

DRAFT TRUST DEED

(Provident Fund)

DECLARATION OF TRUST is made this..... day of..... 2007, between..... having its registered office at..... (hereinafter called 'the Company') of the One part and (1) Shri....., (2) Shri..... and, (3) Shri..... (hereinafter called 'the Trustees') of the Other Part.

WHEREAS THE COMPANY intends to creating a Provident Fund for the benefit of the employees; AND WHEREAS it is necessary to execute a declaration of trust in respect of the contribution of the company and of the members to the fund.

THIS DEED WITNESSETH AND IT IS HEREBY AGREED AND DECLARED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. That the above-named persons, namely (1) Shri....., (2) Shri..... and, (3) Shri..... are hereby appointed as the first trustees for administering the Provident Fund of the Company and the income thereof as provided in the Provident Fund Rules of the Company (hereinafter called the Rules) in force for the time being.

2. That the trustees shall stand possessed of the existing fund as also all contributions made in future time to time with all accumulation to the said fund upon trust for the benefit of the employees of the company who are covered under the Rules.

3. In these presents, unless there is anything repugnant to the subject or context:

(a) "The Fund" means the Provident Fund constituted by these presents.

(b) "Member" means an employee of the company subscribing to the Fund.

(c) "Subscription" means any sum credited by or on behalf of a member out of his salary to his individual account but does not include any sum credited as interest.

The company by way of employer's contribution for credit to the member's account, but does not include any sum credited as interest.

(d) "The Balance to the Credit of a Member" means the total amount to the credit of a member to the Fund at any time.

(e) "The Accumulated Balance due to a member" means the balance to the credit of the Member's Provident Fund Account or such portion thereof as may be claimable by him on the day he ceases to be a member of the Fund.

(f) "Year" means the period of twelve calendar months from the 1st of July to the 30th June or such other period of twelve months as the Company may from time to time adopt for making up its own accounts.

(g) "Salary" includes dearness allowance and commission, if the terms of employment so provide, but excludes all other allowances and perquisites.

4. That this Trust shall not be revocable except with the consent of all the members to the Fund.

5. That the money for the time being constituting the Fund shall be invested by the Trustees in such manner as may be specified from time to time by the Income-tax Rules, 1962.

Provided that in execution of the Trust and in the performance of his duties and powers hereunder conferred no trustee shall be made liable for any loss caused to the trust arising by reason of any improper investment made *bona fide* and in good faith or for the negligence or fraud of any agent employed by them or by reason of any error of judgement or act, default, mistake or omission done in good faith and under *bona fide* relief by any trustee or by reason of any other matter or thing except wilful and individual wrong or fraud on the part of the Trustee or for breach of trust who is sought to be made

liable.

6. (i) The number of trustees at all times shall be three.
- (ii) One of the trustees shall be nominated by the Board of directors of the company, who may be either a director or an officer of the company. The other two trustees shall be elected from among the members of the Provident Fund.
- (iii) The nominees of the Board of directors of the company shall be the Chairman of the Trust.
The Trustees other than the nominee of the Board of directors shall be elected by ballot by members hereof and shall hold office as Trustees for 3 years, unless their seat become vacant earlier under Clause 7 hereafter.
- (iv) The nominee of the Board of directors of the company shall hold office until a new representative is appointed by the Board of directors to take his place.

7. The place of a trustee shall become vacant if a Trustee (a) dies, or (b) resign his office, or (c) is adjudged an insolvent, or (d) becomes of unsound mind, or (e) is convicted of an offence involving moral turpitude, or (f) in the case of a nominee of the Board of directors of the company ceases to be a director or an officer of the company and in the case of an elected trustee ceases to be a member of the fund, or (g) fails to attend three consecutive meetings of the trustees for any reason which the trustees do not consider to be satisfactory.

