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ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ವಿಶೇಷ ಪತ್ರಿಕೆ

ಬೆಂಗಳೂರು, ಕನಿವಾರ, ಮಾರ್ಚ್ ೨೨, ೧೯೯೨  
(ಜ್ಯೋತಿಷ, ಶಕ ವರ್ಷ ೧೯೦೯)

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Revenue Secretariat

**Subject.—**

Terms and conditions for sanction of advance by the Karnataka State Wakf Council—Rules—Reg.

**Read.—**

1. Government Order No. RD 6 WGA 91 dated 2nd November 1991.
2. Government Order No. RD 6 WGA 91 dated 16th January 1992.
3. Government Order No. RD 6 WGA 91 dated 16th January 1992.

**Preamble :—**

In Government Order No. RD 6 WGA 91 dated 2nd November 1991 read at Sl. No. 1 above, amongst other things, Government have accorded sanction to increase the budget provision by Rs. 30.00 lakhs so as to increase the contribution to Rs. 120.00 lakhs under the Head of Account "2250-Other Social Services-102-Wakfs-91-92". Therein Rs. 60.00 lakhs has been provided for the Karnataka State Wakf Development Fund—Revolving Fund.

In Government Order No. RD 6 WGA 91 dated 16th January 1992 read at Sl. No. 2 above, sanction has been accorded for the creation of a Revolving Fund called the Karnataka State Wakf Council Fund.

In Government Order No. RD 6 WGA 91 dated 16th January 1992 read at Sl. No. 3 above, approval has been accorded for the constitution of the Karnataka State Wakf Council with immediate effect for a period of 3 years with the members referred to therein.

Therefore, with a view to make the Wakf institutions in the State economically self-reliant and viable, it is felt necessary to formulate the schemes on the lines of the Central Wakf Council, New Delhi, for sanctioning of advance etc., by the Karnataka State Wakf Council.



Order No. RD 6 WGA 91, Bangalore, dated 27th March 1992

Government are pleased to accord sanction to the promulgation of the Rules as indicated in the Terms and Conditions annexed to this order for sanction of advance by the Karnataka State Wakf Council, with immediate effect.

This Order issues with the concurrence of Finance Department vide its U. O. Note No .FD 493 Exp. 7/92 dated 23rd March 1992.

By Order and in the name of the Governor of Karnataka,

K. NARASIMHAIAH,  
Deputy Secretary to Government,  
Revenue Department (W).

## KARNATAKA STATE WAKF COUNCIL

### Terms and Conditions of Sanction of Advance by the Karnataka State Wakf Council

#### INTRODUCTION

Government of Karnataka is providing Grant-in-Aid to the number of Wakf institutions in the State to Keep the institutions in good condition by carrying repairs and renovations and improvements. But these grants have not greatly helped the institutions in their economic development to become self-reliant. It is therefore proposed to advance loans on the lines of the loan given by the Central Wakf Council, New Delhi and also make provision for this purpose in the State Budget for advancing loans to the deserving Wakf institutions whose Mathawallies or Managements take up developmental works on their own initiative. The advance of such loans is subject to the Rules specified in the scheme annexed.

Government hereby formulate the following terms and conditions for advancing loans by the Karnataka State Wakf Council for the development of Wakf properties.

## KARNATAKA STATE WAKF COUNCIL

### Terms and Conditions for Release of Advance for the Development of Wakf Properties, 1992

The Karnataka State Wakf Council hereby makes the following Terms and Conditions for the administration and regulation of Advance given by the Karnataka State Wakf Council for the development of Wakf properties in the State.

#### Short title and extent

1. (a) These terms and conditions may be called the Karnataka State Wakf Council Terms and Conditions for release of Advance for the development of Wakf properties, 1992.

(b) They shall extend to entire State of Karnataka.

(c) They shall come into force at once on being adopted by the Karnataka State Wakf Council.

2. In these Terms and Conditions, unless the context otherwise requires:



### Definitions

3. (a) "Act" means the Wakf Act, 1954.
- (b) "Committee" means the Wakf Development Consultative Committee of the Karnataka State Wakf Council.
- (c) "Chairman" means the Chairman of Karnataka State Wakf Council.
- (d) "Welfare Cess" means a sum of money paid by the Muthawalli of Wakf to the Karnataka State Wakf Council from time to time.
- (e) "Form" means a form appended with these Terms and Conditions.
- (f) "Government" means the Karnataka Government.
- (g) "Council" means the Karnataka State Wakf Council.
- (h) "Advance" means Advance granted by the Council to the Muthawalli of a Wakf for the development of any specific Wakf property.
- (i) "Member-Secretary" means the Member-Secretary of the Council.
- (j) "Wakf property" means a property situated in any area which is comprised within the jurisdiction of a Municipality (Whether known as Municipality, Municipal Corporation, Notified area Committee, Town area Committee, Town Committee or Mandal Panchayat or by any other name).

### Object of Advance

Subject to the terms and conditions hereinafter laid down, the Council may grant Advance to the Muthawalli of a Wakf for the purpose of development of Wakf properties.

### Eligibility and Quantum of Advance

4. (1) An unregistered Wakf or a Wakf which is indebted or which is not in full possession of the property to be developed, or a Wakf which is, in the opinion of the Council, insolvent or otherwise unsuitable, shall not be eligible for an advance.

(2) The Advance may be granted under these Terms and Conditions upto 75 per cent of the estimated cost of the project, excluding the value of the land, subject to a maximum of Rs. 5 lakhs in each case in any one year.

(a) Provided that the Advance may also be granted in excess of 75 per cent of the estimated cost of the project in special circumstances.

(b) Provided further that Advance in excess of the limit of Rs. 5 lakhs in each case in any one year may also be granted, if the Chairman feels that the project will be completed earlier with more financial assistance.

(3) The Advance shall be granted for the construction of new building or extension of existing building or for other developmental projects of Wakf properties for the purpose of augmenting the resources of the Wakf concerned and better realisation of its objects.

### Mode of application

5. (1) Every Muthawalli of a Wakf requiring Advance shall submit the scheme of development of Wakf property through an application as shown in Form-I of these terms and conditions in duplicate, and shall enclose therewith the following documents (in case these are in Regional Language, its English translation shall also be attached).



(a) State Plan of the land to be developed, indicating boundaries.

(b) (1) Detailed Plan of construction prepared by a qualified engineer/architect, duly sanctioned by the Municipal or any competent authority having jurisdiction in the area where the property to be developed is situated.

(ii) In the case of other developmental projects a detailed plan prepared by an expert.

(c) A project report in a narrative form indicating the brief history of the Wakf, the aim/objective of the development, the details of the proposed scheme alongwith the estimated cost of it and anticipated income and its utility.

(d) A detailed itemwise estimate of cost duly prepared by an engineer or an expert as the case may be.

(e) A detailed statement showing the profitability of the scheme.

(f) A statement of the market value of the wakf property by an approved valuer.

(g) Copies of the documents to establish the title of the borrower to the management of the property.

(h) A non-encumbrance certificate from the competent authority.

2. The application of the Muthawalli of a Wakf shall be submitted to the Council through the Committee.

(a) A copy of the resolution of the Council approving the scheme and of the permitting, if necessary, the mortgage of the property or recommending specific guarantee for the Advance.

#### Examination of the Scheme by Wakf Development Committee

6. The Wakf Development Committee of the Council shall examine all such applications with a view to ascertaining that they are viable, profitable and suitable and then give its recommendation on each scheme to the Chairman.

