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NOTIFICATION

No.G21025/2/2011-DMU, the 1st April, 2013: In exercise of the powers conferred by Section 7 of the Mizoram Ceiling on Government Guarantees Act, 2011 (Act No. 9 of 2011), the Governor of Mizoram is pleased to make the following Rules, namely:

1. **Short title and commencement:**
 - (1) These Rules may be called the **Mizoram Ceiling on Government Guarantees Rules, 2013**
 - (2) They shall come into force on the date of their publication in the official Gazette.

2. **Definitions:**

In these rules, unless there is anything repugnant in the subject or context:

 - (a) 'Agencies' means all other entities not specifically defined in sub-section (2) of Section 2 of the Act including autonomous bodies having separate entities and are functioning under the control of the Government of Mizoram that may require funds for their day to day business for which loans from any financial institutions may be applied.
 - (b) 'Finance Department' means Finance Department of the Government of Mizoram.
 - (c) 'Year' means the financial year starting from April to March.

3. **Ceiling on Government Guarantees:**
 - (1) The total outstanding Government Guarantees as on the first day of April shall not exceed 25 percent of the Gross State Domestic Product estimated for the year.
 - (2) The total fresh Government Guarantees given in a year shall not exceed 3 percent of Gross State Domestic Product estimated for the year.

Provided that under extreme exigencies and occurrence of natural calamities requiring immediate fiscal policy measures, the Government may decide to grant the guarantees in excess of the ceilings prescribed under sub-rules (1) and (2).

4. **Restrictions on Government Guarantees:**

No Government Guarantees shall be extended to individuals, private institutions or private companies.

5. **Guarantee Commission:**
- (1) The Government shall charge a minimum of 0.75 percent of the amount of the guaranteed loan as a guarantee commission which shall not be waived under any circumstances.
- Provided that the Government may enhance the rates of guarantee commission depending upon the default risk of the project for which the government may stand as a guarantor.
- (2) The Guarantee commission charged under sub-rule 1 above shall be credited into the Government account under the Head:
- 0075 – Miscellaneous General Services
 108 – Guarantee Fees which shall be subsequently allocated under the following expenditure Head of Account for further remittance into the Public Account as part of the corpus of the Guarantee Redemption Fund:
 2048 – Appropriation for reduction or avoidance of Debt
 200 – Other Appropriations
 (01) – Guarantee Redemption Fund
 (54) – Investment
6. **Application for Government Guarantee and the mode of granting the Guarantee:**
- (1) The borrowing institution shall apply grant of Government guarantee for the loans to the Administrative Departments concerned and the application shall contain the following particulars, namely:
- i) Name of the borrowing institution;
 - ii) Name of the lending institution;
 - iii) Amount for which guarantee is sought and the rate of interest;
 - iv) Period and schedule of repayment;
 - v) Outstanding loans, if any, against the borrowing institutions;
 - vi) Purpose of the proposed loan;
 - vii) Financial status of the borrowing institutions as indicated by its trading accounts, profit and loss account and the balance sheet for the previous three years.
- (2) The Administrative Department after satisfying itself that the loans being applied should be guaranteed shall forward the application to Finance Department for scrutiny and concurrence.
- (3) Finance Department shall examine the application for granting Government guarantee received from the Administrative Department and after satisfying itself that the borrowing institution is financially sound and no default risk is involved in giving guarantee, may accord concurrence to the proposal.
- (4) The Administrative Department after getting financial concurrence shall invariably obtain approval of the Council of Ministers and thereafter, issue order in this behalf. A copy of such order shall be endorsed to Finance Department and the Accountant General, Mizoram.
7. **Execution of Agreement:**
- In all such cases where loans are guaranteed by the Government, the Administrative Department concerned shall enter into a separate agreement with the principal debtor and the creditor in a Standard Form of Deed of State Government Guarantee, *as appended herewith*, a copy of which shall be sent to Finance Department and Accountant General, Mizoram.

8. Maintenance of Records:

Administrative Department concerned shall maintain a complete record of all Government guarantees given showing due dates of repayment and such other particulars of the loans as may be considered necessary for safeguarding Government interest.

9. Repayment:

- 1) It shall be the responsibility of the Administrative Department to ensure that repayments are punctually made by the borrowing institutions. In order to keep a close watch on the repayments, the Administrative Department shall obtain periodical reports on the progress of the repayments and the outstanding loans from the borrowing institutions.
- 2) If the borrowing institution makes a default in repayment, the Administrative Department shall arrange to repay the instalments due without any further delay and shall take steps to recover the amount from the borrowing institutions together with interest at the rate of 2 percent higher than the rate at which the Government has to pay interest on the defaulted instalments.
- 3) All cases of default in repayments where the Administrative Department has to make payments on that behalf shall forthwith be reported to Finance Department.

L.N. Tochwang,
Finance Commissioner,
Government of Mizoram.

*Standard Form for Deed of Agreement***DEED OF STATE GOVERNMENT GUARANTEE**

THIS DEED OF GUARANTEE executed at _____ this _____ day of _____ by the Governor of the State of _____ (hereinafter referred to as "The Guarantor" which expression shall, unless it be repugnant to the subject or context thereof, include its successors in office)

IN FAVOUR OF

_____ (hereinafter referred to as _____) a Government company, incorporated under Section 25 of the Companies Act, 1956 having its Registered Office at _____, hereinafter referred to as _____ which expression shall, unless it be repugnant to the subject or context thereof, include its successors and assigns.

