

**NCR PLANNING BOARD
TERMS AND CONDITIONS OF SANCTION**

1.0 AGREEMENT

- 1.1 Before release of the loan installment, the Borrower shall execute a Memorandum of Agreement (MOA) in the form prescribed by National Capital Region Planning Board hereafter referred to as 'the Board' for the purpose of availing loan and submit all other documents as required within 30 days of the date of letter of sanction of loan. However, in case the Borrower applies before the expiry of 30 days with valid reasons, the Board reserves the right to give a time extension.

2.0 RATE OF INTEREST

- 2.1 The Borrower shall pay interest on the said Loan at the rate of interest prevailing on the date of each disbursement. The current rate of interest is% (without incentive & rebate). A total incentive of 0.25% in the form of reduction of interest rate shall be available towards timely payment of loan installments (Principal & interest) strictly as per repayment schedule. The interest in favour of the Board shall begin to accrue from the date of cheque issued by the Board. The installment of interest will be payable annually and shall accrue from the date of disbursement by the Board and shall be payable on the anniversary date every year. The amount of interest payable will be calculated at the applicable rate upto the date immediately preceding the due date of payment. Computation of interest shall be made on a daily basis using a factor of 365 days.
- 2.2 Notwithstanding anything stated herein above, the Board shall be at liberty and shall have the right to revise the rate of interest on the loan amount or part thereof yet to be disbursed by giving prior written notice to the Borrower of such revision. For this purpose, rate of interest on the loan shall be linked to the rates of 10- year Government Securities prevailing on the date of sanction of the Project by the Project Sanction and Monitoring Group of the Board and there shall be no revision in the interest rate till increase of 50 basis points thereto. The Board, however, reserves the right to revise the rate of interest on loan amount, if the increase is over 50 basis points. The revised rate shall take effect from such date as may be specified by the Board in this behalf. In case the Borrower does not agree to the reset rate, the Borrower shall have the option to prepay the entire loan amount alongwith pre-payment charges.

3.0 REPAYMENT OF LOAN

- 3.1 The loan shall be repaid by the Borrower annually on or before the anniversary date of the drawal as per the schedule placed at Appendix -I.

4.0 PENALTY, PRE-PAYMENT CHARGES, COMMITMENT CHARGES ETC.

- 4.1 In the event of the interest or the principal not being paid to the Board by the Borrower on the due date as indicated in the foregoing clauses, the Borrower shall pay to the Board a penal interest of 2.75% over and above the rate of interest at which the loan is sanctioned as mentioned in Appendix-I.
- 4.2 Under normal circumstances the Board shall not accept prepayment more than 25% of the loan component released (till the date of proposed prepayment) for the particular project. In the event of a Borrower deciding to pre-pay the loan after withdrawal of one or more installments, the Borrower will pay a pre-payment charge @ 1% of the principal loan amount outstanding. Prepayment shall not be accepted during the moratorium period of the Project. Notwithstanding anything stated above, it is stipulated that for cases with litigation or where the Project is completed before the schedule and the borrower is getting huge cash inflow etc., it will be at the discretion of the PSMG to accept prepayment more than 25% on the case to case basis.
- 4.3 The Borrower shall also pay on demand all costs, charges, expenses, losses and other money that may be incurred by the Board, in connection with remittance/ receipt of moneys to or to the order of or from the borrower, or in connection with protecting and/or enforcing the rights of the Board under the Memorandum of Agreement and/or Guarantee Deed and/or any other document for the loan in question. The decision of the Board with regard to the amount/loss incurred on these, shall be final and binding on the Borrower.
- 4.4 There shall be Commitment Charges on non-drawal and delayed drawal of loan. Accordingly commitment charge @ 0.05%per annum will be levied on non-drawal and delayed drawal of loan after sanction as per instalment. The commitment charges shall be levied only after loan sanction and shall be leviable after six months from due date of instalment as per sanction order, in case of road projects and after one year of the same in other cases.

5.0 APPROPRIATION OF AMOUNT PAID BY THE BORROWER

- 5.1 The money paid by the Borrower shall be appropriated in the following order:
- a) Costs, charges, expenses, losses, applicable taxes, statutory duties and other moneys,

- b) Interest on costs, charges, expenses, losses, applicable taxes, statutory duties and other moneys,
- c) Penal interest,
- d) Interest,
- e) Repayment of principal in the order of the occurrence of the dues; &
- f) Prepayment of principal.

6.0 ALL PAYMENTS TO BE RELALISABLE AT PAR IN NEW DELHI

6.1 The Borrower shall so arrange that the amounts due and payable to the Board are realizable by the Board at par on the due date of the relevant payments in New Delhi.

