

वसूली एजेंट समझौता-पत्र/ RECOVERY AGENT AGREEMENT

This Agreement is made on this ----- day of 20-----

Between:

1) National Bank for Agriculture and Rural Development (NABARD)(hereinafter referred to as Bank), A statutory body established by an Act of Parliament (viz. National Bank for Agriculture and Rural Development Act, 1981) and wholly owned by Government of India, having it's Head Office at Plot No.C-24, G-Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051 and having its Regional Offices in all over India at which expression shall unless it be repugnant to the subject or context thereof include its successors and assigns) of the 'FIRST PART';

AND

(IF SOLE PROPRIETORSHIP)

Mr. / Ms ----- (aged about ----- years PAN Number -----) the Recovery Agent, (hereinafter referred to as the 'RA' which term shall, repugnant to the context or meaning thereof, be deemed to mean and include his / their respective heirs, legal representatives, administrators, executors of their estate and/or assigns) of the 'OTHER PART',

(IF A PARTNERSHIP FIRM)

Mr. ----- age about ----- years and Mr. -----
Aged about -----years and Mr. ----- aged about ----- all of Indian habitants and carrying on their business in partnership in the firm name and style of M/s. ----- and having their business address at -----
the Recovery Agent, and through its authorised signatory Mr. -----(herein referred as RA which term shall , unless repugnant to the context or meaning thereof , be deemed to mean and include the survivors or survivor of them or the last surviving partner or his /her/their respective heirs, legal representatives, administrators, executors of his/her/their estate and /or assign)_ of the OTHER PART.

(IF a COMPANY):

----- Limited. a public / private limited company, incorporated under the Companies Act,1956 having It's registered office at -----
The Recovery Agent, and through its authorised signatory Mr. ----- as per Board Resolution dated ----- (hereinafter referred to as the RA which term shall,

unless repugnant to the context or meaning thereof , be deemed to mean and include its successors assigns) of the OTHER PART.

(IF LIMITED LIABILITY PARTNERSHIP)

----- Limited Liability Partnership, incorporated under the Limited Liability Partnership Act 2008, having its registered office at ----- the Recovery Agent, and through its authorised signatory Mr. ----- (Hereinafter referred to as the “RA” which term shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the OTHER PART.

The Bank and the RA are individually referred to as a "Party" and collectively as "Parties" throughout this Agreement, and the words Party and Parties shall be construed accordingly.

Recitals

WHEREAS

A) The Bank being in Financing business, in order to streamline Recovery / realisation of its NPAs /written off accounts is seeking assistance in the aforesaid functions'

B) The RA has warranted and assured the Bank that it has the necessary expertise and infrastructure including trained personnel and is willing to act as a R.A, for the aforesaid purposes.

Now therefore, in consideration of aforesaid premises, this agreement as under:

IT IS AGREED:

2. Definitions

2.1 In this Agreement, unless inconsistent with the context or otherwise specified, the following words shall have the following meanings:

"Agreement" means this Recovery Agent Agreement/ Mandate letters for entrustment of work including variations or amendments as effected from time to time in accordance with this Agreement including the Schedule attached;

"Recovery Agents" means ----- (or its/his or her/their- successor or superior notified and agreed in writing by the Bank) acting as an agent of the Bank for providing Services which are described in Clause 5 and the Schedule I of this agreement

"Bank" means National Bank of Agricultural and Rural Development and wherever the context so requires would mean the NABARD”

"Borrower" or "Customer(s)" means the person mentioned in Annexure(s) to initial mandate letter and supplemental Mandate letter hereto who have availed of Financial Assistance, and any other person who has/have created /given any security interest, and/or, guarantee, to secure the repayment of any Financial Assistance.