#### Approval of the Scheme

7. (1) On approval of a scheme by the Chairman, the Advance may be sanctioned in the name of the Muthawalli and the amount of the Advance sanctioned may be paid either in lumpsum or in instalment.

(2) Before the Advance amount is advanced, the Muthawalli sign an agreement with the Council on the terms and conditions of the Advance for execution of the project for which Advance is granted in the form as shown in Form-II.

(3) The Muthawalli of the Wakf concerned shall also furnish jointly and severally, adequate security for the Advance sanctioned in one of the following manners:—

(a) Deposit with the Council the title deeds of the property which is to be developed or of other immovable property i.e., belonging to the Wakf with an undertaking signed on form as shown in Form-III.

(b) Mortgage immovable property by executing a registered mortgage deed on form as shown in Form-IV.

Provided that in exceptional circumstances, the Chairman may decide to accept any other manner of guarantee as is considered adequate in any specific case.



**Mode of Payment of Advance**

- 8. (a) The Advance amount will be paid through a crossed cheque to the account of the Wakf concerned.
- (b) The Wakf shall deposit the amount of the Advance in the account of the project Development Committee when constituted under condition 10 either in full or in part.

**Terms of Repayment of Advance**

9. (1) The Advance shall be ordinarily repayable to the Council in half yearly instalments, covering a period of 5 to 10 years. The first of such instalment falling due on the completion of 2 years after the date of the release of the Advance.

(i) Except as the Council may otherwise agree in writing and subject to such conditions as may be imposed by the Council, the Borrowers shall jointly or severally pay, credit and/or make over to the Council immediately on collection all receipt, recoveries and realisations on account of advance deposits, hire purchase instalments, rentals, any premium and/or sale proceeds of land/houses, etc., covered by the said scheme. The money so received by the Council shall be applied towards the repayment programme as set out in sub-clause (ii) below:—

(ii) The Borrowers shall repay the Advance except as the Council may otherwise agree in writing, in accordance with the following repayment schedule:—

Number of Instalment	Date	Amount
First	On or before	
Second	On or before	
Third	On or before	
Fourth	On or before	
Fifth	On or before	
Sixth	On or before	
Seventh	On or before	
Eighth	On or before	
Nineth	On or before	
Tenth	On or before	

(2) The 1st Advance concerned shall as a measure of mutual regard for the furtherance of the objectives of Wakfs in general pay welfare cess to the Council at 5 per cent annum of the amount of loan outstanding from time to time or at such other proportion as may be prescribed by the Council, i.e., the first such instalment falling due on the completion of two years after the date of the release of the advance. The Grantee of the loan is required to execute an undertaking for payment of Welfare Cess at 5 per cent per annum, of the amount outstanding from time to time or at such other proportion as may be prescribed by the Council.

(3) The Chairman may grant such moratorium in the payment of Welfare Cess also as he may deem necessary in the circumstances or any case.

(4) The Chairman may extend the time for the payment of instalment of Welfare cess due if he considers it necessary in the circumstances on any case.

(5) In case 2 consecutive instalments of repayment of the Principal or 1st instalment of the amount of annual Welfare Cess fall in arrears, the Chairman may after giving notice to the borrowers to



pay the due instalment of principal amount and Welfare Cess within a period of 30 days of the date of receipt of such notice by the borrowers, declare that the entire balance amount of the Principal Advance and the donation due thereon has become repayable in one Lump sum.

(6) After the expiry of the period of the final notice under Sub-condition 5 above, the Council may proceed to take action for the foreclosure of the mortgage or take such other action as it deems proper for the recovery of the outstanding amount of Advance and the Welfare Cess due thereon.

#### **Appointment of Project Development Committee**

10. (1) The Karnataka State Wakf Council with the approval of the State Government may constitute a Project Development Committee to control and supervise the utilisation of the Advance, Advance and progress of the project according to the Plan.

2. (a) The Project Development Committee shall ordinarily consist of the following :

(i) A nominee of the Wakf Board.

(ii) A prominent Muslim of the locality.

(iii) Muthawalli of the Wakf concerned.

(iv) One Engineer expert in the field of Engineering.

(v) Tahsildar of the Taluk under whose jurisdiction the Wakf institution is situated.

(b) The meeting of the Project Development Committee shall be presided over by the Muthawalli of the Wakf concerned or in case the property to be developed is under the direct management of the Wakf Board, by the Chairman of the Wakf Board or his nominee, as the case may be.

(3) The amount of Advance granted by the Karnataka State Wakf Council for the Scheme shall be kept in a bank account exclusively opened for this purpose in the name of the project Development Committee. The drawing or disbursing authority would be jointly vested in two or more members of the Project Development Committee none of whom would operate the account singly.

(4) The Karnataka State Wakf Council may replace any member of the Project Development Committee with the approval of Government by nominating another in his place without assigning any reason thereof.

(5) The account of the Project Development Committee shall be audited at the close of the month of March every year by a qualified auditor or by a Chartered Accountant and a copy of the audited accounts shall be furnished to the Council not later than 31st May of every year.

(6) If any defalcation of funds or wasteful expenditure is reported by the auditor or comes otherwise to the notice of the Chairman, he may take action as permitted under Sub-Condition (5) and (6) of condition 9.

(7) The Chairman may at any time, if he thinks it necessary, order an inspection of the account of the project development Committee, and may depute any officer of the State Government or any other Competent person to carry out such inspection.

(8) The Chairman may give such direction to the Project Development Committee, as may, in his opinion, be necessary for the proper



utilisation of the funds, and such direction shall be deemed to be part of the agreement.

#### **Transfer by the Borrower**

11. Save as provided under condition 7, no Muthawalli borrowing an Advance from the Council shall under any circumstances mortgage or otherwise transfer the property or any portion of it, being development without the prior permission of the Council.

#### **Time for Completion**

12. (1) Every project for which an Advance is advanced shall be completed within such time as may be stipulated in each case.

(2) If the proposed project is not completed within the stipulated time, the Chairman, may, if he deems it justified, extend the period at his discretion.

#### **Explanation**

For the purpose of this condition, completion of project would mean utilisation of the advance instalment of advance advanced i.e. within 2 years from the date of release of the advance instalment.

(3) If no time is extended, or if the extended time has also expired without the project being completed, the Chairman may impose a penalty of payment of a sum of money not more than 5 per cent per annum on the balance unpaid. He may also initiate action for the recovery of the advance as provided under sub-condition (5) and (6) or condition 9. Provided the Chairman may exempt any advance from the levy of penalty or with the penalty imposed, if necessary, depending on the circumstances of the case.

#### **Implementation of the Scheme**

13. (1) The project shall be implemented strictly in accordance with the plans approved by a qualified architect/engineer/expert.

(2) No deviation from the approved plan shall be made without the prior sanction of the council.

#### **Utilisation of income Accruing from the Scheme**

14. (1) To ensure proper utilisation of the additional income from the developed Wakf property, the Muthawalli shall prepare a scheme for such utilisation and submit it to the Council for approval.

(2) The scheme under Sub-Condition (1) above shall be based on the following requirements :

(i) The Muthawalli will continue to take for himself an amount equal to the average amount he was getting as income from the property in the previous 3 years immediately before the date of receipt of the first Advance from the Council.

