

Draft

ESCROW/SPECIAL ACCOUNT AGREEMENT

THIS AGREEMENT made this _____, day of _____, 20..... between M/s Indian Renewable Energy Development Agency Ltd. a Public Company incorporated under the Companies Act, 1956 and having its Registered Office at Core 4-A, East Court, 1st Floor, India Habitat Centre Complex, Lodhi Road, New Delhi – 110 003 (hereinafter referred to as "IREDA") and which expression shall include its successors and assigns as the context may require or admit) of the one part ;

AND

_____ Ltd., a Company incorporated under the Companies Act, 1956 and having its Registered Office at _____, in the State of _____ (hereinafter called "the Company") (which expression shall, unless it be repugnant to the context or meaning thereof shall include its successors and permitted assigns) of the other part.

WHEREAS

1. The Company proposes to setting-up of _____ (Project No. _____) (hereinafter referred to as "the Project").
2. IREDA has sanctioned loan of Rs. _____ lakhs to the Company to meet a part of its cost for setting up the Project on the terms and conditions contained in Loan Agreement as set-out in the Schedule I hereto entered into between IREDA and the Company (hereinafter collectively referred to as "Loan Agreement").
3. IREDA has vide its letter detailed in Part B of the Schedule I hereto stipulated, that the Company shall open an Escrow and No Lien Account, in a form and manner satisfactory to IREDA for deposit of all monies received from sale of power generated from the Project. It was further stipulated that the Company shall have a right to operate the said Escrow and No Lien Account as long as the Company does not commit any breach of the terms and conditions stipulated in the Loan Agreement. Further, on the Company committing an event of default as defined hereunder or in the Loan Agreement, the right of the Company to operate the said Escrow and No Lien Account shall cease and IREDA shall have the right to operate Escrow and No Lien Account.
4. Pursuant to the above, IREDA has called upon the Company to execute these presents which the Company has agreed to do in the matter hereinafter expressed.

NOW THEREFORE THESE PRESENTS WITNESSETH THAT :

1. Definition

- 1.1 "the Bank" shall mean _____, with whom the Company shall open an Escrow and No Lien Account.
- 1.2 "Escrow and No Lien Account" shall mean the Bank account opened by the Company with the Bank in terms of clause 2 (a) hereof.
- 1.3 "Customers" shall mean the (*) _____ more particularly described in Schedule II hereto or such other Customer as may be identified by IREDA from time to time and intimated to the Company.
- 1.4 "Event of Default" shall mean an event of default as defined in the Loan Agreement/this Agreement.

The Loan Agreement and this Agreement are hereinafter collectively referred to as "the Agreement".

In pursuance of the Loan Agreement and in consideration of the letter issued by IREDA to the Company and in consideration of the premises the Company, doth hereby covenant with the IREDA as follows:-

(*) To be changed suitably depending upon the factual position obtaining in a particular case.

2. The Company shall -
 - a) i) open an Escrow and No Lien Account with the Bank and also agree to the Bank in a form satisfactory to IREDA that in case of any default occurring under these presents or the Loan Agreement, IREDA shall instruct the Bank to stop all withdrawals of the monies by the Company out of the Escrow and No Lien Account; and
 - ii) the Company shall procure and furnish in a form and manner satisfactory to IREDA a confirmation from the Bank as per Schedule III hereto. The Escrow and No Lien Account shall be held by the Company to the order of IREDA ;
 - b) Issue an irrevocable instruction to Customers, in a form and manner satisfactory to IREDA to remit/deposit all amounts due to the Company by them in respect of sale of power generated from the Project and shall arrange to furnish a confirmation from the Customers as per Schedule IV.
3. The Company shall undertake to submit a monthly statement to IREDA, on or before 10th of each month, in respect of amounts received from sale of power from the Project in a form and manner satisfactory to IREDA.
4. The Company shall always ensure deposit by the Customers of all amounts pertaining to sale of power from the Project to the Company's Escrow and No Lien Account opened with the Bank. The Company shall further ensure that all the amounts shall be paid by the Customers by cheque(s)/draft(s) drawn in favour of "(*) _____, _____ Escrow and No Lien Account No. (**) _____". The obligations of the Customers to pay the amounts in the manner stated above shall continue during the currency of Loan Agreement.
5. IREDA agrees that the Company shall have the right to withdraw/transfer the monies lying in the Escrow and No Lien Account as long as the Company has not committed any event of default stipulated in the Agreements. The decision of IREDA on the happening of an Event of Default is final and conclusive on the Company.
6. The Company agrees that in the event of default, the Company's right to operate the Escrow and No Lien Account shall cease and IREDA shall have an exclusive right to operate the said Escrow and No Lien Account on behalf of itself.

(*) Name of the Borrowers to be mentioned.

