

DEBENTURE SUBSCRIPTION AGREEMENT

This debenture subscription agreement ("**Agreement**") is executed on [x] ("**Execution Date**"),

BY AND BETWEEN:

[●], a company duly incorporated under the Companies Act, 1956/2013 and having its registered office at [●] (hereinafter referred to as the "**Company**") of the **First Part**;

AND

Promoters as more specifically mentioned under **Schedule 4 Part A** (hereinafter referred to as the "**Promoters**", which expression shall unless repugnant to the context or meaning thereof, be deemed to mean and include its nominees, successors and assigns) of the **Second Part**;

AND

Investors as more specifically mentioned under **Schedule 4 Part B** (hereinafter referred to as the "**Investors**", which expression shall unless repugnant to the context or meaning thereof, be deemed to mean and include its nominees, successors and assigns) of the **Third Part**.

*The **Company**, **Promoters** and the **Investors** are hereinafter, where the context so permits, each referred to individually as a "**Party**" and collectively as the "**Parties**".*

WHEREAS:

1. The Company is engaged inter-alia in the business of [●] (the "**Business**");
2. The Company is in need of funds and the Investors have agreed to invest and subscribe to compulsorily convertible debentures on certain terms and conditions detailed in this Agreement; and
3. The Parties have entered into this Agreement to set out the manner and terms on which the Investors will subscribe to, and the Company will issue to the Investors, the Investor CCDs.

NOW THEREFORE, in consideration of, and subject to, the representations, promises, mutual covenants, agreements, terms and conditions herein contained the mutual benefits to be derived therefrom and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. **Definitions.** Unless otherwise defined in the Agreement, the following terms when capitalized shall have the meaning set out as follows:

- 1.1.1. **“Act”** shall mean the Companies Act, 2013, along with all rules, regulations, and amendments thereunder;
- 1.1.2. **“CCDs Subscription Amount”** means INR [●];
- 1.1.3. **“Closing Date”** means the date on which closing occurs;
- 1.1.4. **“Confidential Information”** means (a) any data or information concerning the business, intellectual property, technology, trade secrets, know-how, finance, transactions or affairs of any Party to this Agreement (whether conveyed in written, oral or in any other form), including the terms / provisions of this Agreement);
- 1.1.5. **“Encumbrance”** shall mean any encumbrance including but not limited to any, claim, mortgage, pledge, charge, hypothecation, lien, deposit by way of security, option or right of pre-emption, right of first offer, right of first refusal, or any other transfer restrictions, conditional sales contract, title retention agreement, voting agreement, beneficial ownership (including usufruct and similar entitlements), exercise of any other attribute of ownership, any arrangement (for the purpose of, or which has the effect of, granting security), any provisional or executory attachment and any other interest held by a third party or any agreement, whether conditional or otherwise, to create any of the foregoing;
- 1.1.6. **“Equity Shares”** means the equity shares of the Company having a face value of INR [●];
- 1.1.7. **“Fully Diluted Basis”** shall mean that the calculation is to be made assuming that all outstanding convertible Securities (whether or not by their terms then currently convertible, exercisable or exchangeable) and stock options, have been so converted, exercised or exchanged or issued, as the case may be;
- 1.1.8. **“Investor CCDs”** means [●] compulsorily convertible debentures of the Company issued to the Investors, having a face value of INR [●] each and issued on the Investor CCD Terms and Conditions;

- 1.1.9. **“Investor CCDs Terms and Conditions”** means the terms and conditions of the Investor CCDs as set out at Schedule 2 of this Agreement;
- 1.1.10. **“Liquidity Event”** shall mean (a) liquidation, dissolution or winding up of the Company, a merger, acquisition, change of Control, or other transaction or series of transactions in which the Company’s Shareholders prior to such transaction will not: (i) retain a majority of the voting power of the surviving entity, or (ii) control the board of directors of the surviving entity, or (b) a sale, lease, license or other transfer of all or substantially all the Company’s assets.
- 1.1.11. **“Person”** means and includes an individual, proprietorship, partnership, corporation, company, unincorporated organization or association, trust or other entity, whether incorporated or not;
- 1.1.12. **“Securities”** shall mean Equity Shares, preference shares, debentures (including compulsorily convertible debentures), any other equity security in the share capital of the Company or any note or debt security having or containing equity or profit participation features, or any option, warrant or other security or right which is directly or indirectly convertible into or exercisable or exchangeable for Equity Shares or any other Securities of the Company;
- 1.1.13. **“Shareholder”** means the duly registered holder from time to time of any Equity Shares and preference shares of the Company;