(ii) The Council may further sanction upto 10 per cent of the additional income accruing from the developed property for being utilised for the purpose for which the wakf was originally created.

(iii) The remaining additional income shall be spent after paying taxes, contributions, maintenance and administration charges, depreciation fund and audit fee, on such educational and social welfare activities as may be conducive to the betterment of the community.



(3) After the scheme is approved by the Council it shall form the basis of the annual budget of the Wakf concerned till the scheme is altered or revised with the prior approval of the Council.

#### **Creation and Utilisation of Educational Fund**

15. The welfare Cess of 5 per cent per annum received by the Council from the advance shall be pooled together and shall be added to the Grant-in-Aid being given for the repairs and renovations of Mosques, fencing of burial grounds etc.,

#### **Creation and Utilisation of Revolving Fund**

16. The amount received by the Council as repayment instalments of Advance shall form a Revolving Fund which shall be accounted for under a separate head of account under the Wakf Fund and shall be utilised for the development of other Wakf properties.

#### **Operation of Accounts**

17. The Council may by a resolution authorise the Member-Secretary of the Council to operate the account of the Fund mentioned under condition 15 & 16 of these terms and conditions by keeping the above fund and the amount released by the Government shall be kept with any branch of Union Bank of India, Bangalore.

#### **Audit**

(18) The audit of Karnataka State Wakf Council funds shall be got done by the Controller of State Accounts Department at the end of every financial year.

#### **Removal of Difficulties**

(19) If any difficulty arises in giving effect to the provisions of these terms and conditions, the Chairman, Karnataka State Wakf Council may by order, make such provision not inconsistent with the purposes of these terms and conditions appear to him to be necessary or expedient for removing the difficulty.

FORM — I	..	Application Form
FORM — II	..	Advance Agreement
FORM — III	..	Memorandum of Deposit of Title Deed
FORM — IV	..	Mortgage Deed
FORM — V	..	Agreement of guarantee.

FORM—I  
(Terms & Conditions 5(1))

**Application for Grant of Advance for Development of Wakf Property**

To  
The Member-Secretary,  
Karnataka State Wakf Council,  
BANGALORE.

Sir,  
Having carefully gone through Karnataka State Wakf Council, Terms and Conditions for obtaining the Development of Wakf properties, 1991 and agreeing to abide by all the terms and conditions



laid down, I..... Muthawalli of the  
 ..... Wakf hereby apply for the  
 grant of Advance of Rs. .... (Rupees) .....  
 ..... Only) for the development of its property mentioned  
 below which is duly registered as a Wakf and is free from all encum-  
 brances. I further certify that no individual or body has any interest,  
 right or claim in the property to be developed, other than this wakf,  
 which is in full possession of the property. Necessary details are  
 furnished below:—

1. Name of the Wakf.....
2. Location of the property/  
Land to be developed City/Town.....
3. Particulars of the area/land  
to be developed.....

- (i) Number.....
- (ii) Area ..... Sq. Meters
- (iii) Boundaries ..... North  
East  
South  
West

- (iv) Present State of the property i.e.  
Vacant/build up/occupied by  
tenants/Self.....

4. Serial number of the Wakf Board's Register.....  
where the Wakf is registered.....  
and the Gazette notification number.....  
date.....
5. Date of creation of the Wakf..... and object of its  
creation.....
6. Present annual income of the Wakf.....  
(a) property to be developed  
(b) over all income of the Wakf
7. Security of the Advance under terms and conditions for  
obtaining Advance will be furnished through:  
(a) Deposit of title deeds with the Karnataka State Wakf  
Council  
OR  
(b) Bank guarantee/State Wakf Board guarantee. OR  
(c) Mortgage of the property OR  
(d) Any other

Note:—(Strike out the options not chosen)

6. The following documents are being enclosed.—  
(a) Site Plan of the land to be developed, indicating bound-  
aries.  
(b) Plan of construction prepared by a qualified engineer/  
architect, duly sanctioned by the nybucuoak/competent  
authority or other Plan Prepared by Experts.  
(c) Detailed item-wise estimate of cost of construction or  
other cases.  
(d) A statement showing the profitability of the scheme.  
(e) A statement of the market value of the Wakf property  
proposed to be developed, only prepared by an  
approved valuer/Revenue Authority.



- (f) Copies of documents, such as wakf deed, revenue and municipal records, wakf register of the Board, etc.. to establish the ownership of the borrower over the property.
- (g) A non-encumbrance certificate from the competent authority.

Address.....

Dated.....

Signature of the applicant  
Name in block letters

Designation:.....

Advance Agreement No. ....

FORM—II  
(Terms 7 (2))

Name of the Scheme

Karnataka State Wakf Council, Bangalore

Advance Agreement

On.....  
(Date)

Scheme No..... Advance Amount Rs.

Dated.....

Sl. Number in Documents Register.....

FORM—II  
(Terms 7 (2))

Advance Agreement

And whereas, the Borrower have represented to the Council that the Borrower..... Wakf,

And whereas the Borrower (b) with sanction of the Borrower (a) has or Borrowers have undertaken a scheme known as the..... in the city of..... in the State of..... for the development/partly developed/under developed land measuring..... hectares situated within the Municipal limit of the city (hereinafter referred to as "the said scheme").

And, whereas, the principal features of the said scheme are set out in the first schedule hereto and the total investment for the complete implementation thereof has been estimated by the Borrower at Rs.....lakhs.

(Indicate first schedule as given in Mortgage deed page-11)



And, whereas, the Borrowers had made application to the Council for grant of the total Advance of Rs. .... lakhs (Rupees. .... only) for implementation and execution of the said scheme.

And, whereas, the Council in response to the aforesaid application of the Borrower has agreed to grant Advance of Rs. .... lakhs (Rupees. .... only) hereinafter referred to as the Advance on the terms and conditions hereinafter appearing for the implementation and execution of the said scheme.

Now, therefore, it is hereby agreed by and between the parties here to as follows :

1. The Karnataka State Wakf Council will lend and advance to the Borrowers the sum of Rs. .... lakhs (Rupees. .... only) in instalments to be disbursed as provided hereunder subject to the terms and conditions hereinafter contained.

1. (a) Except as the Council may otherwise agree in writing, the Advance will be advanced by the Council to the Borrower in instalments as follows—

Number of Instalment	Date	Amount (Rs. in lakhs)
First—Or on after		
Second—Or on after		
Third—Or on after		
Fourth—Or on after		
Fifth—Or on after		
Sixth—Or on after		
Seventh—Or on after		
Eighth—Or on after		
Ninth—Or on after		
Tenth—Or on after		

Provided however that the Council shall have absolute discretion at any time to reduce, cancel, alter or delay the disbursement of the said advance and/or instalments of Advance amount and the dates of disbursements in any manner and may decline to disburse any and/or all the remaining instalments without assigning any reason therefore to the Borrowers and without being liable for any losses or damages.

2. Unless the Council may otherwise agree, the disbursement of any of the instalments of the said Advance at any time shall further be subject to the following conditions:—

(i) The Borrowers shall have complied with the provisions of Clause 4 hereof :

(ii) The availability of sufficient funds with the Council.

