

Undertaking cum Indemnity Agreement.

This Undertaking Cum Indemnity (**the “Deed”**) is executed on the day, month, year and at the place set out in Item No. 1, 2 and 3 of **Annexure I** hereto by the person(s) named in **Annexure –II** hereto (hereinafter referred to as **‘the Account Holder(s)’**), which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include an individual, the individual’s heirs, administrators, executors and legal representatives; in favour of HDFC BANK LIMITED, a banking company, incorporated and registered under the Companies Act, 1956, and having its Registered Office at HDFC Bank House, Senapati Bapat Marg, Lower Parel (W), Mumbai 400013, (hereinafter referred to as **‘the Bank’**), which expression shall unless repugnant to the context or meaning thereof, shall be deemed to mean and include its successors in title and assigns) AS UNDER;

WHEREAS

- (i) The Account Holder(s) maintain an account/ accounts with the Bank, the details whereof are set out in **Annexure - III** hereto. The said account(s), together with all such other account(s) that the Account Holder(s) may maintain and operate with the Bank from time to time, whether in his/ its/ their name(s) or jointly with others, and having the same Customer Identification Number (“**CIN**”) as the account(s) mentioned in **Annexure – III**, shall hereinafter be referred to as the (“**said accounts**”).
- (ii) In his/ its/ their day to day business, the Account Holder(s), may be required to give urgent instructions to the Bank for operation of any of the said account(s).

The Account Holder(s) have approached and requested the Bank to accept instructions given by the Account Holders themselves or through their authorised signatories (the “**POA/Mandate Holder**”) as mentioned in the respective account opening form of each of the said account(s) or as amended from time to time via email (whether or not the same has been electronically signed) and/or facsimile (hereinafter referred to as the “**Virtual Instructions**”) and the Bank has agreed to accept such Virtual Instructions subject to the terms and conditions hereinafter; For the purpose of this Deed an email shall be deemed to be “Electronically Signed” if the same has been encrypted/ authenticated by using an electronic method or procedure in accordance with the provisions of the Information Technology Act, 2000 or in any other manner/ method/ procedure/ technique as is recognized/ envisaged as a valid method of encryption/ authentication under the provisions of the Information Technology Act, 2000;

- (iii) One of the conditions stipulated by the Bank for accepting Virtual Instructions of the Account Holder(s) was that the Account Holder(s) shall execute a Deed of Indemnity in relation to the Virtual Instructions in favour of the Bank;

NOW THEREFORE, the Account Holder(s) hereby irrevocably agree, confirm and undertake with the Bank and these presents witnessed as follows:

1. The Account Holder(s) hereby confirm that, based on the undertakings as contained hereinafter, the Bank may (though not obliged to do so), subject to the Virtual

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Instructions being received during business hours of the Bank, allow, *inter alia*, the following transactions to be carried out by the Account Holder(s) on the basis of the Virtual Instructions sent by the Account Holder(s) through the Authorised Signatory to the facsimile number or email address specified by the Bank for this purpose from time to time:

- To print cheques with facsimile signatures of the Authorised Signatory
 - Transfer the funds from the said account(s) (subject also to availability of sufficient funds in the said account(s)):
 - To issue telegraphic transfer orders, demand drafts, pay orders etc. in favour of various persons and parties on behalf of the Account Holder(s) (subject also to availability of sufficient funds in the said account(s)); or
 - for crediting the funds from the said account(s) to any other account either with the Bank or other banks (subject also to availability of sufficient funds in the said account(s)) including Electronic payments and data processing on email / compact disk / floppy disk;
 - For cancellation of / issue of stop payment of cheques/ demand draft(s) / pay orders.
 - For issuing and amending letters of credit and bank guarantees.
 - Instructions like funding sheets on issuance of CBS cheques
 - Effecting electronic Instructions like RTGS/NEFT etc.,
 - Any other Virtual instructions for financial / non-financial banking transactions that the account holder communicates to the Bank
2. The Account Holder(s) shall ensure that any Virtual Instruction sent by way of facsimile transmission shall be signed by the Account Holder(s) or the Authorised Signatory on behalf of the Account Holder(s) in the same manner and way as has been mentioned in the operating instructions in the said accounts.
 3. The Account Holder(s) shall ensure that the facsimile transmission shall be made to such facsimile number as may be communicated by the Bank to the Account Holder(s) from time to time. Similarly in case of Virtual Instruction sent by way of email instructions, the Account holder(s) shall ensure that the scan copy of instruction duly signed by the Account Holder(s) or the Authorised Signatory on behalf of the Account Holder(s) in the same manner and way as has been mentioned in the operating instructions in the said accounts is attached and shall be sent only to the designated email addresses as given by the Bank from time to time.
 4. The Account Holder(s) are aware that they have the option of not availing such facility. However, the Account Holder(s) declare and confirm that the Account Holder(s) have, for the convenience of the Account Holder(s) and after being fully aware of, and having duly considered the risks involved, (which risks shall be borne fully by the Account Holder(s)) opted for such facility of their own free choice and have requested and authorised the Bank to rely upon and act on the Virtual Instructions. The Account Holders are willing and agreeable to bear all associated risks, responsibility and liability of any misuse or unauthorised use of the facility.