2. EFFECTIVE DATE

- 2.1. This Agreement shall come into and be in full force and effect on and from the Execution Date.

3. SUBSCRIPTION TO INVESTOR CCDs

- 3.1. Investor shall subscribe to the Investor CCDs for the CCDs Subscription Amount, described in detail in **SCHEDULE 4 Part B** below. The shareholding pattern of the Company as on the Execution Date and as on the Closing Date is set out in **SCHEDULE 1** of this Agreement.

4. CONDITIONS PRECEDENT TO CLOSING

- 4.1. Subscription to the Investor CCDs by the Investor on the Closing Date shall be subject to the fulfillment of the following conditions precedent to the satisfaction of the Investor

("Conditions Precedent to Closing"):

- 4.1.1. the Company having completed all corporate procedures and filings under Applicable Law for issuance and allotment of Investor CCDs; and
- 4.1.2. The Company having obtained all consents, authorisations and waivers necessary for the consummation of the Closing.

5. CLOSING

5.1. On the Closing Date:

- 5.1.1. The Investors shall remit the Investor CCDs Subscription Amount, by way of wire transfer to the bank account of the Company and do all such acts as required under law for issuance and allotment of Investor CCDs.

6. TERMINATION

- 6.1. This Agreement shall come into effect in accordance with Clause 2 and shall remain in full force and effect unless terminated by the mutual written consent of the Parties hereto or upon conversion of the Investor CCD's into Equity Shares.

7. REPRESENTATIONS AND WARRANTIES

- 7.1. The Parties hereby, severally with respect to itself, represents to the others that (i) it/he/she has all requisite power and authority to enter into this Agreement, to perform its obligation hereunder and thereunder and the same will not result in any violation or breach of or default under any Applicable Law to which such Party is subject; (ii) all corporate acts and other proceedings required to be taken by each of the Party to authorize the execution, delivery and performance of this Agreement have been duly and properly taken; and (iii) this Agreement shall constitute a legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms.

8. LIQUIDATION EVENT PAY OUT

- 8.1. On the occurrence of a Liquidity Event, the proceeds from the Liquidity Event (less any amounts required by Law to be paid or set aside for the payment of creditors of the Company, if applicable) ("**Liquidation Amount**") shall be paid to the holders of Securities on equal priority and pari passu basis.

9. GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement shall be governed exclusively by and construed and enforced exclusively in accordance with the laws of India without giving effect to the principles of conflicts of law thereof. All disputes arising under this Agreement shall be referred to courts of [●]. All disputes or differences of any kind whatsoever concerning, arising out of or in relation to this Agreement, its interpretation, performance or enforcement, or any of the transactions or matters set out within the Agreement (“**Dispute**”) if not resolved by amicable settlement within 30 (thirty) days from the Dispute, shall be fully and finally resolved by a sole arbitrator mutually appointed by the Parties. The arbitration proceedings shall be carried out in accordance with the procedural rules prescribed by the Arbitration Rules of the Arbitration and Conciliation Act, 1996. The arbitration proceedings shall be conducted in the English language.

