

DRAFT TRUST DEED

(Pension 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 Pension 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.

THIS DEED WITNESSES AND IT IS HEREBY AGREED AND DECLARED BY AND BETWEEN THE PARTIES THERETO AS FOLLOWS:

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

2. That the Trustees shall stand possessed of the existing Fund, Investments, as also all contributions made in future, from time to time, with all accumulations to the said Fund upon trust for the benefit of the employees of the Company.

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

- (a) "The Fund" means the Pension Fund constituted by these presents.
- (b) "Member" means an employee of the Company who has been admitted to the benefits of the membership of the Fund. Provided however that a director of the company may be admitted to the benefits of membership of the fund only if he is a whole-time *bona fide* employee of the Company and does not beneficially own shares in the company carrying more than 5% of the total voting power.
- (c) "Salary" includes dearness allowance if the terms of employment so provide but excludes all other allowances and perquisites.
- (d) "Service" means the period of paid employment with the company which has been specifically declared by the company as having been satisfactory. Leave sanctioned without pay except on grounds of sickness or study will not count towards the total service, but the period of such leave will not be treated as an interruption in the continuity of service.
- (e) "Wife" means a woman to whom the member of the fund was married on the date of his becoming eligible to a pension and in whose favour a nomination has been lodged with the Trust.
- (f) "Completed Years of Service" - 'N' is the integral quotient obtained by dividing by 12 the total service as an employee in terms of months, leave without pay other than on grounds of sickness or study for total service, if any, not counting.
- (g) "Terminal Leave" means leave as defined in Rule (.....) of the "Company Leave Rules 19.....".
- (h) "Year" means the period of 12 calendar months from 1st July to 30th June or such other period of 12 months as the company may, from time to time, adopt for making up its own accounts.

4. This Trust shall not be revocable except with the consent of the members of 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.

6. The Employee permitted to retire at any age after attaining the age of 55 (fifty five) years shall be eligible for pension provided he has rendered not less than 120 calendar months of continuous service

with the company as an employee. The Pension to the employee shall commence from the date immediately following the expiry of the period of any *terminal leave* where it is granted to him on full pay or from the date immediately following his retirement where it been granted cash compensation for the said leave.

7. The amount of pension payable to an employee shall be a monthly pension of N/60 of the average monthly salary drawn by him during the 36 complete calendar months preceding the date of retirement, 'N' as defined in para 3(f) above being limited to 30. The amount of pension shall not exceed the monthly ceiling of Rs.1500/-.

8. The pension granted by the company shall be for life. However, where an employee, who has been granted a pension dies before the expiry of 20 years from the date of the commencement of pension, the pension from the date of his death for the balance of 20 years shall be paid firstly to his wife provided she does not re-marry, and, secondly, if she re-marries or dies, to his children at the rate at which the deceased employee was entitled.

9. An employee who having served the company for not less than 10 completed years of service as an employee becomes mentally or physically incapacitated and is medically declared unfit for further service with the company, may be granted by the company an invalid pension calculated on the same basis as provided under clause 7 hereof and subject to the same monthly ceiling as provided in the said clause, even though the employee has not attained the age of 55 years. Such an invalid pension will be subject to review every year and may be reduced or stopped at the sole discretion of the Board of directors of the Company.

10. If an employee dies while in service but after 10 years of completed service as an employee or dies while in receipt of invalid pension then his wife or minor children may at the sole discretion of the Board of Directors be sanctioned by the company a family pension of an amount not exceeding the pension which the employee would have been eligible to have had he retired after attaining the age of 55 years and having rendered the same number of completed years of service as provided under clause 7 hereof and subject to the same monthly ceiling as provided in the said clause. Such a pension shall be subject to review every year and may be reduced/stopped at the sole discretion of the Board of directors of the company.

11. The trustees may allow commutation of pension granted under clauses 6 and 7 hereof in the following manner:

- (a) in a case where the employee receives any gratuity, the commuted value of one-fourth pension which he is normally entitled to receive, and
- (b) in any other case, the commuted value of one-third of such pension;

such commuted value being determined having regard to the age of the recipient, state of his health, the rate of interest, and officially recognised tables of mortality.

12. (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 amongst the members of the Pension Fund.
 - (iii) The nominee 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 becomes vacant earlier under Clause 13 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 charge.

13. The place of trustee shall become vacant if a trustee (a) dies, or (b) resigns 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 a 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.

14. (i) Any casual vacancy under clause 13 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.
15. (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.
16. (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 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 *prime facie* evidence of the matters stated in such minutes.

17. 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.

18. 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 therefore in addition to all other proper disbursements, all ordinary or reasonable charges out of the fund.

19. The trust property shall consist of such yearly and other contribution as the company may make to the trust or such other sums as the company shall from time to time, determine provided that the annual contribution by the company to the fund in respect of any particular employee shall not exceed 25% of his salary for each year as reduced by the company's contribution, if any, to any provident fund (whether recognised or not) in respect of the same employee for that year.

Interest, dividend or other accretions from investments and deposits of the Fund hereby established; and

Any Securities or other investments of the Trust money.

20. 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 Pension Fund.

21. The accounts of the Pension Fund 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.

22. All matters of procedures and other ancillary matters not herein specifically provided for and requiring the framing of rules including for the election of trustees and for conduct of their meetings 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.

23. 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 directors of the company, who has hereunto set his hands in the presence of:

WITNESS:

for COMPANY

- 1.
- 2.
- 3.
- 4.

(DIRECTOR)

SIGNATURE OF TRUSTEES

- 1.
- 2.
- 3.