"Business Day" means any day on which the Bank office is open for business in India;

"Confidential Information" means all proprietary and confidential information or personal data of the Bank, and those of its Customers, clients or suppliers whether commercial, financial, technical or otherwise (whether oral, in writing, machine readable or in, any-other form) and material (whether electronically- recorded, in writing or otherwise) which by its very nature should be treated as secret and confidential and which the parties desire to protect against unrestricted disclosure or comparative use or which is designated as such, including without limitation:

- a) All information relating to the Bank's customers, including but not limited to personal information; and
- b) Information relating directly or indirectly to the Bank's business, including but not limited to details of trade secrets, know-how, strategies. Ideas, operations, compliance information, processes, methodologies and practices; and
- c) Information supplied to the Bank by suppliers / vendors / third parties which the Bank is authorized to disclose; and
- d) Information relating directly or indirectly]to the Bank's plans, intentions, know-how, market opportunities and business affairs or those of its customers (including potential customers) and clients: and
- e) works of authorship, products and materials written and prepared by the Bank in relation to this Agreement including but not limited to computer programs, data, diagrams, charts, reports, specifications, sketches, inventions and working papers or similar materials of whatever nature or whatever media relating thereto; and
- f) any information resulting directly) or indirectly from the discussions or negotiations relating to this Agreement and all copies, notes, records and all related information (in any form) generated by the Bank or another member of the Bank based on or arising from any disclosures for this Agreement; and
- g) the terms of any agreement reached by the parties or proposed by either party whether agreed or not) in connection with the agreement;

'Loan" or Loans' means Financial Assistance and without limitation shall include the loans, guarantees, debentures, and any other funded and non-funded financial assistance availed of by the Borrower(s) from the Bank together with interest, compound interest, and all other monies whatsoever stipulated in, or payable by the Borrower to the Bank in respect thereof together with any security interest created to secure the repayment of such Financial Assistance.

"NPA" means Non-Performing Asset (s) classified as such by the Bank in terms of RBI norms.

"Services" means services rendered / provided by the RA in conformity with the terms and conditions as mentioned in this Agreement and more specifically set out in Schedule I.

“RBI” means Reserve Bank of India constituted under the Reserve Bank of India Act' 1934.

"Written off Accounts” –means accounts which have been classified as such by the Bank.

3. Interpretation: 3.1 Clause headings are for ease of reference only and are not intended to be part of or to affect the meaning, interpretation or construction of any of the terms and conditions of this Agreement.

3.2 References to any gender includes any other gender, the plural shall include the singular and bodies corporate shall include unincorporated bodies and (in each case) vice versa.

3.3 Reference to any statute, enactment, ordinance, order, regulation or other similar instrument shall be construed to include a reference to the statute, enactment' ordinance' order, regulation or instrument as from time to time amended, extended, re-enacted or consolidated and all statutory instruments, orders, regulations or instruments made pursuant to it.

3.4 Unless the context otherwise requires those provisions contained in this Agreement which relate to any subject matter of which there are more than one shall apply severally to each.

3.5 Clauses, sections, pages and the schedules referenced by name shall refer to the clause' section, page, or the schedule having the title referred to.

3.6 The meaning of general words or clauses are not limited by 'specific examples introduced by "Including", "for example" or "such as" or their derivatives.

4. Term and Termination 4.1 This Agreement shall take effect from the date of this Agreement (the "Effective Date") and shall be valid up to one year. The Bank may at its sole discretion extend and keep the agreement alive and in force for such period(s) which the Bank considers necessary in respect of all or any of the accounts entrusted to the RA. In case of such extension, the terms and conditions as stipulated in this Agreement shall be applicable to the accounts for such extended time.

4.2 The Bank reserves the right to terminate this agreement with immediate effect' if

a) RA commits material breach of (i) terms and conditions of this agreement or (ii) Representations and warranties in this agreement

b) RA commits breach of any law, statutory guidelines including guidelines issued by RBI or any other authority or actions/inactions on the part of RA or his employees, agents, authorised representative amount to offence(s) under any provisions of law or expose the Bank to financial or reputational loss.

c) Enter into or is found by the Bank to be in a situation of conflict of interest which in the reasonable opinion of the Bank warrants immediate termination of the Agreement.

d) If the performance by the RA of its duties is substantially prevented by reason of "Force Majeure" for continuous period of (30) days, the Bank may on written notice of 15 days terminate this Agreement or any part affected by such clause, without any penal liability, on either party for such termination.

e) By giving notice of 15 days to the RA if his performance is considered by the Bank inadequate / unsatisfactory.