(iii) The Council being satisfied after such inquiry as it may think fit to make, and at its sole directions, that the implementation of the said scheme has made satisfactory progress and that the amounts already disbursed by the Council out of the said loan of Rs. .... by previous instalment or instalments have been prudently, properly and satisfactorily utilised for the purposes for which the same were advanced. The payment of any such further instalments as aforesaid shall not amount, to acceptance by the Council of the prudent, proper and satisfactory utilisation of the previous instalment or instalments for the purpose(s) for which they were disbursed :



(iv) All advances made by the Council from time to time have been utilised by the Borrowers solely and exclusively to cover expenditure on the said scheme and have not been diverted for any other purpose :

(v) The investments required to be made by the Borrowers as per the agreed scheme have been made :

(vi) All payments due from the Borrowers to the Council as agreed to by the Borrowers have been duly made and all amounts of donation as hereinafter provided have been duly paid up-to-date.

3. The decision of the Council as to whether or not there have been or are sufficient funds available as mentioned in clause 2 (ii) above and/or whether or not the advance amounts have been prudently, properly and satisfactorily utilised by the Borrowers, shall be final and binding on the Borrower.

4. PROVIDED HOWEVER, and it is hereby agreed that prior to the disbursement of the first instalment as provided hereinabove, the Borrowers shall furnish to the Council a guarantee from the ..... of the State of ..... for the fulfillment of the obligations of the Borrowers in terms of this Agreement and for the due repayment of the Principal amount and the Welfare Cess together with the other monies herein mentioned and the Borrowers hereby declare that they have obtained Approval of the Government for the purpose of furnishing of such guarantee in the form prescribed by the Council.

OR

PROVIDED HOWEVER, and it is hereby agreed that prior to the disbursement of first instalment as provided herein above, the Borrowers shall furnish to the Council a guarantee from a nationalised or subsidiary Bank acceptable to the Council (in the form and substance satisfactory to the Council) for the fulfillment of the obligations of the Borrowers in terms of the loan agreement and for due repayment of the principal amount and the amount of Welfare Cess together with the other monies herein mentioned and the Borrowers hereby declare that they obtained the approval of the Guarantor Bank for the purpose of furnishing of such guarantee in the form prescribed by the Council.

OR

PROVIDED HOWEVER, and it is hereby agreed that prior to the disbursement of the first instalment as provided herein have, unless otherwise agreed by the Council, the Borrowers shall create either a first mortgage by one or more deeds of mortgage (in form and substance satisfactory to the Council) or first mortgage by deposit of title deeds (hereinafter referred to as the Mortgage) and continue to keep mortgaged till the final repayment of the entire Advance, Welfare cess and any other monies as shall be due to the Council in pursuance of the terms of these presents, unencumbered properties owned and possessed by the Borrowers of the value not less than Rs. .... (Rupees ..... only) provided, however, that the Council agrees to the Borrowers creating a first mortgage and keeping mortgaged as aforesaid properties of a value not less than Rs. .... whenever an amount less than Rs. .... remains due (or shall become due upon the disbursement of instalments as provided hereinabove) or shall otherwise to outstanding for repayment to the Council, So, however, that



at no time shall the borrowers keep properties mortgaged as aforesaid of a total value less than 133-1/3 per cent of the total amounts outstanding from the Borrowers for repayment to the Council.

5. (i) Except as the Council may otherwise agree in writing and subject to such conditions as may be imposed by the Council, the Borrowers shall jointly or severally pay, credit and/or make over to the Council immediately, on collection all receipts, recoveries and realisations on account or advance deposits, hire purchase instalments, rentals, any premium and/or sale proceeds of land/houses, etc. covered by the said scheme. The money so received by the Council shall be applied towards the repayment programme as set out/in sub-clause (ii) below :—

(ii) The Borrowers shall repay the Advance except as the Council may otherwise agree in writing, in accordance with the following repayment schedule :—

Number of Instalment	Date	Amount (Rs. in lakhs)
First	or on above	
Second	—do—	
Third	—do—	
Fourth	—do—	
Fifth	—do—	
Sixth	—do—	
Seventh	—do—	
Eight	—do—	
Ninth	—do—	
Tenth	—do—	

(iii) It is clearly understood that notwithstanding anything contained in this clause the entire amount due to the Council, this agreement shall be paid by the Borrowers by ..... or any other date as may be agreed in writing by the Council irrespective of the success or failure of the said scheme or the purpose for which the Advance has been taken from the Council.

6. (a) The Borrowers shall pay to the Council Welfare Cess at the date of 5 per cent per annum or at such other rates as may be fixed by the Council (calculated in respect of each instalment from the date of payment of that instalment by the Council) on the amount of the loan from time to time outstanding and the donation calculated as aforesaid shall be due and payable to the Council at the end of the second year and shall be remitted on the completion of one year from the date of release of instalment and thereafter the donation shall be payable quarterly years alongwith the instalment of Advance repayable.

#### Provided That

(1) The Council shall have the right to vary the aforesaid rate of Welfare Cess on the Advance amount or part thereof at the time of release of such amount by giving prior written notice to the Borrowers of such a variation.

(ii) In the event of default of regular payment of Welfare Cess the due dates, the Borrowers without prejudice to the right of the Council to call in the Advance as hereinafter provided, will pay double donation at the same rate as on Welfare Cess the Principal Advance on the monies due and :



(iii) In the event of default in the payment of the instalment of Advance and/or donation on the due dates the borrowers without Welfare Cess prejudice to the right of the Council to recall the Advance as herein provided shall pay (except as the Council may otherwise agree in writing) additional Welfare Cess at the penal rate of  $2\frac{1}{2}$  (two and one-half percent) per annum on such over due payment.

(b) In all such cases in which it shall be necessary to compute the amount of Welfare Cess or any other charges which shall have accrued under these terms and conditions for a period of less than three months, such computation shall be made on a daily basis using a 360 day factor. In the case of even periods of three months such computation shall be made on the annual basis.

(c) The Borrowers shall also pay to the Council all costs (including as between an attorney and client) stamp duty, if any, charges and expenses which the Council has incurred and/or is liable to pay in connection with and or incidental to the Council having agreed to grant the said Advance and in connection with or enforcement of any of the terms and conditions herein contained.

7. The collection charges, if any, in respect of cheques issued by the Council irrespective of the place where the drawee bank is situated shall be borne by the Borrowers and contribution in favour of the Council shall begin to accrue as from the date of such cheques. So far as payment to be made by the Borrowers to the Council is concerned, the same shall be paid or remitted by the Borrower/to the Council at its office at ..... (unless otherwise directed by the Council) in proper time and the Borrowers shall so arrange that the amounts in question are realisable by the Council at par on the due dates of the relative payment in Bangalore.

8. Except as the Council may otherwise agree, the Borrowers shall implement the said scheme strictly in accordance with the layout and design of the building and other construction details as set out in the Schedule hereunder and also the cost estimates approved by the Council. Provided, however, that in case the construction cost, approved by the Council, the Borrowers shall with the approval of the Council, adopt suitable measure by changing designs of specifications or otherwise to ensure that the ceilings on costs prescribed by the Council are not exceeded.

9. The Borrowers agree that the scheme will be executed through at Building Construction Committee approved by the Karnataka State Wakf Council and that the amount of Advance advanced by the Council for the scheme shall be kept in a bank account exclusively opened for the purpose in the name of the Building Construction Committee neither of whom will operate the account singly.

10. The Borrowers agree and undertake to make necessary provisions for the execution of the scheme as per council's guidelines, issues from time to time.