() Bank Account No. to be mentioned.**

7. IREDA shall have the right to review the list of Customer and shall, if required, add additional Customer to the list mentioned in Clause 1.3 hereof.
8. The Company shall not discontinue/close the Escrow and No Lien Account so long as any part of loan is due to IREDA under the Loan Agreement and a confirmation is received by the Company from the IREDA in this regard.
9. The Company shall not open any other account or establish any other mode for the purpose of collection on amounts against the sale of power from the Project without the prior written consent of IREDA. In the event of IREDA agreeing to give consent to the Company for opening another or establishing any other mode for the purpose of collection of the said amounts, the Company shall adhere to and act upon such conditions as IREDA may consider to impose upon the Company.
10. The Company shall not create any charge, encumbrance or lien of any nature whatsoever in favour of any person on the moneys deposited/to be deposited in the Escrow and No Lien Account from time to time without the prior written consent of IREDA.
11. The Company shall furnish a letter from the Bank, to the satisfaction of IREDA that it will not contest or claim any right to set off or lien on any balance lying to the credit of the Escrow and No Lien Account for the payment against any indebtedness or liability or claim whatsoever of the Company to the Bank.
12. In the event of the Company committing an event of default or breach of any of the terms and conditions of these presents, then in addition to any remedies which IREDA may be entitled to enforce against the Company in terms of the Loan Agreement, IREDA shall also be entitled to the specific performance of all such obligations of the Company in an appropriate court of law in relation thereto and claim such damages as it may be entitled to in that behalf under law. The decision of IREDA whether breach of any of the terms and conditions of the Agreement has been committed by the Company or not shall be final and binding on the Company.
13. The provisions contained herein shall be read in conjunction with the provisions of the Loan Agreement as amended from time to time and to the extent of any inconsistency or repugnancy, the latter shall prevail to all intents and purposes.

SCHEDULE – I

PART - A

Name and address of the Institution	Date of Loan Agreement	Loan amount (in Rs.)
Name : Indian Renewable Energy Development Agency Ltd. Add : Core 4-A, East Court, 1st Floor, India Habitat Centre Complex, Lodhi Road, New Delhi – 110 003		

PART – B

Name of Institution

Date of letter

Indian Renewable Energy Development Agency Ltd.
Core 4-A, East Court, 1st Floor,
India Habitat Centre Complex,
Lodhi Road, New Delhi – 110 003

SCHEDULE – II

Names(s) and address of Customers)

SCHEDULE – III

**(Format of confirmation to be received from the
Bank holding Escrow and No Lien Account)
on the letter head.**

To,

M/s. Indian Renewable Energy Development Agency Ltd. -
Core 4-A, East Court, 1st Floor
India Habitat Centre Complex
Lodhi Road
New Delhi – 110 003

Dear Sirs,

Re : M/s. _____ Ltd.

We refer to the Escrow Agreement dated _____ (the Agreement) entered into between M/s. _____ Ltd. ("the Company") and M/s. Indian Renewable Energy Development Agency Ltd. and the letter dated _____ received from the Company in terms of the Agreement requesting us, inter-alia, to issue a confirmation to you as set-out hereunder.

We have to inform you that we have opened an Escrow and No Lien Account No. _____ (Escrow and No Lien Account) in the Books of our Branch at _____ in the name of "M/s. _____ Ltd." for the purpose of crediting all monies received by the Company from the sale of power generated from its project pertaining to _____ (Project No. _____).

We hereby agree and confirm that :

1. the amount due to the Company from the Customers (whose names are setout in the annexure hereto) will be credited to the Escrow and No Lien Account opened for this purpose;
2. we shall permit the Company to operate the Escrow and No Lien Account till we receive written instructions from you requesting us not to permit the Company to operate the said account;
3. as and when we receive written instruction from you, we shall transfer to you the amounts lying in the Escrow and No Lien Account towards the following:-
 - a) amounts in respect of charges, interest, principal dues on specified due dates as intimated by you; and
 - b) any other amount intimated by you under the Facility Agreement.

4. We will not contest or claim and right or set off or lien on any balance lying to the credit of the aforesaid Escrow and No Lien Account for the payment against indebtedness or liability or claim whatsoever.
5. The said Escrow and No Lien Account will be in operation during the subsistence of the Loan Agreement entered into between you and the Company and we have obtained all approvals, authorisation and contents from the Company for the above purpose; and
6. We will not close the Escrow and No Lien Account till such time we receive written instructions from you.

Yours faithfully,

For Bank

CC:

SCHEDULE – IV

(Format of confirmation to be received from the Customers)

To

Reg: M/s. (**) _____ Ltd. – Payments in respect of purchase of power generated from (*) _____

We refer to letter No. (***) _____ dated _____ received from M/s. _____ Ltd. (“the Company”).