4.3 On _termination of this Agreement, the RA shall cease to perform any work / job / function under this arrangement, as may be advised by the Bank at the time. In the event of termination of the arrangement, RA shall hand over the possession of the movable / immovable assets, along with all the relative documents / Confidential Information, etc. to the Bank or any other person / agency as may be directed by the Bank in this respect.

4.4 Notwithstanding the termination of this Agreement, the liability of the RA for violation of the- provisions of confidentiality, mentioned in clauses 8 and the indemnity obligations under clause 14 of this Agreement shall survive termination of this Agreement. The liability of the RA shall also survive in cases where the liability is incurred by the Bank after the termination of this Agreement, but the liability arises out of the /omission of the RA during the term when this Agreement was in force.

5. Services

5.1 The RA shall assist the Bank by rendering one or more of services indicated in Schedule I in respect of the account(s) identified by the Bank from time to time by issuing mandate letters, which shall form a part and parcel of this agreement.

5.2 An additional Services which are to be entrusted to the RA shall be done in writing, by way of a letter exchanged with the Bank.

6. Remuneration

6.1 The RA shall be paid remuneration as mentioned under schedule II for the services rendered by the RA.

6.2 The RA understands that the remuneration paid is exclusively for the services entrusted to the RA under the respective section of the Schedule I.

6.3 If a particular service is falling under two or more sections, then it shall not entitle the RA to claim additional remuneration for the section which is not entrusted to the RA.

6.4 The Recovery Agent shall not claim any additional tax including GST amount from the Bank. The RA shall pay all taxes including GST to the appropriate authorities and the Bank is not liable to pay any tax on the invoice submitted by the RA. The invoice submitted by RA shall contain the SGST/CGST percentage payable by him to the appropriate authority.

7. Representations and warranties

7.1 The RA represents that it is a validly existing / duly incorporated legal entity, and good standing under the applicable laws and that it has taken all necessary action/corporate action or authorisation or approvals as may be required to execute and deliver and to perform its obligations under this Agreement;

7.2 The RA represents that he is not disqualified by any law for the time being in force which prohibits him from entering into any agreement with the Bank and is not insolvent and no

insolvency proceedings are pending against the RA and that no criminal proceedings are pending against the RA.

7.3 The RA represents and warrants that he/ it is not a loan defaulter of the Bank or any' other Financial Institutions.

7.4 RA represents that it has full corporate power and/ or authority to enter into this Agreement; and

7.5 RA represents that the information provided by him/ her for the identification purpose by the Bank, either in this Agreement or all the other documents exchanged with the Bank: is true and correct and nothing material has been misrepresented or concealed therefrom.

7.6 RA further represents and warrants that it shall discharge its duties and functions in accordance with all applicable laws, rules, regulations and directives. Further, that it shall not undertake any activity which is unlawful, illegal and take utmost care to ensure that no damage is caused to the assets and that the Bank is not exposed to any adverse publicity/ claims from Borrowers / guarantors / third parties for the actions of the RA and shall immediately inform the Bank of any situation or event which gives rise to a conflict of interest and how it proposes to deal with it.

8. Confidentiality

8.1 Save as otherwise expressly provided in this Agreement, R-A shall not during the term of this Agreement or thereafter disclose to any person or use for any purpose any confidential information obtained by it from the Bank in connection with the borrower or this Agreement but the RA may

a) Confidential Information to such of its staff and advisers (which shall include lawyers, accountants and auditors) only who have a need to know such Confidential Information for the proper performance of their duties as stipulated in this agreement, provided however that the RA shall continue to be liable to the Bank for any violation of the confidentiality obligations by its staff and advisers to whom the confidential information is disclosed by the RA.

b) Use Confidential Information in the proper exercise of its rights and the performance of its obligations under this Agreement.

8.2 The RA undertakes to take proper care and all reasonable measures to protect the confidentiality of the confidential Information.

8.3 RA shall be subject to the obligations of confidence in this clause, irrespective of whether communicated orally or in writing by the Bank or its staff or obtained through observations made by staff of the RA.

8.4 Without prejudice to any other rights or remedies of the Bank the RA acknowledges and agrees that damages may not be an adequate remedy for any breach by it of the provisions of this Clause 8 and that the Bank shall be entitled to the remedies of injunction, specific

performance and other equitable relief, for any threatened or actual breach of the provisions of this Clause 8.