11. The Borrowers undertake to ensure that the said scheme is duly carried out and shall complete the work on the said scheme in the manner and according to the time Schedule envisaged in the said scheme but not later than three years from the date of advance of the Advance. The Borrowers further undertake to execute the said scheme with due diligence of efficiency in accordance with sound technical engineering and financial standards. The Borrowers undertake to give one month's advance intimation to the Council before



completion of the construction envisaged in the scheme to enable the Council nominee (s) to carry out final inspection of the scheme. The borrowers agree to hold the Council indemnified in respect of any director for consequential loss, damage or prejudice suffered by it due to the failure or delay in completion of the scheme as aforesaid.

12. The Borrowers undertake that the total physical targets of the scheme will not be reduced as a result of any possible increase in costs and that the additional finances, if any, required, will be arranged by it from its own resources.

13. The Borrowers shall maintain separate accounts of Receipts and Expenditure in respect of the said scheme and shall furnish to the Council every Six months by 30th June and 31st December, till the Advance is fully repaid with all the Six monthly Report, Accounts and Budget and such periodical returns of its working and with regard to the utilisation of the amount of the Advance and the progress of the scheme as may be required by the Council from time to time. The Borrowers shall not without the prior permission of the Council obtained in writing invest any part of the Advance money advanced by way of deposits, advances, share capital or otherwise in any concern. The Borrowers will, however, be free to deposit any part of the advance money with a nationalised Bank and/or the State Bank of India.

14. The Borrowers shall make available for the inspection of the Council and/or its nominee (s) all its books of accounts and other books and documents maintained by it any/or required to be maintained by it under any law. Bylaws or rules of the Borrowers and under the provisions of clause 13 above, and provide all facilities to the Council and/or its nominee (s) for the purpose of carrying out such inspections and render such explanation or elucidation as may be required by the Council and/or its nominee(s) and allow the taking of any copies of or extracts therefrom. The Council and/or its nominee(s) shall have the right to inspect any and all locations of the said scheme and all the books of accounts. Records and documents relating thereto at any time. The Borrowers agree and undertake to follow and give effect to all instructions or recommendations regarding standards and specifications or work, economy measures, maintainance of records, utilisation of the advance amounts and the dissemination of information concerning the scheme and activities of the Council as may be given or made by the Council from time to time. The Council reserves the right to recover in full from the Borrowers all the expenses incurred by it in connection with the inspection of such site works, books of accounts, etc., by it and/or its nominee(s).

15. The Borrowers agree and undertake to execute, sign seal and deliver all documents, papers, acknowledgements and other writing as may be required by the Council at any time during the pendency of this Agreement with a view to more fully and effectively securing the monies due and payable or to become due and payable by the Borrowers to the Council in terms of these presents.

16. The Borrowers agree that the income accruing from the scheme after payment of taxes, contribution Welfare Cess and the



repayment instalments as stipulated above, shall be utilised as follows:—

(a) The Borrowers (b) of the Second Part, Viz., the Wakf..... will receive an amount from the income equal to the average income received during the three years immediately preceding the year in which the advance was advanced.

(b) The Borrowers (b) of the Second Part will be allowed further a reasonable amount from the additional income which would be fixed by the Chairman, Karnataka State Wakf Council.

(c) While utilising the additional income, the objectives, if any, for which the..... wakf was created shall receive first priority.

(d) A depreciation fund shall be created by the Borrowers out of the income earned in which not less than 1 per cent of the cost of the building shall be contributed annually.

(e) Provision shall also be made by the Borrowers for annual and special repairs fund at 6 per cent annually of the gross income.

(f) The building shall be kept adequately insured by the Borrowers, so as to cover the cost of the building.

(g) The remaining portion of the additional income will be spent on such educational and social welfare activities as may be conducive to the betterment of the community, with the approval of the Karnataka State Wakf Council.

(h) To ensure proper utilisation of the additional income generated by the scheme, the Borrowers shall prepare a well considered scheme in consultation and agreement with the Karnataka State Wakf Council, shall be final and binding on all parties concerned.

(i) In case there is any difference of opinion between the parties subscribing to this Agreement under Sub-paras (a) to (i) above, the decision of the Chairman, Karnataka Wakf Council, shall be final and binding on all parties concerned.

17. The Borrowers further agree that all the conditions contained in the Advance sanction letter No..... dated..... shall extend and be applicable to this Agreement and shall be deemed to have been incorporated in the Agreement.

18. In the event of the Borrowers failing to fulfil any of the obligations under this Agreement, or in the event of the Borrowers committing any breach of the terms and conditions herein contained. Or in the event of the Borrowers committing a default for a period exceeding 30 days in the payment of the instalment of the Advance or the donation thereon amounting to at least Rs. 10,000 which shall be in arrears and unpaid for 30 days after becoming due, the entire principal amount of the Advance together with all contributions, costs, charges and expenses whatever then due, shall become immediately repayable by the Borrowers to the Council and upon being required to do so by notice in writing from the Council, the Borrowers shall repay the entire amount due within 15 days of the receipt of such notice. The Council shall without prejudice to its other rights and remedies be entitled recovery of the amounts due together with all costs, charges and expenses incurred by the Council in connection with the negotiations and recovery of the advance. The Welfare cess will be the first charge for adjustment of the dues payable to the Council by the Borrowers.



19. The Borrowers shall ensure in the event of a mortgage under Clause 4 that the charged properties as are of an insurable nature shall be insured against the usual risks at the declared values with the General Insurance Corporation of India or any of its subsidiaries except as the Council may otherwise agree in the joint name of the Borrowers and the Council as mortgagor and mortgagee respectively and lodge the original policy with the Council. The Borrowers shall further ensure that all the premia in respect of such policies which expire..... policies obtained at least seven days before the expiry of each old policy.

20. No delay in exercising or omission to exercise any right power or remedy, accruing to the Council under the Agreement and no extension, accommodation, consent, compromise, release or indulgency granted or shown by the Council shall be construed as a waiver of any of the Council's rights, power or remedies hereunder.

21. Any notice required to be served on the Borrowers shall for the purposes of these presents be deemed to be sufficiently served if it is left at the respective principle offices of the Borrowers hereinabove mentioned and such notice shall also be deemed to be properly and duly served if it is sent by post in a registered letter addressed to the Borrowers at the aforesaid address and such service shall be deemed to have been made at the time at which the registered letter would in the ordinary course be delivered even though returned unserved on account of the refusal of the Borrowers or any of them to accept such notice.

22. The Agreement will be deemed to have been executed in Bangalore, and the Advance will be advanced by the Council to the Borrowers in Bangalore. Civil Courts in Bangalore alone shall have jurisdiction to entertain any suit or matter arising out of this Agreement.

23. In witness whereof the parties hereto have set their hands to this Agreement as of the day, month and year noted below and the effective date of this agreement will be the last date mentioned below :

Signed by (a) Shri..... (Common Seal) for and on behalf of the.....

And the common seal is affixed in the presence of Shri..... and Shri.....

(b) Shri..... on behalf of the Wakf is affixed in the presence of Shri..... and Shri..... date

Signed by Shri..... for and on behalf of the Karnataka State Wakf Council, Bangalore.

FORM :III

Memorandum of Deposit of Title Deeds

Shri..... (Name) (Designation) of..... for and on behalf and Shri..... (Name) of of..... for and on behalf of State (Name of the Borrowing agency)

Wakf Board delivered to and deposited with Shri..... Secretary, Karnataka State Wakf Council in the presence on behalf of the Karnataka State Council in the presence.