6.2 In case the standard due date falls on a Saturday, Sunday, or a public holiday the payment made on the next working day following Saturday / Sunday or a public holiday shall be regarded as payment on the due date and no interest/ penal interest shall be charged for the day or days by which the recovery is postponed.

7.0 ENVIRONMENT AND SOCIAL SAFEGUARDS COMPLIANCE

7.1 The Borrower shall comply with the Environmental Policy of NCRPB and shall provide evidence to the satisfaction of NCRPB showing that the Project is in accordance with the standards including Environmental Impact Assessment and Mitigation Plan, Resettlement and Rehabilitation Plan for adversely affected and /or displaced population for this Project.

7.2 The Borrower shall remain in compliance with the Environment and Social Assessment Report.

7.3 The Borrower shall remain in compliance with the Environmental Management Plan and in the event that the NCRPB requires modifications to the Environment Management Plan, the Borrower upon notice, by NCRPB unconditionally undertakes to comply with the modifications in the Environment Management Plan for the Project as may be required by NCRPB.

7.4 The Borrower shall remain in compliance with the Resettlement and Rehabilitation Action Plan and in the event that the NCRPB requires modifications to the Resettlement and Rehabilitation Action Plan, the Borrower upon notice, by NCRPB unconditionally undertakes to comply with the modifications in the Resettlement and Rehabilitation Action Plan for the Project as may be required by NCRPB.

8.0 GUARANTEE AND SECURITIES:

8.1 The loan shall be guaranteed fully, unconditionally and irrevocably either by the State Government (not less than 100%) or by the any scheduled commercial bank (not less than 133.33% of the loan amount) as per provisions under NCRPB Rules, 1985 in respect of repayment of principal, interest leviable, service charges thereon, penal interest and payment of other charges such as recall charges, pre-payment charges and deferment charges (if applicable) and the State Government or any of the Banks as aforesaid shall execute the Guarantee Deed/ Guarantee Bond in the form prescribed by the Board for this purpose.

OR

CHARGE ON ASSETS:

I. The loan together with all interest (including penal interest), costs, expenses and other moneys whatsoever stipulated in the Memorandum of Agreement shall be secured by:

- a) a first charge, by way of mortgage with reference to stipulated immovable properties in favour of the Board;

AND

- b) a first charge by way of hypothecation in favour of the Board of all the Borrower's movable assets (save and except book debts), including movable machinery, machinery spares, tools and accessories, fuel stock, spares and material at project sites (_____), during the course of implementation of the Project.

The Borrower shall make out a good marketable title of its properties to the satisfaction of the Board and comply with all such formalities as may be necessary or required for the said purpose.

II. Creation of additional security: The Borrower undertakes that if, at any time during the subsistence of this Agreement, the Board is of the opinion that the security provided by the Borrower has become inadequate to cover the balance of the loan then outstanding, the Borrower shall provide and furnish to the Board additional security as may be acceptable to the Board to cover such deficiency.

III. Registration of charge: The Borrower shall submit the particulars of the charge/s to be registered with the Registrar of companies (ROC) as per the Companies Act and will get the same registered within stipulated time. In

compliance of this requirement, the Borrower shall submit a certificate from the ROC certifying the registration of charge/s.

And/or

The borrower shall have the particulars of charge/s registered with the Sub-Registrar of Assurances in case of English Mortgage wherever executed.

8.2 The borrower shall open an Escrow Account for the entire pendency of the loan to the satisfaction of the NCRPB, if required by NCRPB in its sanction conditions. In such cases the Escrow mechanism shall be fully implemented by the borrower.

9.1 MAINTENANCE OF ACCOUNTS AND AUDIT :

9.1 The Borrower shall maintain proper separate accounts and other records in respect of NCRPB Scheme so that in flow, out flow and utilization of expenditure on each project can be identified. Board reserves the right to ask for these records, if required.

10.0 CONTROL OF EXPENDITURE:

The implementing agencies shall be responsible for the control of expenditure against the sanctioned loan and appropriations placed at their disposal. The state government shall adhere to the due standards of financial propriety and ensure that the expenditure does not exceed the budget allocation and is incurred for the purpose for which funds have been provided and the expenditure is in public interest.

11.0 PROCUREMENT OF GOODS AND SERVICES:

The borrower shall ensure transparency, competition, fairness and elimination of arbitrariness in the procurement process, tender evaluation and contract award to secure the best value for money. The state Governments shall also ensure efficiency, economy and accountability in the system at every stage of project implementation till the completion of the project.