9. Powers and Duties

9.1 The relationship between the Bank and the RA shall be of principal and agent and all decisions taken by the Bank in respect of any arrangement for recovery shall be final and binding on the RA.

9.2 Notwithstanding anything contained in this Agreement and in respect of amounts recovered against the loan accounts, the Bank shall be the sole authority to decide in writing on the final discharge of the Borrowers and the decision of the Bank shall be binding on the RA.

9.3 Where permitted by the Bank, RA shall be empowered and in compliance with the provisions of the RBI guidelines to take such actions, enforcing any underlying security right, invoking / pursuing personal guarantee and undertaking such other action as may be considered necessary by the Bank for recovering amounts from the borrowers.

9.4 All realisations / recoveries from the Borrowers shall be by way of online payment/demand draft / pay order drawn in favour of such Bank account as may be indicated by the Bank in writing and shall be forwarded to the Bank within Three [3] working days from the date of recovery and / or realization or at such intervals as may be prescribed by the Bank in writing. The RA shall not accept any cash / or cheque in their favour from the Borrowers / Guarantors. All amounts recovered / realized by RA under this Agreement shall be remitted to the Bank without any deduction whatsoever. R_A shall not have any lien / right of set off against the Bank in respect of the amounts realized / recovered under this Agreement.

9.5 The RA shall submit a monthly status report and such other information as may be prescribed by the Bank from time to-time.

9.6 Wherever the RA is pursuing the enforcement of Security Interest, they are required to operate only through authorized representatives of the Bank or the personnel appointed by the Bank and in such cases RA undertakes to operate strictly in compliance with the statutory provisions contained in the guidelines issued by RBI for recovery agents.

9.7 The RA covenants that before undertaking any assignment from the Bank, the RA has undergone required training and has completed 100 hours of training and obtained certification from IIBF and that the employees, agents, partners, affiliates, etc. (by whatever name they might be called) of RA, who are engaged for performing the duties of the RA have also undergone the said necessary training relating to Recovery Agents engaged by banks” and shall comply with the relevant guidelines of the RBI in that regard.

9.8 The RA also undertakes to comply with any other statutory guidelines / acts/ rules/ Fair Practices Code / Code of Conduct as per **Annexure 24** which may be issued from time to time by the Government/ Reserve Bank/ Indian Bank Association or any other authority.

9.9 The RA hereby specifically agrees to discharge its obligations in respect of its employees authorized agents, representations in accordance with applicable laws including labour laws and it shall be the sole obligation and liability of RA to discharge such obligation and in no event the Bank shall be responsible or liable for such liabilities towards the employees, authorized representations, agents of the RA. Further, the RA, its partners, employees, authorized representatives, shall not be entitled to claim employment in the Bank or make any similar or analogous claims against the Bank.

10 Force Majeure

10.1 "Force Majeure Event" means any event due to any cause beyond the reasonable control of the Bank, including without limitations, war, sabotage, fire, explosion, blockade, strikes, lockdowns, acts of god, civil commotion, natural catastrophe and also including unavailability of any communication systems, breach, or virus in the processes or payment or delivery mechanism, computer hacking, any technical faults and malfunctioning in the computer terminal or the systems getting affected by any malicious, destructive or corrupting code or program, mechanical or technical errors/failures or power shut down, faults or failures in telecommunication etc. 10.2 The Bank shall not be held responsible for any loss or damage which may be incurred by the RA as a result of such "Force Majeure Event"

10.3 Each party will give notice to the other as soon as possible upon becoming aware of an event that may lead to the invocation of this clause.

10.4 If the Force Majeure Event continues for a period more than 30 days, the Bank shall be entitled to terminate this Agreement at any time thereafter. Neither party shall have any penal liability to the other in respect of the termination of this Agreement as a result of Force Majeure Event. However, RA shall be entitled to receive remuneration for any Services actually rendered up to the date of the termination of this Agreement.

11. Waivers

No forbearance, delay or indulgence by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that Party nor shall any waiver of its rights in relation to a breach of this Agreement operate as a waiver of any subsequent breach and no right, power or remedy given to or reserved to either party under this Agreement is exclusive of any other right, power or remedy available to that party and each such right' power or remedy shall be cumulative.