(1) ..... (Name) ..... (Designation)

(2) ..... (Name) ..... (Designation)

the title deeds set out in the first schedule hereunder written relating to the immoveable properties owned and possessed by.....

..... (Name of the Borrowing agency)

..... (Address of the Borrowing agency)

Situated at ..... Sub-Registration office ..... in the State of ..... and more particularly described in the Second Schedule hereunder written,

2. At the time of delivering and depositing the title deeds Smt/ Shri ..... acknowledge that they were making (Name)

this deposit for and on behalf of the ..... (name of the Borrowing agencies)

with the intend to create a security as and by way of mortgage of deposit of title deeds in favour of the Karnataka State Wakf Council over the said immoveable properties for the due repayment of loan of Rs. .... lakhs advanced or to be advanced together with the contribution of 5 per cent thereon and any other monies which may become due and payable under the Advance agreement dated ..... between the ..... and the Karnataka State (Name of the Borrowing agencies).

Wakf Council executed in respect of ..... and all cost, charges and expenses whatsoever paid or incurred by the Karnataka State Wakf Council for protection, preservation, enforcement and realisation of such security.

3. S/Shri ..... further acknowledged and (Name) declared on behalf of the ..... (Name of the Borrowing agencies)

that the document(s) so deposited was/were the only document (s) of the title relating to the said immoveable properties, that ..... (Name of the Borrowing Agency)

has a clear and marketable title to the said immoveable properties and that save and except the aforesaid equitable mortgage created in favour of the Karnataka State Wakf Council the said immoveable properties are free from any prior encumbrances, claims, demands and liabilities and that save as aforesaid there has not been and therein not now, nor, will there will be any mortgage charge or lien or other encumbrances whatsoever on the said immoveable properties so long as the aforesaid Advance with contribution of 5 per cent thereon and other sums and monies secured by the equitable mortgage are outstanding.

4. Shri ..... of the Karnataka State (Name)

Council accepted the deposit of title deeds for and on behalf of the Karnataka State Wakf Council.



in the presence of :

(1) Shri..... (Name) (Designation)

.....in presence of Shri..... (Designation) (Name)

First Schedule

(List of title deeds)

Second Schedule

(Description of the property)

Dated ..... this day of ..... 199

Signature of the Officer of the Karnataka State Wakf Council who accept the title deeds for and on behalf of the Council.

FORM-IV

MORTGAGE DEED

Instruction for Executing the Mortgage Deed

1. The Mortgage Deed is to be executed after the Loan Agreement is signed and requires execution by the Borrowing Agency only under its Common Seal in the presence of at least two witnesses.

2. The final endorsement of the Mortgage Deed must be got approved from Karnataka State Wakf Council prior to its execution.

3. The Mortgage Deed should be stamped in accordance with the Stamp Act unless the Mortgage Deed has been exempted from the payment of Stamp duty. However, it should be stamped only after the approval of the Mortgage Deed has been obtained from Karnataka State Wakf Council.

4. After execution, the Mortgage Deed should be registered with the Registrar or Sub-Registrar of the area where the mortgage property is located and photostat copy of the receipt after lodging the Mortgage Deed for registration should be forwarded to Karnataka State Wakf Council with the request for the release of the first instalments.

5. The original copy of the Mortgage Deed, duly registered, should be forwarded to Karnataka State Wakf Council as and when received from the Registrar or the Sub-Registrar of Assurance.

Mortgage Deed

THIS INDENTURE executed at ..... this ..... day of ..... one thousand nine hundred and ..... having its head office at ..... represented by its Secretary, Sri ..... and Wakf/Trust ..... represented by its Muthawalli (hereinafter called the Borrowers' which expression shall, unless repugnant to the context or meaning thereof, include their successors and assigns of the one part, and the Wakf District Council constituted having its registered office (hereinafter called the Council which expression shall unless repugnant to the context or meaning thereof, include its successors or assigns) of the other part.



Whereas :—

I. The Borrowers have undertaken a housing and/or urban development scheme known as the.....in the city of.....in the State.....for the acquisition and development into residential colonies and commercial area of developed/partly developed/and under developed land measuring.....acres/hectres situated within/outside the Municipal limits of the city of..... (hereinafter referred as the said scheme)

II. The total investment for the complete implementation of the said scheme has been estimated by the borrowers at..... lakhs.

III. Pursuant to an application made by the borrowers to the Council for a loan of Rs..... repayable in..... Instalments from.....to..... to be utilised towards the cost of implementation of the said scheme, the Council has agreed to grant to the Borrowers a loan of the aforesaid amount of Rs..... (in words.....) in instalments to be disbursed as provided in the agreement dated.....executed by and between the council and the Borrowers (hereinafter referred to as the loan agreement)

IV. One of the conditions for the aforesaid Advance agreement is that the Borrowers prior to the disbursement of the first instalment of Advance as provided in the said Advance agreement shall furnish to the Council guarantee from a Nationalised or subsidiary Bank or other financial institutions or create either a first mortgage or one or more deeds of mortgage or a first mortgage by deposit of Title deeds of the immoveable properties owned and possessed by the borrowers of a total value not less than 133 1/3 per cent of the total amounts for securing due fulfillment of the obligations of the Borrowers in terms of the said Advance Agreement and for due repayment of the principal amount and the amount of Welfare cess together with the other monies as shall be due to the Council in pursuance of the said Advance agreement.

V. In accordance with and in fulfillment of the terms and conditions of the said Advance agreement the borrowers have agreed to create a first mortgage of the several pieces and parcel of land and/or buildings and or flats/houses together with the land on which they are constructed held by the borrowers @ Rs..... which are situated within the Municipal limits of the..... and are fully described in the first schedule hereunder written and delineated in red ink on the plan annexed hereto.....

VI. The Borrowers are well and sufficiently seized and possessed of and are entitled to the aforesaid properties duly described in the first schedule hereunder written and delineated in the plan hereto annexed and :

Now this Indenture Witnesseth as Follows :

I. In pursuance of the said Advance agreement and in consideration of the Council having agreed to Advance to the borrowers a sum of upto..... in the manner laid down in the Advance agreement and subject to the execution hereof and the compliance of the terms and conditions contained in the said loan agreement and otherwise complying with all the obligations hereunder