12.0 INSPECTIONS :

12.1 It would be open to the Board to depute its Officers/nominees for inspection of record relating to this loan and its purposes. The inspecting staff shall be

provided full access to such books, records and stores of the Borrowers as will be deemed necessary by the inspecting Officers/ nominees. The Borrower shall extend all courtesy and facilities to the inspecting officers/ nominees for the purpose of carrying out inspections and render such explanation or elucidation as may be required by the Officers of the Board and or its nominees as well as permit photocopies of/ or extracts of documents.

- 12.2 The Board, if it deemed necessary shall appoint a Third Party Inspection and Monitoring agency to carry out physical and financial monitoring of the Project. The cost incurred on such TPI&M work shall be an integral part of the total project cost and will be borne by the borrower. In case the project is being implemented with the finance /collaboration of a PSU or any other body supported by the Central Govt. which has a well-developed institutional system for TPI&M, the Board reserves the right to desist from engaging a separate TPI&M agency.
- 12.3 The Board reserves the right to recover in full from the Borrower, all the expenses incurred by it in connection with the inspection of such sites/works, books of accounts etc. by it and/or its nominee(s).

13.0 REPORTS:

- 13.1 The Borrower shall also furnish to the Board such Reports on its working, either in general or with specific reference to this loan as and when required by NCRPB and in the manner prescribed by the Board from time to time.
- 13.2 The Board shall monitor the progress of the Project/ Scheme financed by it on a continuous basis. In this respect:
 - a) The Borrower shall furnish periodic progress Reports in the formats, as prescribed by the Board, on the utilization of this loan and on the physical progress of the Project/Scheme on a monthly or quarterly basis (as required) in physical form or updation in NCRPB's software (P-MIS) as decided by NCRPB alongwith Geo-tagged Photograph of milestone achieved for the project with dated stamped.
- 13.3 The Borrower shall furnish a Completion Certificate along with Final Utilization Certificate on the successful completion of the Project within three months of the date of completion of the project/Scheme as per the format prescribed by the Board.

- 13.4 In case the Board is not satisfied with the progress of the Project/ Scheme financed or the utilization of financial assistance provided, it may resort to remedial measures as stipulated in the DEFAULT clause given hereunder.

14.0 DEFAULT:

- 14.1 In case the Board comes to the considered conclusion at any time during the implementation of the Project or the pendency of the loan that the amount already disbursed has not been properly and effectively utilized by the Borrower for the Project/ Scheme or the progress achieved in its implementation is inadequate or certain condition(s) of this loan have not been complied with, the Board shall have absolute discretion to suspend, reduce, cancel, alter or delay disbursement of said loan and/or installments in any manner and may decline to disburse any or all the remaining installments without assigning any reason thereof to the Borrower and without being liable for any losses or damages.

- 14.2 ***Recall of Loan:*** If the Borrower defaults in the payment of principal or interest or any other payment required under the loan agreement, the Board may issue a Notice to the Borrower and to the guarantor, for recall of the principal amount outstanding, the interest payable and other charges leviable thereon. The Borrower will be required to reply within 21 days of the date of issue of the said Notice. In case the Board does not find the reply tenable, the Board reserves the right to recall the entire principal amount, interest payable and other charges leviable thereon in one full and final payment. In the event of the Board deciding on Recall, the Borrower shall comply with the Recall by making the said full and final payment within 15 days of the order of Recall. In case the Borrower delays the full and final payment beyond 15 days from the order of recall, the delay will attract a penal interest @ 2.75% per annum over and above the normal rate till the date of full and final payment without prejudice to the right of the Board to initiate action with regard to recovery of the principal amount outstanding, the interest payable and other charges leviable thereon by invoking guarantees, charge on assets and other securities.

15.0 UTILISATION OF LOAN AND COMPLETION OF PROJECT:

- 15.1 The Borrower shall ensure that the equipment/ materials for which the loan has been obtained from the Board are utilized for the implementation of the stated Project.

- 15.2 The Borrower shall take all necessary steps to ensure that the project is completed by ____ months from date of sanction i.e. by the end of ____ as envisaged in the manner and according to the time schedule envisaged.
- 15.3 The borrower shall spent an amount of not less than 25% of the project estimated cost, direct at project level as its counterpart share.
- 15.4 Borrower shall submit Utilization Certificate, along with Extension-in-time (if applicable) of the preceding installment of loan, at the time of submitting the request for second or subsequent instalment of loan alongwith project progress report & dated stamped Geo-tagged photographs of Project Site.
- 15.5 The borrower shall furnish a final Certificate of Utilization of loan (UC) towards loan drawn from NCRPB alongwith Completion Report duly signed by Head of Department / CEO or an Officer authorized by them for this purpose of a Development Authority, on the successful completion of the project within three (3) months of the completion of the Project/ Schemes as per the format prescribed by the Board.