As instructed by the Company vide their aforesaid letter, we agree and confirm that we shall:-

- a) deposit all amounts due and payable by us to the Company towards our purchase of power generated from the aforesaid Project into (****) “M/s. _____ Ltd. Escrow and No Lien Account No. _____”.
- b) continue to deposit all amounts payable to the Company in the said Escrow and No Lien Account till such time we received written instructions from IREDA;
- c) neither establish any other mode of payment/nor deposit amounts payable to the Company in any other account other than the aforesaid Escrow and No Lien Account.

(*) Detail/particulars of the project to be mentioned.

() Name of the borrower to be mentioned.**

(*) No./Date of Letter to be mentioned .**

(**) Bank Account No. to be mentioned**

We note that the instructions of the Company are irrevocable and binding until we receive further written instructions from you.

Yours faithfully,

For Customer.

CC : _____

IN WITNESS WHEREOF, the parties hereunto have set their respective hands to these presents on the day, month and year first above written.

THE COMMON SEAL OF THE M/s.
_____ Ltd. has
pursuant to the Resolutions of its Board of
Directors passed in that behalf on the ____
day of _____, 20.....
hereunto been affixed in the presence of
Shri _____, Director who has
signed these presents in token thereof at
_____ on
_____.

SIGNED AND DELIVERED BY the within
named Indian Renewable Energy
Development Agency Ltd. by the hand of
Shri _____,
Chief General Manager (____), IREDA an
authorised official of IREDA at New Delhi
on _____.

SCHEDULE – III

**(Format of confirmation to be received from the
Bank holding Escrow and No Lien Account)
on the letter head.**

To,

M/s. Indian Renewable Energy Development Agency Ltd. -
Core 4-A, East Court, 1st Floor
India Habitat Centre Complex
Lodhi Road
New Delhi – 110 003

Dear Sirs,

Re : M/s. _____ Ltd.

We refer to the Escrow Agreement dated _____ (the Agreement) entered into between M/s. _____ Ltd. ("the Company") and M/s. Indian Renewable Energy Development Agency Ltd. and the letter dated _____ received from the Company in terms of the Agreement requesting us, inter-alia, to issue a confirmation to you as set-out hereunder.

We have to inform you that we have opened an Escrow and No Lien Account No. _____ (Escrow and No Lien Account) in the Books of our Branch at _____ in the name of "M/s. _____ Ltd." for the purpose of crediting all monies received by the Company from the sale of power generated from its project pertaining to _____ (Project No. _____).

We hereby agree and confirm that :

7. the amount due to the Company from the Customers (whose names are setout in the annexure hereto) will be credited to the Escrow and No Lien Account opened for this purpose;
8. we shall permit the Company to operate the Escrow and No Lien Account till we receive written instructions from you requesting us not to permit the Company to operate the said account;
9. as and when we receive written instruction from you, we shall transfer to you the amounts lying in the Escrow and No Lien Account towards the following:-
 - c) amounts in respect of charges, interest, principal dues on specified due dates as intimated by you; and
 - d) any other amount intimated by you under the Facility Agreement.

10. We will not contest or claim and right or set off or lien on any balance lying to the credit of the aforesaid Escrow and No Lien Account for the payment against indebtedness or liability or claim whatsoever.
11. The said Escrow and No Lien Account will be in operation during the subsistence of the Loan Agreement entered into between you and the Company and we have obtained all approvals, authorisation and contents from the Company for the above purpose; and
12. We will not close the Escrow and No Lien Account till such time we receive written instructions from you.

Yours faithfully,

For Bank

CC:

SCHEDULE – IV

(Format of confirmation to be received from the Customers)

To

Reg: M/s. (**) _____ Ltd. – Payments in respect of purchase of power generated from (*) _____

We refer to letter No. (***) _____ dated _____ received from M/s. _____ Ltd. ("the Company").

As instructed by the Company vide their aforesaid letter, we agree and confirm that we shall:-

- d) deposit all amounts due and payable by us to the Company towards our purchase of power generated from the aforesaid Project into (****) "M/s. _____ Ltd. Escrow and No Lien Account No. _____".
- e) continue to deposit all amounts payable to the Company in the said Escrow and No Lien Account till such time we received written instructions from IREDA;
- f) neither establish any other mode of payment/nor deposit amounts payable to the Company in any other account other than the aforesaid Escrow and No Lien Account.

(*) Detail/particulars of the project to be mentioned.

() Name of the borrower to be mentioned.**

(*) No./Date of Letter to be mentioned .**

(**) Bank Account No. to be mentioned**

We note that the instructions of the Company are irrevocable and binding until we receive further written instructions from you.

Yours faithfully,

For Customer.

CC : _____