the borrowers do hereby convenient with the council that the Borrowers shall repay to the Council the said sum of ..... (Rs. .... only) (hereinafter for brevity's sake also called the "Said principal sum") in accordance with the repayment schedule mentioned in the said Advance agreement and/or any modification thereto, together with Welfare Cess on the said principal sum of the balance thereof remaining unpaid for the time being at the current rate of % (.....) per annum or at such higher rate as may be fixed by the Foundation in terms of the Advance agreement computed on the amounts advanced from the respective dates on which each of the respective instalment comprising the said advance sum shall be lent and advanced by the Foundation to the Borrowers and payable half yearly on the 30th day of June and 31st day of December each year calculated as per the terms of the Advance agreement. **Provided Always and it is hereby agreed that all advance which shall during the continuance of this security accrue due on the said principle sum of any part thereof which shall for the time being remain un-paid and all other monies which become payable under these presents shall in case the same be not paid on the days on which they respectively become due carry donation at the rate aforesaid computed from the respective time of such advance or monies accruing due upon the footing of compound Welfare Cess computed at the rate aforesaid with rests taken or made half yearly on the days hereinbefore provided for payment of Welfare Cess and all such compound Advance shall be a charge on the land and/or building hereby mortgaged but so that this provision shall not be deemed to authorise the Borrowers to allow any Advance or other monies as aforesaid to fall into arrears unless permitted so to do by the Council nor shall it in any way affect the convenient by the Borrowers to pay Welfare Cess every half yearly and to pay such other monies as aforesaid or the right of the council to file suit or take other legal proceedings or take other sanction under these presents to recover welfare cess or other monies due under these presents that may have been in arrears and remain unpaid and the borrowers shall after the same shall become due upon demand pay to the Council all such Welfare Cess and all other monies which may have become due and payable under these presents **Provided However** That it shall be lawful for the council to deduct from any monies to be lent and advanced by it to the Borrowers as aforesaid any arrears of Welfare Cess or instalments of principal of other monies then remaining and payable by the Borrowers to the Council. **Provided Further** that in the event of default in the payment of the instalment of Advance and/or Welfare Cess on the due dates, the Borrowers shall (except as the council may otherwise agree in writing) to the council additional Welfare Cess at the penal rate of 2½ (two and one half percent) per annum on such overdue payment and all such additional Welfare Cess shall be a charge on the land and/or building (s) hereby mortgage **Provided Lastly** that subject to the provisions contained in the Advance agreement the borrowers will be at liberty to repay the outstanding principal sum in full or in part before the due date or dates prescribed for payment in these presents, such premature repayments made by the Borrowers shall be applied first to the accrued Welfare Cess and then to the outstanding amount of the said principal sum.**

2. For the consideration aforesaid, and to Secure due fulfillment of the obligations of the Borrowers in terms of the said Advance agreement and also to secure due repayment of the principal amount



of Welfare Cess together with all monies as shall be due to the council pursuant to these presents, the borrowers do hereby grant convey assign and assure unto the council and all singular the aforesaid pieces and parcels of land and/or buildings and/or flats/Houses together with the land on which they are constructed situate lying and being in the Municipal limits of the city of.....the State of..... and more fully described in the First schedule hereunder written and delineated in red ink in the plan annexed hereto, and all the State, right title, Welfare Cess. claim and demand of the borrowers into or open, all the places and parcels of land and/or building and flats/houses and land referred to herein above (hereinafter referred to as "the Mortgaged properties"). To have and to hold the Mortgage properties into the council absolutely forever subject to the provision for redemption hereinafter contained.

3. **Provided that** if the borrowers shall duly fulfil its obligations under the Advance agreement and pay to the Council all monies and other amount payable hereunder, the council shall at any time thereafter upon the request and at the cost of the borrowers release the mortgaged properties herein before expressed to be hereby assigned unto the borrowers or as it shall direct.

4. **Provided that** when the amount of the instalment paid by the borrowers to the council towards the principal amount of the loan Aggregates to or exceed 75 percent of the value of the property mortgaged hereunder and provided the borrowers have paid up the donation and any other miscellaneous amounts then due in full the borrowers will be entitled to redeem the respective mortgaged property.

5. **Provided Further that** the borrowers will be entitled at any time they choose to redeem the property mortgaged under any one or more mortgage deeds by paying up the council an amount equal to 75 per cent of the value of the property mortgaged under any one or more mortgage deeds towards the principal amount of the loan and all the donation and pay other miscellaneous amounts due and payable upto the time of such redemption/repayment under the loan.

6. The borrowers hereby convenient with the council as follows:—

(i) All the mortgaged properties described in the First schedule hereunder written are the absolute property of the borrowers and at the sole disposal of the borrowers and free from any charge or encumbrances whatsoever. The borrowers now have full and absolute power to grant, convey, assign, transfer and Assure **All and unto and to the use of the Council** in the manner aforesaid.

(ii) The borrowers and all other persons lawfully or equitably claiming or entitled to claim any estate, right, title or donation into, or upon the mortgaged properties or any of them, or any part thereof, respectively, shall and will from time to time and at all times, execute, make and do or cause and procure to be executed, made and done every such assurance, act and thing, for further or more perfectly assuring all or any of the mortgaged properties into and to the set of the council as shall be reasonably required.

(iii) The borrowers shall at the time, during the continuance of these presents and the security/herby created, pay all rouns, rates and taxes, present as well as future and all dues, duties and outgoing whatsoever payable in respect of the mortgaged properties immediately the same shall have become due and will keep the mortgaged properties and every part thereof in a good and substantial state of repair and



Of the borrowers and the council, against damage by the fire without any obligation on the part of the council to call for such insurance in their full value with some insurance company of repute to be approved of in writing by the council and the borrowers will punctually pay all premia on such insurance and will produce to the council on demand, the policy of such Properties and all the provisions, powers and trusts contained in Section 69A of the Transfer of property Act, 1882 shall apply to the Receiver appointed by the Council.

Provided that no such appointment shall be made until the power of sale has become exercisable under the preceding clause 7(ii).

(VI) Section 67 of the Transfer of property Act, 1882, shall not apply to these presents.

(vii) Over and above the other provisions herein contained and without prejudice thereto, in the event that default shall be committed by the Borrowers in the repayments of any Advance, instalment on the date set out in the Advance Agreement and such default continuing for a period of fortyfive days, or if donation amounting to at least Rs. 10,000 shall be in arrears and unpaid for one month after becoming due, the Council shall have the right after giving 24 hours written notice to the Borrowers to enter into and upon and to take possession of the mortgaged properties and realise all the properties and assets mortgaged to the Council hereunder and the Borrowers shall in such event forthwith on the expiry of such notice as aforesaid deliver the mortgage properties to the Council and henceforth the Council shall be entitled quietly to possess, use and enjoy the said properties and receive the rents, income profits and benefits thereof without interruption of hindrance the Borrowers or by any person or persons whosoever and that freed and discharged from or otherwise well and sufficiently saved and kept harmless and indemnified by the Borrowers from and against all and all manner or former and other states, titles, claims, demands, charges and encumbrance whatsoever. Any transfer of any of the properties and assets made by the Council in exercise of any of the powers under the foregoing provisions shall vest in the transferee all right in or to the property or assets transferred as if the transfer had been made by the Borrowers themselves and further if and when the Council shall take over the mortgaged properties as aforesaid, the Council shall be deemed to be the owner thereof for purposes of all suits by or against the Borrowers and shall sue and sued in the name of the Borrowers provided, however, that the Council shall not in any event be liable for any loss or damage caused by or arising out of the exercise or any of the powers and rights herein contained nor shall it be subject to any of the liabilities of the mortgage in possession.

(vii) The council shall have the right by notice in writing to require the borrowers to discharge in full its liabilities to the Council under the following cases and in any of such cases the whole of the amount then remaining payable to the Council shall at the option of the Council be paid by the Borrowers to the Council within fifteen days of the date of the notice as if the time for the payment thereof had then expired, namely:—

(a) If default shall be committed by the Borrowers for a period exceeding thirty days in the payment of any sum or sums due and payable under these presents, or



(b) If donation amounting to at least Rs. 10,000 shall be in arrears and unpaid for thirty days, after becoming due.

(ix) It shall be lawful for the Borrowers to retain possession of and use the mortgaged property and to realise the rents and profits thereof as well as to exercise all other rights as owner that are not inconsistent with the right of the Council hereunder until the Council shall be entitled to take possession or exercise the right of sale or appoints a receiver under the provisions of these presents.