16.0 DRAWAL OF LOAN:

- 16.1 The Borrower shall furnish to the Board, if asked by NCRPB a Execution Schedule with Expenditure Details (ESED) in the prescribed form indicating complete details of the activities/tasks completed/to be completed alongwith task-wise cost and Date of Completion of each task for which the payments are required to be made or become due at the time of drawal of loan instalments.
- 16.2 The loan will be disbursed in instalments. The second or subsequent instalment will be released by the NCRPB on receipt of Utilization Certificate and on-site dated stamped Geo-tagged photographed. The Borrower shall submit an Application for drawal of the loan duly supported by various Certificates and Documents as prescribed by the Board.
- 16.3 The loan shall be disbursed after completion of land acquisition as planned in the project, according to the disbursement procedure of the Board as modified/ amended from time to time.
- 16.4 The Board shall not be liable for any charge whatsoever for which the Borrower may become liable due to delayed payment by the Borrower in respect of equipments/ materials ordered/ supplied or in respect of civil/ electrical works executed by agencies (appointed by the Borrower).
- 16.5 The borrower shall draw the loan as per drawal schedule and the closing date of loan shall be by the end of _____ or such other date as may be agreed to by the Board.

17.0 UNDERTAKINGS FROM THE BORROWER:

17.1 The Borrower shall furnish following undertakings, by an Officer authorized for this purpose, at the time of execution of MOA to the effect that :

- i) The borrower shall not sell/ transfer or abandon the Project at any stage in any manner whatsoever without prior written consent of the NCR Planning Board.
- ii) In case of sale/ transfer/ abandonment of the project or assets, the Borrower shall pay to NCRPB the entire loan outstanding and interest thereon due alongwith other charges leviable thereon in one installment or in a manner as may be agreed upon between NCRPB and the Borrower before such transfer is affected.
- iii) The borrower shall carry out and operate the project with due diligence and efficiency and in accordance with sound administrative, financial, economic, engineering, environmental, social safeguards, and business practices, including maintenance of adequate accounts and records;
- iv) the Goods, Works and consulting services to be financed out of the proceeds of the Loan shall be used exclusively in the carrying out of the project;
- v) the borrower shall carry out and operate the project in compliance with NCRPB safeguards requirements and the ESMS as specified by NCRPB;
- vi) NCRPB shall have the right to audit and examine the records, documents, and accounts of the Borrower, project, suppliers, and contractor relating to the project;
- vii) The borrower shall take out and maintain with responsible insurers insurance against such risks and in such amounts as shall be consistent with sound business practices, and, without any limitation upon the foregoing, such insurance shall cover hazards incident to the acquisition, transportation and delivery of Goods financed out of the proceeds of the Loan to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such Goods;
- viii) NCRPB shall be entitled to obtain all such information as each shall reasonably request relating to the loan, the Goods, Works and consulting

- services financed out of the proceeds of the Loan, the project, the borrower and other related matters; and
- ix) the NCRPB shall be entitled to suspend or terminate further access by the borrower to the use of the proceeds of the Loan upon failure by the borrower to perform its obligations under its agreement with the NCRPB.
 - x) Borrower will provide adequate staff for execution of the subprojects. Borrower shall ensure that the sub-borrowers submit procurement plans and implementation schedules as part of the request for financing, if required by NCRPB.
 - xi) borrower will make adequate annual budget allocations and release in a timely manner the counterpart funds and other resources, as shall be necessary or required, in addition to the proceeds of the loan, for the successful implementation of the subprojects;
 - xii) borrower shall ensure that adequate resources are allocated as part of budget process to ensure proper operations and maintenance of assets and also shall explore as the first option possibilities of outsourcing of operations and maintenance;

18.0 MISCELLANEOUS PROVISIONS:

- 18.1 The Borrower shall be bound to follow and give effect to all instructions/ recommendations of the Board with regard to payment of loan and other charges as well as reports and returns related to the Project / Scheme.
- 18.2 The said loan shall also be subject to such further terms and conditions as may be laid down in the form of an agreement to be executed by the Borrower with the Board.
- 18.3 The Borrower shall during the currency of the loan and the implementation of the Project bear all such imposts, duties and taxes or any other charges as may be levied in relation to the Project / Scheme from time to time by the Government or any other competent authority.
- 18.4 The Borrower shall obtain all the necessary statutory approvals including pollution clearance and other clearances as may be required for the implementation of the Project.
- 18.5 The Borrower shall make necessary arrangements for tying up the finances for implementation of the scheme.