12 Assignment and Sub-Contracting

12.1 The RA understands and confirms that the Services rendered by the RA in accordance with terms of this Agreement are not assignable without prior express written approval of the Bank. The RA is also prohibited from sub-contracting any of its rights or obligations to any person without prior express written approval of the Bank and such subcontracting shall be

subject to the terms mentioned herein and such other terms as may be specified at the time of approving the sub- contracting, by the RA.

12.2 Before engaging Sub-Contractor, the Recovery Agents shall carry out due diligence process on the sub-contractor to the satisfaction of the Bank and Bank should have access to such records.

12.3 In the event of sub-contracting the RA shall ensure that suitable documents including confidentially agreement are obtained from the sub-contractor and the RA shall ensure that the secrecy and faith of the Bank's data / processes is maintained.

12.4 Notwithstanding approval of the Company for sub-contracting, the RA shall remain liable to the Bank for all acts/omissions of sub-contractors.

12.5 In respect of that part of the services where chain outsourcing and sub-contractors are permitted by the Bank, the sub-contractor should have same level of obligations as that of the RA and the RA agrees to obtain suitable documents in this regard from the subcontractor.

12.6 The Bank shall have the right to transfer, assign or sell all its rights, benefits or obligations to any person and these terms and conditions mentioned under this Agreement shall continue to be in force (if expressly agreed to by the successor or assigns) and effect for the benefit of the successors and assigns of the Bank.

13. Severability

Notwithstanding that the whole or any part of any provision of this Agreement may prove to be illegal or unenforceable, the other provisions of this Agreement and the remainder of the provision in question shall remain in full force and effect.

14. Indemnity

The RA shall indemnify the Bank against all the claims, prosecutions, costs, damages, expenses, fees of the counsel / Advocate, loss of whatever nature which may be incurred / suffered by the Bank on account of any action/inaction on the part of the RA while performing the functions/ job assigned to the RA including but not limiting to breach of warranty and representation and also actions/inactions of the RA which results in diminishing the realizable value of the assets or noncompliance with the RBI guidelines or which exposes the Bank to claim from the e Borrower/ guarantor or any other party including damages, costs, expenses, charges, fees, fines incurred or suffered by the Bank in defending criminal proceedings against the officials of the bank where such actions arise solely on accounts of acts / inaction on the part of RA, its employees , agents or authorized representatives.

(Clause for limiting liability to be incorporated only if requested by the RA and to be incorporated as provided hereunder:

14.1 Notwithstanding, anything contained in clause 14.1, the liability of the RA, under the indemnity clause will be limited to% of the outstanding in the loan account or the fee received in the matter whichever is higher.(However, this limited liability is not applicable for

the liabilities arising out of breach of confidentiality obligation under clause 8 herein and for actions or omissions arising out of fraud wilful misconduct or gross negligence committed by RA while discharging the assigned duties.)

15. Variations

Any terms of the RA or any third party purporting to vary this Agreement shall have no effect unless agreed in writing by the Bank.

16. Entire Agreement

This Agreement constitutes the entire agreement and understanding between the parties relating to subject matter, Except as may be expressly stated in this Agreement' it supersede and cancels all prior agreements, statements, representations, understandings, negotiations and discussions, whether oral or Witten, between the parties. Each of the parties acknowledges and agrees that in entering into the Agreement it does not rely on any statement, representation, warranty or understanding made prior to this Agreement save to the extent that such statement, representation, warranty or understanding is incorporated in to this Agreement. Each of the parties acknowledges and agrees that in entering into this agreement not relied on (or has been induced to enter into this Agreement by) any statement, representation, warranty or understanding made prior to this Agreement'.

17. Dispute Resolution

In the event of any claim difference, dispute or controversy and question whatsoever arising between the parties under this agreement shall in the first instance be attempted to be resolved between themselves.

If the dispute cannot be resolved through consultations between the parties for 20 business days from the date on which the notice setting out the nature of the dispute is served by one party on the other, either party may request a meeting with the other party within further ten business days to resolve the dispute. In the event that the dispute is not resolved within 30days under this procedure the parties shall be free to decide its own course of action.