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5. The Account Holder(s) further declare and confirm that the Account Holder(s) is aware that the Bank is agreeing to offer the facility of giving Virtual Instructions by facsimile or e-mail and to act on the basis of /only by reason of, and relying upon, the Account Holder(s) executing this writing and agreeing, confirming, declaring and indemnifying the Bank as done by this writing and the Bank would not have done so in the absence thereof. The provisions of this writing shall apply to any and all matters, transactions, communications, directions and instructions carried out for and on behalf of the Account Holder(s) pursuant to the Virtual Instructions.
6. The Account Holder(s) hereby confirm that when any Virtual Instructions is received by the Bank whether by way of email communication (which has been sent from the email address registered with the Bank (whether or not the same has been electronically signed) and/ or facsimile transmission (which bears the signature of the Account Holder(s) or the Authorised Signatory), such Virtual Instruction shall be deemed to have been given by the Account Holder (s) and/ or their Authorised Signatory and such instructions shall be binding upon the Account Holder(s).
7. The Bank shall be entitled to rely upon such Virtual Instructions so received (in case of Email whether or not the same has been electronically signed) and to act upon the same without being required or expected to carry out an independent verification as to the authenticity or validity of such Virtual Instructions.
8. The Account Holder(s) agree that notwithstanding anything to the contrary contained in this undertaking, the Bank shall not be obliged to act on the basis of any Virtual Instructions in the event that (i) the Bank does not, in good faith, believe the Virtual Instructions to be genuine; (ii) the Bank suspects, in good faith, that the Virtual Instructions have not been sent by the Account Holder(s) and/ or, as the case may be, the Authorised Signatory; or (iii) there is an error in transmission or reception of such Virtual Instructions to the Bank and the Bank has not received or the Bank, in good faith, believes or suspects that it has not received the complete and correct Virtual Instructions; or (iv) there is any ambiguity, lack of clarity or incompleteness in the Virtual Instructions received by the Bank. The Account Holder(s) further agree and undertake that the Bank shall not be liable or responsible for not acting on the basis of any Virtual Instructions in the circumstances mentioned above or any consequences of whatsoever nature including, without limitation, any losses, damages and/or expenses incurred by the Account Holder(s) arising as a result of or pursuant to the Bank not acting on the basis of any Virtual Instructions as aforesaid.
9. The Account Holder(s) agree that in the absence of relevant and adequate information required by the Bank for carrying out any transaction pursuant to receipt of the Virtual Instructions, as mentioned in clause 8 above or otherwise, the Bank shall not be held liable or responsible for any delay in completion/ not effecting of such transaction and any resulting loss or damage to the Account Holder(s) on account thereof.
10. The Account Holder(s) agree and acknowledge that the liability of the Bank to confirm the authenticity of any Virtual Instruction received by it (i) by way of facsimile/email transmission shall be limited only to tallying the signature on such Virtual Instruction with the specimen signatures made available to the Bank by the Account Holder(s) in relation to the said account(s) at the time of account opening and as modified from time to time whether or not such email has been electronically signed by the Account holder(s);

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Notwithstanding anything to the contrary contained in this Deed, the Bank may at any time, at its discretion, and without assigning any reasons for the same, require the Account Holder(s) to furnish additional information/ proof for verification of the authenticity of the Virtual Instructions.

11. The Account Holder(s) shall, give Virtual Instruction in accordance with the provisions herein, and there shall be no obligation on the Bank to follow-up with the Account Holder(s) for Hard Copies.
12. The Account Holder(s) acknowledge that where any Virtual Instruction has been received by the Bank in accordance with the stipulations contained herein, the Bank shall not be responsible or liable for any loss suffered or other outgoings whatsoever caused, directly or indirectly, as a consequence of the Bank having acted upon such Virtual Information without obtaining hard copies, irrespective of any such Virtual Instruction being incorrect or incomplete.

The Bank will not, await receipt of the Hardcopy prior to taking any action in connection with any Virtual Instruction. Further, the Account Holder(s) agree and accept that the storage of a photocopy, print out or electronic record (as the case may be) of the Virtual Instruction received from the Account Holder(s) or the Authorised Signatory shall be the conclusive evidence of any such instructions sent to the Bank and the Account Holder(s) hereby undertake not to raise any objection in relation to the same..

