

Lease Agreement with Lessor, Lessee and Bank as Financing Party

THIS TRIPARTITE AGREEMENT this..... day of..... (month) (year in words) BETWEEN..... an existing Company within the meaning of the Companies Act, 1956 and having its registered office at..... (hereinafter called "the Lessor Company" which expression shall unless excluded by or repugnant to the context be deemed to include its successors and assigns) of the first part,a Company incorporated under the Companies Act, 1956 and having its registered office at..... (hereinafter called "the Lessee Company" which expression shall unless excluded by or repugnant to the context be deemed to include its successors and assigns) of the second Part AND..... a nationalised Bank carrying on business amongst other places in India at..... (hereinafter called "the Bank" which expression shall unless excluded by or repugnant to the context be deemed to include its successors and assigns) of the third part;

WHEREAS under an Agreement for Hypothecation dated..... executed by the Lessor Company in favour of the Bank, the Bank granted to the Lessor Company a sum of Rs..... as and by way of advance in current account to enable the Borrower to purchase..... (hereinafter referred to as "the said equipment") for the purpose of leasing out the said equipment to the Lessee Company, *inter alia*, secured by hypothecation of the said equipment upon the terms and conditions therein contained;

AND WHEREAS the Lessor Company has entered into an Agreement for Lease with the Lessee Company on the..... day of..... for leasing out the said equipment to the Lessee Company subject to the payment of rent/hire charges thereby reserved and also subject to the other terms and conditions therein contained;

AND WHEREAS in terms of the sanction of the Bank, the Bank will allow the Lessor Company to grant lease of the said equipment to the Lessee Company, *inter alia*, upon the following conditions:

- (a) that the lease of the said equipment is to be granted by the Lessor Company to the Lessee Company with the consent of the Bank and the Lessee Company should confirm that the said equipment is subject to the Bank's charge under the said Agreement for Hypothecation dated.....;
- (b) the Lessee Company should undertake the Bank that it would not assign the leasehold interest of the said equipment for any reason whatsoever;
- (c) that the Lessee Company shall undertake the Bank that the Lessee Company shall not have any claim on the moneys to be realised under the insurance policies to be taken out in respect of the said equipment;
- (d) that the Lessee Company should directly pay to the Bank the rent/hire charges and interest payable by the Lessee Company to the Lessor Company in terms of the said Agreement for Lease dated.....;
- (e) the Bank through its officers, agent and nominee be entitled to inspect the said equipment at such time as the Bank may think fit;
- (f) that the Lessor Company shall execute a Deed of Assignment in favour of the Bank irrevocably authorising the Bank to collect rent/hire charges to be paid by the Lessee Company to the Lessor Company towards liquidation of the moneys advanced by the Bank to the Lessor Company and all interest accrued thereon.

AND WHEREAS with a view to recording the conditions hereinbefore provided, the parties hereto have agreed to enter into an agreement being these presents in the manner hereinafter appearing.

NOW THIS AGREEMENT WITNESSETH and it is hereby agreed and declared by and between the parties hereto as follows:

1. The lessee Company hereby confirms that the said equipment is subject to the hypothecation/charges created by the Lessor Company in favour of the Bank under the Agreement for Hypothecation dated.....
2. The Lessee Company hereby undertakes the Bank not to deal with the said equipment which will

prejudice the interest of Bank and not to assign or transfer the benefit of the said Agreement of Lease dated.....

3. The Lessee Company hereby undertakes the Bank that the Lessee Company shall not have any claim on the moneys to be realised under the insurance policies to be taken out in respect of the said equipment.
4. That the Lessor Company hereby irrevocably and unconditionally authorises the Lessee Company to pay all the rent/hire charges payable by the Lessee Company to the Lessor Company in terms of which the Lessee Company hereby confirms and acknowledges.
5. The Lessee Company hereby irrevocably and unconditionally agrees, confirms and declares that irrespective of any disputes between the Lessor Company and the Lessee Company as regards terms, conditions and covenants contained in the Agreement for Lease dated....., the Lessee Company shall directly pay to the Bank rent/hire charges and interest thereon payable by the Lessee Company to the Lessor Company in terms of the Agreement for Lease dated.....
6. The Lessor Company and the Lessee Company hereby jointly declare and confirm that the Bank through its officers, agent and nominees will be entitled to inspect the said equipment which will be in the possession of the Lessee Company in terms of the Agreement of Lease dated..... and to take possession thereof if the Bank so thinks fit.
7. That the Lessor Company and the Lessee Company hereby also jointly agree and confirm that it would not amend, alter and/or modify any of the terms, conditions and covenants contained in the said Agreement for Lease dated..... without the prior permission of the Bank in writing.
8. The Lessee Company hereby also confirms and declares that if the Lessee Company fails to pay the rent/hire charge to the Bank in terms of these presents, the Bank will be at liberty to take possession of the said equipment if the bank so desires to protect the interest of the Bank.
9. The Lessee Company hereby agrees that the said equipment will bear the seal "hypothecated..... Bank".

NOW THIS AGREEMENT FURTHER WITNESSETH as follows:

- (a) That in pursuance of the said agreement and in consideration of the premises aforesaid, the Lessor Company as beneficial owner hereby transfers and assigns up to the Bank all the rent/hire charges payable to the Lessor Company by the Lessee Company under the Agreement for the Lease dated..... together with power for the Bank to sue, call up or recover and give effectual discharge for the same in the name of the Lessor Company or otherwise.
 - (b) That the Lessee Company hereby agrees to pay duly and punctually all rents/hire charges payable by the Lessee Company to the Bank under the said Agreement for Lease dated..... and upon such payment to the Bank the Lessee Company shall be fully discharged from its obligation for payment of the rents/hire charges to the Lessor Company under the said Agreement for Lease dated.....
 - (c) That the Bank upon receipt of the rents/hire charges mentioned above shall be at liberty to adjust and appropriate the said rents/hire charges in liquidation of the amounts due and payable for principal and interests for the loan granted under the said Agreement for Hypothecation dated.....
 - (d) That the Lessor Company hereby covenants with the Bank that the Lessor Company has not received any rent/hire charges in advance nor any deposit or advance or premium from the Lessee Company adjustable against the said rents/hire charges.
10. It is hereby expressly agreed and declared by and between the parties hereto that all the terms, conditions and covenants herein contained shall override the terms, conditions and covenants contained in the Agreement for Hypothecation dated..... and the Agreement of Lease dated..... to the extent the same are inconsistent.

IN WITNESS WHEREOF the parties hereto have executed these presents on the day, month and year first above written.

THE COMMON SEAL OF..... has hereunto been affixed pursuant to the resolution passed by the Board of Directors of the Company on the day of..... in the presence of Mr..... and Mr..... two of the directors of the Company who have executed these presents in token of their presence in the presence of:

SIGNED AND DELIVERED for and on behalf of..... by Mr..... Constituted Attorney under the Power of Attorney dated..... in the presence of.....