18. Applicable Law and Jurisdiction

18.1 This Agreement and any matters relating to this Agreement shall be governed by and construed in accordance with the Indian laws.

18.2 The parties submit and agree to the jurisdiction of the Courts where this agreement is executed.

19. Notices

19.1 Any notice required under this Agreement shall be given in writing and in the English language and sent to the address of the party as mentioned in this Agreement. For the Bank, the address for service of notices shall be the address of the office which has executed this Agreement. For the RA, the address for service of the notice shall be the address incorporate at the time of execution of this agreement.

19.2 In case of change of address for the service of the notice, the parties shall duly notify, in writing to the other party about such change.

19.3 Any notice under this clause shall be sent in writing by registered post or email.

20, Right to Audit

20.1 It is agreed by and between the parties that the Bank shall have the right to audit the Services any time during the term of this Agreement.

20.2 The Bank shall have the right to conduct audits on the RA whether by Bank's internal or external auditors, or by agents appointed to act on its behalf and to obtain copies of any audit or review reports and findings made on the RA in conjunction with the Services performed for the Bank. 20.3 It is agreed by the RA that the Bank shall have the access to all books, records and information relevant to the Debt and /or other Services availed from the RA.

20.4 The Parties agree that the Bank shall have the right, but without any obligation to monitor and assess the Services to enable the Bank to take necessary corrective measures, provided any such monitoring shall not amount to supervision of any of the jobs of the RA or the employees of the RA.

20.5 The Bank should have right to conduct surprise check of the RA's activities in respect of the Services.

20.6 The RA agrees that the Bank shall have the right to disclose the details of this Agreement and the details of Services covered herein including any deficiency of service by the RA to the Reserve Bank of India and MCA.

20.7 The RA agrees to allow the Reserve Bank of India or persons authorized by it to access the documents, records of transactions, and other necessary information stored or processed by the RA in respect of this Agreement or the Services.

20.8 The RA agrees to preserve the documents and data in respect of the Services for such period in accordance with the legal/regulatory obligation of the Bank in this regard.

20.9 The RA agrees that the Complaints/feedback, if any received from the customers of the Bank in respect of the Services by RA shall be recorded and Bank/Reserve Bank of India shall have access to such records and redressal of customer complaints/feedback so received by the RA.

21. CONTINGENCY PLANS & CONTINUITY ARRANGEMENTS.

21.1 The RA shall arrange and ensure proper contingency plans to meet any unexpected obstruction to the RA or any employees or permitted sub-contractors of the RA in rendering the Services or any part of the same under this Agreement to the Bank.

21.2 The RA agrees for the following continuity arrangements to ensure the business continuity of the Bank.

21.2.1 In the event of this Agreement coming to an end on account of termination or by the expiry of the term/ renewed term of the Agreement or otherwise, the RA shall render all

reasonable assistance and help to the Bank and to any new service provider engaged by' the Bank for the smooth switch over and continuity of the services.

21.2.2 In the event of failure of the RA to render the Service, without prejudice to any other right the Bank shall have as per this Agreement;

(a) The Bank at its sole discretion may make alternative arrangements for Setting the Services from any other source; and (b) The RA shall be liable to reimburse the expenses, if any incurred by the Bank in availing such services from the alternative source, provided the Bank gives a prior notice to the RA before availing such service from any other alternative source.

SCHEDULE I

Services to be rendered by RA

Recovery of the Bank's dues from the borrower through the following means:

- I. Follow up with Borrower(s) / Guarantor(s) for recovery of the Bank's dues.
- ii. Collecting details of the securities available /registered under CERSAI, Valuation of the same, seizure/possession under SARFAESI and/or securitization and finally' sale of the same for recovery of dues.
- iii. Such other means as the RA may decide in consultation with the Bank in writing, for recovery of NPAS.

SCHEDULE II

Commission payable to Recovery Agent

(To be inserted as per negotiation)

In WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorised representatives as of the date and day first mentioned above.

Bank's Authorised Signatory RA's Authorised Signatory

Signature: Signature:

Name: Name:

Designation; Designation;

Witness 1) Witness

Witness 2):

Place:

Date:

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