13. Where the Bank has, in its absolute discretion, decided not to act upon a Virtual Instruction until receipt of the Hard Copy, it shall not be required to furnish any explanations for the same to the Account Holder(s) or the Authorised Signatory, as the case may be.
14. In the event of any dispute relating to the actual terms of the Virtual Instructions, the records of the Bank shall be final and binding on the Account Holder(s) and the Account Holder(s) shall not dispute the same.
- 15 The Account Holder(s) understand/s that facsimile transmission lines and Internet are not encrypted and that facsimile and Internet are not secure means of transmission. The Account Holder(s) further acknowledge(s) that sending instructions via emails which are not Electronically Signed is an unsecure means of transmitting information. Account Holder(s) acknowledge/s and accept/s that such unsecure transmission methods involve the risk possible unauthorized alteration of data and/ or unauthorized usage/ transmission therefore for whatever purposes. The Account Holder(s) agree/s to exempt the Bank from any and all responsibility/ liability of such misuse and not to hold the Bank responsible for any such misuse and further indemnifies the Bank and keep agrees to the Bank indemnified, saved and harmless, from time to time and at all times from and against any and all claims, losses, damages, costs, liabilities, charges, actions, suits, demands, penalties and expenses or other consequences incurred, suffered or paid by the Bank or required to be incurred, suffered or paid by the Bank and also against all demands, actions, suits, proceedings made, filed instituted against the Bank, pursuant to, in connection with or arising out of or in relation to :-

1. The Bank acting or refraining to act pursuant to, in accordance with or relying upon, any Virtual Instructions or otherwise pursuant to the request and authority conferred herein; and/or,

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2. The Bank acting pursuant to, in accordance with or relying upon any Virtual Instructions received by the Bank in accordance with the provisions of this Undertaking; and/or,
3. Any unauthorised or fraudulent Virtual Instruction received by the Bank; and/ or
4. Non receipt of any Virtual Instruction claimed to have been sent by the Account Holder(s) ; and/ or
5. Any errors, delays or problems in transmission or unauthorized/ illegal interception, alteration, manipulation of electronic data or otherwise caused by using facsimile or Internet as a means of transmission.

PROVIDED that this indemnity shall not be available to the Bank, if the liabilities for which the Bank is seeking indemnity hereunder arise from its own gross negligence or willful default.

16. The Bank shall not be under any obligation at any time to maintain any facility for the receipt of Virtual Instructions or to ensure the continued operations or availability of any such facilities or equipment. The Account Holder(s) acknowledge and confirm that the Account Holder(s) are aware of the nature of telecommunication services and internet services and that the Virtual Instructions may not be received properly and may be read by or be known to any unauthorised persons and the request to the Bank to accept and act on the basis of such Virtual Instructions either facsimile and/or e-mail Instructions is for the sole convenience and benefit of the Account Holder(s). The Account Holder(s) agree to assume and bear all the risks involved in respect of such errors and misunderstanding and the Bank shall not be responsible in any manner for the same or breach of confidentiality thereto and shall also not be liable for any claims, loss, damage, cost or expense and liability arising therefrom.
17. This indemnity is without prejudice to the Bank's other right, privileges, powers and remedies in law and the Bank may delay enforcing its right without at any time losing them and any waiver of a right by the Bank hereunder or available to it by law, shall not be deemed to be a waiver of any other rights or of the same right at another time.
18. The Bank may at any time without assigning any reason stop/ terminate the facility given to the Account Holder(s) of giving Virtual Instructions by either facsimile and/ or e-mail by giving 7 (seven) days prior written notice in this regard. However, any such termination shall not affect anything done or any rights or liabilities accrued or incurred prior to the termination and all the above indemnities given to the Bank hereunder shall survive any such termination. The Account Holder(s) specifically agree and confirm that any matter or issue arising hereunder shall be governed by and construed exclusively in accordance with the Indian laws and shall be subject to the jurisdiction of the courts of Mumbai in India.
19. In the event that the Account Holder(s) desire to discontinue giving Virtual Instructions by either facsimile and/ or e-mail as provided in this writing, the Account Holder(s) shall deliver to the Bank, prior written notice of (7) days in this behalf. Such notice of discontinuation shall bind the Account Holder(s) forthwith upon the notice being given by the Account Holder(s). However, such notice of discontinuation shall not be effective as against the Bank until the Bank has acknowledged in writing to the Account Holder(s) that it has acted upon such notice.

Signature of all holders :

Annexure – I

Sr No.	Clause	Particulars
(i)	Day / month / Year of the Deed	
(ii)	Place of signing of Deed	

Annexure - II

Particulars of the Account Holder(s)

Name of Primary Holder :

Name of Join Holder 1 :

Name of Join Holder 2 :

Name of Join Holder 3 :

Annexure - III

Details of the said accounts

Sr No.	Account Number
(i)	
(ii)	
(iii)	
(iv)	