overdue instalment(s) had there been no default(s); such additional interest recoverable from the Bank being reckoned for the entire period of default i.e. from the date(s) on which the instalment(s) fell due for payment till the same is (are) actually paid.
 - b) The interest on the defaulted amounts of interest/commitment charge shall not exceed 2% p.a. over and above the normal lending rate of IIFCL for refinance prevailing on the date of default. Such interest shall be recoverable from the Bank and shall be reckoned for the entire period of default, i.e. computed from sixteenth day from the date of the intimation of IIFCL (advising the amount due by way of interest/ commitment charge) till the date the same is actually paid.
13. The refinancing Scheme, the instructions/circulars issued by IIFCL from time to time and the said Letter of Sanction be deemed to form part of this agreement.
 1. # Please furnish copy of the relevant Rules/Notification/Orders authorising the official/s concerned to borrow money and execute the agreement for and on behalf of the Bank.
 2. # Please furnish Photostat/certified true copy of the power of attorney in favour of the official/s concerned authorising the official/s to borrow money and execute the agreement for and on behalf of the Bank.
 3. Please note that this Agreement is to be stamped as on Agreement under Article 5 of the Schedule I, to the Indian Stamp Act, 1899 (Subject to local modification/amendment), before execution by the Bank.
 4. Please ensure that all altercations/cancellations/overwriting/ erasures etc. are authorised under the full signature of person/ persons authorised to sign the document.

**WHERE THE FINANCING INSTITUTION EXECUTES
THE DOCUMENT UNDER SEAL**

IN WITNESS WHEREOF the Bank has caused it common seal to be affixed hereunto on the day and year first hereinafter written.

The Common Seal of

(the Bank)

was hereunto affixed
pursuant to the resolution
passed by its Board
of Directors at their meeting
held on 20
in the Presence of Shri
and Shri
Directors
Who have signed these presents in token thereof
and Shri
Secretary who has countersigned the
same in token thereof.

(Common Seal)

Director

Director

Secretary

Note: Certified copy of the Resolution of the Board of Directors, authorising execution of this agreement by the Director/s concerned and/or under the common seal should be furnished.

IN WITNESS WHEREOF the parties to the MOU have set its hand hereunto through its authorized official(s) / duly constituted attorney(s) Shri/ Sarvashri

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on the day and year first hereinabove written.

Signed and delivered by the
said _____
(the Bank) by the
hand of its @ authorized official(s)

\$

duly constituted attorney(s)

1. _____
(Signature)

2. _____
(Signature)

Authorised Officials

Duly constituted Attorneys

Signed and delivered by the
said _____
(Indian Infrastructure Finance Company Limited)
by the hand of its @ authorized official(s)

ANNEXURE A+

For PSU Banks A body corporate constituted under the provisions of the Banking Companies (Acquisitions and transfers of Undertakings) Act, 1970/1980 _____

For State Bank of India A body corporate constituted under the provisions of the State Bank of India Act 1955 _____

For Associate Banks of SBI A body corporate constituted under the provisions of the SBI (Subsidiaries Bank) Act, 1959 _____