WHEREAS:

1. The _____ (Name & Address of Channelizing Agency) (hereinafter referred to as the "Channelizing Agency") intends to undertake _____ in the State of _____.
2. The Channelizing Agency intends to obtain from the _____ loans/margin money assistance or any other financial assistance which _____ may agree to sanction from time to time up to ₹ _____ (Rupees in words) _____ referred to as the "said loans" for implementing the project(s)/scheme(s), embodied in the General Loan Agreement already executed between _____ and the Channelizing Agency on _____ (date of General Loan Agreement) for the said loans (hereinafter referred to as "The Loan Agreement").
3. _____ will sanction loan to the Channelizing Agency for each scheme/project after proper appraisal of projects/schemes and requirements of funds thereafter on such terms and conditions as may be stipulated by _____ and accepted by the Channelizing Agency in this behalf and as such the sanction and disbursement of the loans are linked with the projects sanctioned by _____ within the overall limit of ₹ _____ herein before mentioned and each loan is to be treated separately in so far as the schedule of repayment of principal and payment of interest/service charges and maintenance of accounts both by _____ and the Channelizing Agency are concerned.
4. _____ has as stipulated in the said Loan Agreement that the repayment of the principal of the loan sanctioned by _____ to the Channelizing Agency for each project/scheme together with interest/service charges/commitment charges at the rate stipulated therein within the overall limit of ₹ _____ (Rupees in words) _____ hereinbefore mentioned be guaranteed by the Guarantor in the manner hereinafter appearing.
5. The guarantor has now at the request of the Channelizing Agency agreed to furnish such guarantee in favour of the _____ as hereinafter mentioned.

NOW IT IS HEREBY AGREED TO BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

- I. (1) That to enable the Channelizing Agency to obtain from _____ the said loans on the terms and conditions contained in the Loan Agreement for implementing the scheme(s)/project(s)

and in consideration of the aforesaid promises the Guarantor hereby fully, unconditionally and irrevocably guarantees to the _____ the due repayment by the Channelizing Agency to the _____ of each loan sanctioned by _____ for the projects/schemes mentioned in the said Loan Agreement within the overall limit of ₹ _____ hereinabove mentioned and the due payment of interest by the instalment/instalment(s) thereof as shall become due and payable in respect of that loan and in the event of the Channelizing Agency's failure to repay that loan of any part or parts thereof and/or pay any interest/service charges/commitment charges that will become due, and payable and remain due and unpaid by the Channelizing Agency to the _____ the Guarantor shall on demand by _____ pay the same to the _____.

- (2) The _____ shall give intimation to the Guarantor of the sanction of each loan to the Channelizing Agency and the terms and conditions thereof as accepted by the Channelizing Agency, and on such intimation it shall form the part of the said Loan Agreement.
- (3) That the Guarantee hereby given shall be a continuing guarantee for all amounts advanced and or to be advanced by _____ to the Channelizing Agency from time to time to the extent and upto the limit of the amount agreed to be advanced under the aforesaid Loan Agreement together with the interest/service charges/commitment charges at the stipulated rate and costs, charges and other monies payable to _____ by the Channelizing Agency and shall not be at any time or times hereafter or any sum or sums of money for the time being due under the aforesaid Loan Agreement or any of them by way of principal or interest but shall extend to cover and be a security for all future sums at any time or times, guarantee shall continue until all the dues of the _____ under the said Loan Agreement have been paid in full or otherwise fully discharged by the Guarantor to the satisfaction of the _____ irrespective of any part payment or payments.
- (4) That the Guarantor hereby consents to the _____ making any variance that it may think fit in any of the terms of the said Loan Agreement at any time hereafter and agrees that such variance shall not in any way affect the liability of the Guarantor under the guarantee hereby given.
- (5) That any neglect or the forbearance of the _____ in enforcing the payment or repayment to it of any of the loans or any instalment/instalments thereof of interest/service charges/commitment charges thereon under the said Loan Agreement, payment or repayment whereof is intended to be hereby secured or giving of time by _____ for the payment or repayment thereof shall not in any way release the Guarantor of his liability under the guarantee herein before contained.
- (6) This Guarantor hereby agrees and declares that the _____ will not be bound or compelled to take any proceedings whatsoever for realization of any of the dues of the _____ from or against the Channelizing Agency under or in pursuance of the guarantee hereby given so that the Guarantor shall be liable and bound to pay all such dues to the _____ as shall be or become due and payable by the Channelizing Agency as if the guarantor were the principal debtor notwithstanding that no proceedings whatsoever shall have been taken by the _____ against the Channelizing Agency for recovery, enforcement or realization of any such dues.
- (7) That any amount intimated by the _____ as outstanding against the Channelizing Agency in respect of any loan advanced for any project(s)/scheme(s) under the said Loan Agreement shall be conclusive and binding against the Guarantor and shall not be questioned by the Guarantor.
- (8) That in the event of default in the payment of any instalment of principal and/or interest/service charges/commitment charges or breach of any of the terms and conditions/of any loan by the

Channelizing Agency, the _____ may without prejudice to its other rights recall loan or all the outstanding loans under the said Loan Agreement and in the event of failure on the part of the Channelizing Agency to make payment as required by the _____, the Guarantor shall pay forthwith the amounts as and when demanded by the _____.

II. The Guarantor hereby declares that the guarantee hereby given by the Guarantor is within the limits fixed/no limit has been fixed by the legislature of the State of _____ under Article 293(1) of the Constitution of India.

III. The stamp duty, if any, payable on this Deed of Guarantee is to be borne by the State Government, the Guarantor herein.

IN WITNESS WHEREOF the within named Guarantor has caused these presents to be executed by the hand of Shri/Smt _____ (Name & Designation) its authorized official on the day, month and year first hereinabove written.

SIGNED AND DELIVERED

For and on behalf of the Governor

State of _____

By hand of _____

Smt. _____

(Name and Designation)

In the presence of:

1)

2)

For and on behalf of the Governor of the

State of _____

(Name and Designation)