(x) It is hereby agreed that should the Borrowers at any time prior to the repayment of the loan and other sums due to the Council desire to redeem mortgaged properties or any part thereof after developing the same, they may do so, on fulfilling the following conditions:—

Create a first mortgage on and keep mortgaged until all monies due under the loan Agreement or hereunder have been repaid other alternative property not already mortgaged to the Council but owned and held by the Borrowers free from all encumbrances whatsoever which property shall be acceptable and approved by the Council and shall be of a value not less than the value or the property sought to be redeemed. All costs and expenses of any redemption and creation of a fresh mortgage of any new property shall be borne by the Borrowers.

(xi) The Council shall not be answerable or accountable for any involuntary lossess which may happen in, or about, the exercise or execution of any of the powers or trusts which may be vested in the Council by virtue of these presents or by legislative enactment.

(xii) After the Council has entered into or taken possession of the mortgaged properties or any part thereof or after a receiver thereof shall have been appointed, as aforesaid, it shall be lawful for but not obligatory upon, carryout any necessary repairs or maintenance work to manage or conduct the same, it or he shall in its absolute discretion think fit and proper and for any such purpose to employ such agents, managers, engineers technical men, receivers, lawyers, accountants, servants and workmen upon such terms and conditions as to remuneration or otherwise as it or he may think fit and proper and generally to do or cause to be done all such acts deeds and things, and to enter into such agreements or contract respecting the mortgaged properties or the use of the mortgaged properties of any part thereof as it or he could do it or he were absolutely entitled thereto and without being responsible, in any way for any loss or damage which may be occassioned thereby.

(xiii) The Borrowers shall pay all costs, charges and expense between attorney and client in any wise incurred or paid by the Council and incidental to, or in connection with these presents or this security of execution of any other instrument of mortgage referred to hereunder or under the advance Agreement and incurred as well for the assertion or defence of the right of the Council for the protection and security of the mortgaged properties and for the demand, realisation and recovery of the monies payable to the Council under the Advance Agreement or hereunder and the same shall, on demand, be paid by the Borrowers to the Council with welfare ce thereon at the rate of 5 per cent per annum or at such other high rates as applicable under the proviso to clause 6 (a) of the Advance Agreement from time to time of the same having been so demanded and until such payment, the same shall be a charge upon the mortgaged properties.



For all or any of the aforesaid purpose, the Borrowers hereby irrevocably appoint the Council as well as the receiver or receivers to be appointed under these presents to be their attorney/s in the name and on behalf of the Borrowers to execute and do under the covenants and provisions herein contained and generally to use the name of the Borrowers in the exercise of all or any of the powers by these presents conferred on the Council or any receiver/s appointed by it.

9. The Borrowers shall bear all stamp duty, if any, and registration charges including any penalty, charges and expenses in connection therewith and all other incidental expenses required to be incurred in connection with the execution and registration of these presents and other connected advance documents. The Borrowers shall also bear and pay all costs, charges and expenses of the Council incidental to the said scheme or the advance.

10. No delay in exercising or omission to exercise, compromise, release or indulgence granted or shown by the Council, shall be construed as a waiver of any of the Council's rights, powers or remedies.

11. Any notice required to be served on the Borrower shall for the purposes of these presents be deemed to be sufficiently served if it is left.....and such notice shall also be deemed to be properly and duly served if it is sent by post in a registered letter addressed to the Borrowers at the aforesaid address and such serve shall be deemed to have been made at the time at which the registered letter would in the ordinary course be delivered even though returned unserved on account of the refusal of the Borrowers to accept such notice.....

12. All provisions, powers, covenants and conditions, contained in the Advance Agreement shall extend and be applicable to these present and to the said advance sum and welfare cess thereon and to all other monies payable to the Council hereunder as if all provisions, covenants and conditions contained in the Advance agreement had been reproduced in these presents and it is hereby further agreed and declared that all provisions, covenants and conditions herein contained as also contained in the said Advance Agreement shall remain in full force till all monies due to the Council under these presents have been fully paid by the Borrowers to the Council.

**The First Schedule above referred to**

All that pieces or parcels of land covering a total area of..... hectares/acres situate in Village..... Police Station..... and Sub-Registry Officer..... in the District of..... the State of..... and comprised in the following Khasra numbers:

**Khasra No.**

**Area**

which said pieces or parcel of land are delineated in the map or plan annexed hereto and butted and bounded as follows that is to say:

On the North :

On the East :



On the South :  
On the West :

OR

All that building/s and/or flats/houses situate in village .....  
..... Police Station .....  
and sub-Registrar office ..... in the District  
of ..... in the State of ..... and comprised  
as follows :—

Which building(s) and/or flats/houses are delineated in the map  
or plan annexed hereto and butted and bounded as follows:—

On the North  
On the East  
On the South  
and on the West

Shri (a) In witness whereof the Borrowers have caused

.....  
(Name)

.....  
(Designation)

(b)

.....  
(Name)

.....  
(Designation)

to hereto set their hands to for and on their behalf and Shri .....  
..... to affix its Common Seal on this Deed on the day, month  
and year first above written. signed & delivered by Shri .....

for and on behalf of the Borrowers.

The Common Seal of the Borrowers has been affixed in the  
presence of Shri .....

OF THE Borrowers who has also signed these presents in token of the  
Common Seal having been affixed in this presence.

All the above signed in the presence of :

Witnesses

- 1. ....
- 2. ....

Form—V

SPECIMEN

Agreement of Guarantee

Whereas the Karnataka Wakf Council, a statutory Body  
constituted under the Wakf Act, 1954, having its registered office at  
Jamnagar House, New Delhi, on the recommendation of the .....

..... has agreed to grant  
(Name of Wakf Board  
a Advance of Rs. .... (Rupees .....  
vide its sanction letter No. .... dated .....  
for the development of the property of .....  
(Name of Wakf)



The said Wakf is situated in the State of .....  
and being in the jurisdiction of the .....

(Name of the Wakf Board)

therefore in the Advance Agreement .....  
(Name of Wakf Board)

has been named as Borrower (a), but the loan has been granted for the  
implementation and execution of development scheme of the above  
said Wakf i.e. ....

(Name of Wakf Board)

Under the management  
(Muthawalliship) of ..... the

(Name of Muthawalli)

borrower (b) only and primarily responsible for execution of the  
scheme and repayment of loan.

And whereas in pursuance of the Central Wakf Council's direction  
as contained in its sanction letter No. .... dated: .....  
and clause No. 4 of the Advance Agreement executed for  
the above Advance the .....

(Name of Wakf Board)

is required to stand as Guarantor for the aforesaid Advance  
The .....

(Wakf Board)

has resolved vide resolution

No. .... in the meeting held on .....

to stand as guarantee against the loan sanctioned to .....

(Name of Wakf)

Now therefore the .....

(Wakf Board)

through its Secretary hereby agrees  
to pay and satisfy the Council in the event of non-payment of the debt  
by the Muthawalli in accordance with the terms and conditions conta-  
ined in the loan agreement.

1. That the guarantee herein agreed shall be continuing one and  
irrevocable until the amount due recoverable from the said Mutha-  
walli is paid in full.

2. That the guarantee shall be enforceable by the Council in the  
event of non-payment of the debt by the Muthawalli, of the above  
said wakf.