8. (i) Any casual vacancy under Clause 7 above shall also be filled by holding a fresh election, in case the vacancy occurs in a seat held by an elected trustee.
 - (ii) If a seat of an elected trustee remains vacant for more than one month, the Board of directors of the company may fill the casual vacancy by appointing a trustee from among the members for such period as the election does not take place.
 - (iii) The person elected or nominated to a casual vacancy shall be a trustee for the residue of the term for which the person whose place he fills would have been a trustee.
9. (i) The trustees may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. The Chairman and an elected trustee shall form a quorum. Questions arising at any meeting shall be decided by a majority of votes and in case of equality of votes the Chairman of the Trust shall have a casting vote.
 - (ii) A resolution in writing signed by all the trustees for the time being shall be as valid and effectual as if it had been passed at a meeting of the Board of Trustees duly called and constituted.
10. (i) The Board of Trustees shall be authorised to delegate any of their powers to such one or more of themselves as they may think fit, from time to time, and they may vary, alter, or rescind such powers or any of them as they from time to time think fit.
 - (ii) No act or proceedings of the trustees shall be invalidated merely by reason of the existence of a vacancy among the trustees.
 - (iii) The trustees shall cause proper minutes to be kept and entered in hand, in a book provided for the purpose, of all their resolutions and proceedings and any such minutes of any meeting of the trustees, if purporting to be signed by the Chairman of the trustees shall be receivable as *prima facie* evidence of the matters stated in such minutes.

11. The Fund shall be exclusively managed and administered by the Trustees in accordance with these rules, and the decision of the trustees upon any question relating to the fund or any rights or benefits in connection therewith or generally upon the interpretation of any provision of these rules shall be absolutely final and binding on all members, their executors, administrators, representatives, widows, or relatives and the employers.

The costs, charges and expenses of administering the fund and of the determination of any question arising under these rules or otherwise, including expenses incurred by the trustees in the discharge of their duties shall be charged to the fund and may be properly paid therefrom, from time to time.

Any decision of the trustees may be given under the hand of any one or more of them.

12. The trustees shall have power to employ any person or persons (including any one or more of their numbers) to do any secretarial, legal, accountancy or other work which they may consider necessary or expedient in connection with the management of the fund and to pay therefor in addition to all other proper disbursements, all ordinary or reasonable charges out of the fund.

13. (i) Every member shall subscribe to the fund at the rate of 10 per cent of his monthly salary and such percentage shall be deducted from his salary, at the time of payment thereof and shall, as soon as practicable, be paid to the trustees who shall credit the same to the account of the member in the books of the Fund.
- (ii) The monthly contribution payable by the company in respect of each member shall be equal to the subscription payable by each member.
- (iii) It shall be open for members to pay additional subscription to the Fund which shall be a definite proportion of his salary for that year as provided in the "Rules".

14. Subject to the previous approval by the Commissioner of Income tax, the trustees shall, with the approval of the Board of directors, be competent to vary, alter, omit, modify or add to the "Rules" of the Provident Fund.

15. The Trustees shall maintain an account of provident fund for each member of the fund and it shall include the particulars prescribed in sub-rule (2) of Rule 74 of the Income-tax Rules, 1962, and such other particulars as the Trustees hereof may, from time to time, deem necessary and expedient.

The Trustees shall furnish a statement of Provident Fund account to each member at such interval, not exceeding 12 months, in such form as the Trustees may prescribe. It shall be the duty of every member to verify the correctness of the statement as and when it is furnished to him and to bring the discrepancy, if any, to the notice of the Trustees. Such a statement shall be signed by the Trustees or by any other person specially authorised by the Trustees in this behalf.

16. The accounts of the Provident Fund Trust shall be made for each year and shall be duly audited by the auditors appointed by the Trustees with the approval of the Board of directors of the company. There shall be an annual meeting of the trustees after the close of the year and at such annual meeting of the trustees the audited accounts of the previous year of the Fund shall be presented and passed.

17. All matters of procedures and other ancillary matters not herein specifically provided for and requiring the framing of rules shall be regulated by such rules as the trustees may, in consultation with the Board of directors of the company, from time to time, make in that behalf.

Without prejudice to the general powers conferred or implied in the last preceding sub-clause, the Trustees may, in consultation with the Board of directors of the company make rules:

- (i) regarding the advance of loans to the members,
- (ii) regarding the mode of election of the Trustees, and
- (iii) regarding the conduct of the meetings of the Trustees.

18. The Trustees shall respectively be indemnified for and against all liabilities incurred by them in *bona fide* execution of the Trust hereof.

IN WITNESS WHEREOF the parties hereto have duly executed this Trust on the date, month and year first above written.

The Common Seal of the above named company was, pursuant to the resolution of the Board of Directors of the Company passed in this behalf on....., affixed hereunto in the presence of the authorised director of the company, who has hereunto set his hands in the presence of:

WITNESS:

for COMPANY

(DIRECTOR)

SIGNATURE OF TRUSTEES

- 1.
- 2.
- 3.