10. MISCELLANEOUS

- 10.1. No failure of any Party to exercise and no delay by it in exercising, any right under this Agreement shall operate as a waiver of that right, nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise of that right or the exercise of any other right under this Agreement.
- 10.2. Save and except as expressly provided in this Agreement, no amendment to this Agreement shall be effective unless it is in writing and duly executed by each of the Parties.
- 10.3. All notices and other communications given under or pursuant to this Agreement shall be in writing and be effective upon delivery to the applicable Party (whether by personal delivery, registered pre-paid courier, or email) at the address indicated in the recitals.
- 10.4. Nothing in this Agreement shall, or shall be deemed to, constitute a partnership between the Parties or constitute any Party as the agent of any of the other Parties for any purpose.
- 10.5. This Agreement may be executed in any number of counterparts, all of which together constitute one and the same agreement, and a Party may enter into this Agreement by executing a counterpart and delivery by email of a copy of any such executed counterpart shall be deemed to constitute delivery of the original counterpart. Facsimile transmission or electronic mail in a portable format (“pdf”) of an executed signature page of this Agreement by a Party shall constitute, and be sufficient evidence of, due execution of this Agreement by such Party.

- 10.6. This Agreement represents the entire agreement between the Parties in relation to the terms of the Investor CCDs and shall supersede and extinguish any previous drafts, agreements or understandings between all or any of the Parties (whether oral or in written) relating to the Investor CCDs, and shall include all schedules and amendments executed by the Parties mutually in writing.

[THIS SPACE HAS INTENTIONALLY BEEN LEFT BLANK]

SCHEDULE 1

CAPITALIZATION TABLE OF THE COMPANY

PART A

AS ON EXECUTION DATE

Name of Shareholder	Equity Shares	Shareholding on a Fully Diluted Basis
TOTAL		

PART B

AS ON THE CLOSING DATE

Name of Shareholder	Equity Shares	Shareholding on a Fully Diluted Basis
TOTAL		

SCHEDULE 2

INVESTOR CCD TERMS AND CONDITIONS

1. Coupon

- 1.1 Investor CCDs shall be entitled to a coupon rate of [●] per annum on cumulative basis.

2. Equity Shares

The number of Equity Shares to be issued to the holders of the Investor CCDs upon conversion shall be determined in accordance with paragraph 3 of this **Error! Reference source not found.**

3. Conversion

- 3.1 Subject to Applicable Law and the adjustment events laid down in paragraph 5 of this **SCHEDULE 3**, if there is a Qualified Investment Round (“QIR”) within [●] months from the Closing Date, the Investors shall convert the CCDs Subscription Amount together with the accrued interest into Equity Shares of the Company at a Conversion Price (defined below) at a lower of : (a) fixed after accounting for the discount rate of [●] of the pre money equity valuation of the subsequent QIR or (b) INR [●] (“**Cap Valuation**”).
- 3.2 “**Qualified Investment Round**” shall mean any further investment valued round of aggregate INR [●] or more as part of the same investment round being led by an external investor.
- 3.3 “**Conversion Price**” is defined as the price at which the Investor CCDs plus the accrued interest shall be convertible into Equity Shares.

4. Manner of Conversion

- 4.1 The following procedure shall apply to conversion of Investor CCDs, to the extent applicable.

- (a) The Investors will surrender its relevant debenture certificates representing its Investor CCDs at the office of the Company;
- (b) The Company shall take all necessary corporate actions and obtain all necessary consents and issue the appropriate number of Equity Shares into which the Investor CCDs are convertible into in accordance with paragraph 3 of this **Error! Reference source not found..**

5. Rank

- 5.1 The Investor CCDs shall rank *pari passu* with the other holders of compulsorily convertible debentures of the Company.

SCHEDULE 4

PART A

Details of Promoters

Name of Promoter	ADDRESS	E-MAIL ID
[●]	[●]	[●]
[●]	[●]	[●]
[●]	[●]	[●]

PART B

Details of Investors

Name of Investor	Investment Amount	CCDs	Other Details

AS WITNESS this Agreement has been signed by the duly authorized representatives of each of the Parties on the date first written above:

For an on behalf of [●]

Name:

Designation:

For an on behalf of **PROMOTERS**

Name:

Designation:

For an on behalf of **INVESTORS**

Name:

Designation: