**AGREEMENT DEED**

This agreement is made on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_ 20

**BETWEEN**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a company registered under the Companies Act 1956, having its registered office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_through its Director and promoters \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as ‘the company’ which expression shall, unless repugnant to the context or inconsistent with the meaning thereof, mean and include its successors, representatives, assigns etc.) of the first part;

## **AND**

Indian Institute of Technology Kanpur, an institute established under the Institutes of Technology Act, 1961, through its Director or his representative, in his stead (hereinafter referred to as ‘the IITK’ which expression shall, unless repugnant to the context or inconsistent with the meaning thereof, mean and include its representatives, assigns etc.) of the second part.

**WHEREAS**, IITK has established a SIDBI Innovation & Incubation Centre, (hereinafter referred to as SIIC) in collaboration with Small Industries Development Bank of India (SIDBI) with a mission to foster successful entrepreneurs and develop industry in the Knowledge and Technology based area.

**AND WHEREAS,** the Company has entered into an agreement with the IITK by means of an agreement signed between the parties on \_\_\_\_\_\_\_\_\_\_\_\_\_ for the purpose of incubation and developing the company, represented by the first party, to become a successful entrepreneur. A copy of the said agreement is annexed hereto as **Exhibit A** to this agreement.

**AND WHEREAS,** the Company, in the process of incubation and developing into a successful enterprise, is desirous of obtaining ‘Seed Money Loan’ from the IITK for an amount of Rs. **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** (Rupees \_\_\_\_\_\_\_\_\_\_\_ only) and IITK has agreed to provide the said amount being ‘Seed Money Loan’, on the terms and conditions mentioned hereinafter and agreed to by the Company. The company in its Meeting of the Board of Directors held on ………………. has duly authorized the company to seek the said loan from IITK and has authorized its Managing Director \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to execute all the documents and do all that is necessary to obtain the said “Seed Money Loan.”

**AND WHEREAS,** The IITK shall, unless the context otherwise requires, be represented by SIDBI Innovation & Incubation Centre (SIIC) for the purposes of this agreement

**ARTICLE -1 CONDITIONS NECESSARY TO DISBURSEMENT OF THE LOAN**

1.1 It shall be the liability and responsibility of the Company to mobilize the pre-incorporation expenses and minimum paid-up capital, as required by IITK.

1.2 The Company has agreed that entire seed capital shall be used solely for the purpose of the project, as mentioned in the Loan Applicationand not for any other purpose. IITK shall have the power to ensure proper end use of funds and in the event that it is found that the end use of the Loan is contrary to the terms / conditions of this agreement or the loan application the loan may be recalled prematurely by IITK.

1.3 The Company shall involve at least one member of IITK faculty **as \_\_\_\_\_\_\_\_\_\_**with the company. In the event that the faculty member disassociates himself from the company due to drawbacks on account of the promoters / directors / members of the company or for any other reasons, then IITK shall have the option of recalling the loan prematurely

**ARTICLE – 2 MODE OF DISBURSEMENT OF LOAN**

2.1 The disbursement schedule, as agreed between the parties is mentioned in **Schedule-1** to the agreement.

2.2 The total cumulative loan amount disbursed to the company shall in no case be more than five times the paid-up capital of the company, **(paid up in cash),** at the time of disbursement of a loan installment. Paid up capital allotted in kind shall not be considered.

2.3 The loan shall be disbursed/released as per the Schedule-1 (disbursement schedule) limited till the period of incubation i.e. Rs. \_\_\_\_\_\_\_\_\_\_\_ till \_\_\_\_\_\_\_\_ **20….…..** Further loan installments shall be disbursed only if the period of incubation is extended by IIT Kanpur, as per its incubation policy.

2.4 Notwithstanding anything contrary contained herein all dues payable by the company to SIIC or IIT Kanpur shall be deducted from the sanctioned Seed Money Loan and balance amount, if any shall be disbursed to the company

**ARTICLE – 3: REPAYMENT OF THE LOAN AND INTEREST**

* 1. **The Interest on Seed Capital loan shall be levied at \_\_\_\_\_\_\_\_\_\_\_\_\_Simple Interest. (The Interest rate is calculated as per the Prime lending rate of State Bank of India\_\_\_\_\_% less \_\_\_% on the date of Sanction \_\_\_\_\_\_\_\_\_). The Interest rate remains fixed for the tenure of loan. The Interest shall be payable monthly on the balance outstanding at the end of the previous month along with the installment of principal repayment.**
  2. The repayment of principal and interest shall have a moratorium period of 18 months from the first installment disbursement of the loan. The repayment shall commence from the nineteenth month.
  3. The simple interest on the loan disbursed shall be applied **@ \_\_\_\_\_\_\_\_\_\_ %**per annum from the date of disbursement of each installment and shall be aggregated with the loan amount; the amount so determined shall be the principal amount that will have to be repaid as per the repayment schedule. Any delay in the repayment of installments as given in the Schedule of repayment shall be subject to a penal interest @ \_\_\_\_\_\_ % per month.
  4. The Company shall repay the principle amount of the Loan strictly in accordance with the **Repayment Schedule**. The repayment schedule is appended in **Schedule-2** to this agreement.
  5. Notwithstanding the above, if the Company decides to exit from the incubation before the specified period, the Company undertakes to repay the entire loan and interest due thereon prior to the exit from the incubation centre.
  6. If the Company raises loans from other lenders/ financial institutions, repayment of such other loans shall commence only after the repayment of the Seed Capital Loan obtained by the Company pursuant to this agreement and interest due thereon.
  7. NOTWITHSTANDING anything contrary contained herein, the incubate company shall issue liability free and fully paid-up equity shares, in favour of IIT Kanpur, on prorate basis of 4% equity against 5 lakhs of seed capital sanctioned, as guarantee of seed-capital amount.

Subsequently after the company utilizes the seed-capital or its exit from the incubation center, whichever is earlier, IIT Kanpur shall compute the equity to be retained in accordance with repayment option selected together with any outstanding unpaid amount against incubation including seed capital and transfer the balance equity back to the incubate company. Once the company repays the entire seed capital amount IIT Kanpur shall transfer shares taken as guarantee, back to the company.

**ARTICLE – 4: SECURITY**

* 1. IITK shall at all times hold a lien on all the tangible and intangible assets (IPR, Patent, Trademark, etc.) of the Company till such time that the Loan is fully repaid by the Company. As additional security, the promoters / directors / members of the Company shall stand guarantee in their personal capacity for repayment of the seed capital loan in full by executing a **Bond of Guarantee** at the time of executing the agreement of loan.
  2. The company shall ensure that a charge over the tangible and intangible assets is registered with the Registrar of Companies in favour of IITK prior to the release of the first installment of the loan.
  3. In the event that the Company raises loans from other financial institutions or any other agency by securing its assets, the charge created in favour of IITK shall be a First Charge over the tangible and intangible assets of the company. Loans from other financial institutions or any other agency can be given Second Charge over the tangible and intangible assets of the company.

**ARTICLE – 5: COVENANTS**

5.1 **Particular affirmative covenants**:

(a) The Company shall utilize the entire loan only for the purposes as mentioned in the Loan Application, described in **Schedule-3** to this agreement.

(b) The Company shall maintain an asset register of assets procured from the loan.

(c) The Company shall ensure that the physical progress of the project as well as the expenditure incurred on the project is as per the original schedule. To this end, the Company agrees to submit information to the IITK on quarterly basis in a format as may be prescribed by IITK, and such other information and data as may be required by the IITK from time to time.

(d) The Company hereby undertakes to submit information to the IITK about all material changes or developments taking place in their companies from time to time such as (but not limited to) change in name, fund raised from any third party, company, change in project or product profile, change in directors or promoters, acquisition of a new office etc. The IITK has the right to require the Company to seek its prior approval wherever necessary and to stipulate such additional condition as the IITK in its absolute discretion deem fit for effecting any change as stated herein above.

(e) The company will submit audited annual accounts / Directors reports etc. to the IITK within a period of seven days from the approval of the account at the company’s Annual General Meeting or positively by 30th, September of each year, whichever occurs earlier.

(f) The Company shall submit a utilization certificate of Loan installments already granted from a Chartered Accountant before approaching for release of subsequent installments. The Company shall also submit un-audited quarterly Balance Sheet, Profit & Loss Account and Cash flow statements to IITK within one month of the end of the quarter. IITK reserves the right to get the documents so submitted verified by its own chartered accountant. In such a case the company shall fully co operate with the Chartered Accountant of IITK in providing to them / giving access to them all books of accounts, vouchers, registers, bills invoices over the tangible and intangible assets of the company.

(g) **The Coordinator, SIIC will be inducted on the board of the Incubate Company by passing a board resolution a copy of which will be submitted to SIIC, IIT Kanpur for the purpose of records. The tenure of the Coordinator, SIIC on the board of the Incubate Company will be till such time that the seed capital is repaid by the said Incubate Company.**

**5.2** **Negative covenants**:

(a) The Company shall not utilize the loan for:

1. Repayment of dues of promoters and their associates ,
2. Repayment of loan from any other source nor for payment of interest on the loan borrowed from such other source,
3. For extending loans to promoters, their associates
4. For making any inter corporate deposits or any speculative purpose,
5. Personal benefit of promoters or their association.

(b)The Company agrees that the IITK shall have right to review or cancel the un-disbursed portion of the Seed Capital Loan subject to the performance of the Company. Further, if, as a result of such review, the IITK determines that the Incubatee has not progressed or is unlikely to progress in its performance, the IITK shall have a right to revise the terms of sanction and stipulate such additional condition as the IITK in its absolute discretion deem fit and require the Company to take such measures as may be stipulated by the IITK.

(c)The Company agrees that non compliance of the above terms and conditions may invite a legal action from the IITK and may force the Company to exit from the incubation centre.

**ARTICLE – 6: REMEDIES AVAILABLE TO IITK**

If one or more of the events specified in this article (here in after called “events of default”) shall have happened then the IITK by a return notice to the company may declare the  **entire Seed Money Loan given and all accrued interest on the loan that may be payable by the company under or on terms of this agreement and/ or any other agreements, or** documents subsisting between the company and the IITK as well as all other charges and dues to be due and upon such declaration the same shall become due and payable forthwith, notwithstanding anything to the contrary in this agreement or any other agreement (s) or document (s).

**6.1: Events of default**:

(a) Payment of Dues.

Default shall have occurred in repayment of principal amount and interest thereon and on payment of any other amount due and payable to IITK in terms of this agreement and /or in terms of any other agreement (s) or document (s) that may be subsisting or that may be executed between the Company and the IITK here after.

(b) Performance of Covenants.

Default shall have occurred in performance of any other covenants, conditions and agreements on the part of the company under this agreement or any other agreement (s) between the company and IITK in respect of this loan and for any other loan and such default shall have continued over the period of 30 days after notice there of shall have been given to the company by IITK.

(c) Supply of Misleading Information.

Any information given by the company prior to or during the course of incubation & interaction with the IITK under this or any other agreement is found to be misleading or incorrect in any material respect.

(d) Inability to Pay Loan.

If there is reasonable apprehension that the borrower is unable to pay his dues or proceeding for taking him into insolvency has been commenced.

(e) Sale or disposal of Property.

If the company’s properties on which the IITK has lien is sold, disposed of, changed, encumbered or alienated.

(f) Attachment or restraint on Property.

If an attachment or restraint is levied on the property or any part thereof and/or recovery certificate proceedings are taken or commenced for recovery of any dues from the Company.

(g) Failure to furnish information/documents.

If the Company fails to furnish information/documents as required by IITK under the provisions of this agreement.

* 1. **Bankruptcy or Insolvency**

If the Company shall become bankrupt or insolvent, the principal and all accrued interest on the loan and any other dues shall thereupon become due and payable forthwith and may be recovered by possessing and disposing off the assets of the company on which IITK holds lien, anything in this Agreement to the contrary notwithstanding.

* 1. **Notice to IITK on the Happening of an Event of Default**

If any event of default or any event which, after the notice or lapse of time or both would constitute an event of default shall have happened, the Company shall forthwith give IITK notice thereof in writing specifying such event of default, or such event.

* 1. **Expenses of Preservation of Assets of the Company and of Collection:**

All costs incurred by IITK after an event of default having occurred in connection with:

1. Preservation of the Company’s assets (whether now or hereafter existing);
2. Collection of amounts due under this Agreement
3. Legal or any other expenses incurred in recovering the amount outstanding and interest thereon, or
4. Expenses of any kind incurred in this context shall be recovered from the Company or its promoters and reimbursed to IITK.
   1. **Issue of certificates**

IITK may issue any certificate as regards payment of any amounts paid by the Company to IITK in terms of this Agreement only if the Company has paid all amounts due under the Agreement to IITK and the Company has complied with all the terms of this Agreement.

**6.6 Communication with third party**

In the event of default IITK shall be entitled to communicate, in any manner it may deem fit, to or with any person or persons with a view to receiving assistance of such person or persons in recovering the defaulted amounts. Also, representatives of the IITK shall be entitled to visit the property and/or any place of work of the Company.

**ARTICLE - 7: WAIVER**

**7.1 Waiver not to impair the Rights of IITK**

No delay in exercising or omission to exercise, any right, power or remedy accruing to IITK upon any default under this Agreement or any other Agreement or document shall impair any such right, power or remedy or shall be construed to be a waiver thereof or any acquiescence in such default; nor shall the action or inaction of IITK in respect of any default or any acquiescence by it in any default, affect or impair any right, power or remedy of IITK in respect of any other default.

**ARTICLE – 8: MISCELLANEOUS**

**8.1 Modification/Alteration of the Agreement**

The terms of this agreement can be modified/ altered in writing under signatures of respective representatives from the IITK and the Company.

**8.2 Resolution of Disputes and Differences**

In case of dispute or differences arising in connection with this Agreement, the parties hereto shall refer the subject matter of contention for a compulsory arbitration before the arbitrator appointed by the Director, IITK whose decision shall be final and binding on both the parties. The arbitrator shall issue notice to either parties listing the matters of disputes and invite relevant evidences and submissions and give his decision based on the written submissions of the parties. The place of the arbitration shall be Kanpur and principle of equity, faith and good conscience shall apply.

* 1. **Applicable Law :**

This agreement shall be governed by the laws of India.

**8.4 Schedules and Exhibits:**

The following documents are Schedules and Exhibits to this Agreement and incorporated by reference:

**Schedule – 1: The disbursement schedule as mutually agreed by the parties.**

**Schedule - 2: Repayment Schedule & Project Management Committee guidelines containing payment option company’s letter dated \_\_\_\_\_\_\_\_\_exercising the option-……….**

**Schedule - 3: Loan Application of the Company**

**Schedule – 4: Board resolution of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

Exhibit –A: Agreement Deed dated \_\_\_\_\_\_\_\_\_\_between the Company and the IITK.

In witness whereof parties hereto have signed this agreement on the date and year mentioned hereinbefore.

For & on behalf of For & on behalf of IITK

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Signature

Name: Name

Designation: MANAGING DIRECTOR Designation

Seal Seal

Witness (Name & Address) Witness (Name & Address)

1. …………………………….. 1. …………………………

2. …………………………….. 2. ………………………….

Date …………………………. Date ………………………

**Schedule – 1**

**Disbursement Plan**

1. The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ will be given a total seed fund of Rs. 50 lakhs subject to following:
   1. The disbursements will be made for the monthly expenses of the company as given below.
   2. A total loan of Rs. \_\_\_\_\_\_\_\_\_\_ will be disbursed to the company for the expenses up to…………….
   3. Disbursement of loan for expenses in the month of …… 20… and onwards will be subject to the extension of incubation period of the company, which is ending in the month on ……of …….. 20...
2. In no case the loan disbursement will be made for the expenses beyond incubation period.

**Schedule – 2**

**Repayment of Loan and Interest**

1. The Loan Amount as calculated on the **option \_\_\_\_** chosen by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ plus interest for the moratorium period of 18 months (calculated on a simple interest as given in the Options) would be paid back with such simple interest annually calculated at monthly rests, for the tenure of the loan. The loan amount along with interest will be repaid in 36 EMIs (Equated Monthly Installments).
2. The repayment will start:
   1. After 18 months from the date of first disbursement of loan or
   2. As soon as the company makes operating profits and is in a position to service the loan, whichever is earlier.
3. Any default of EMI would be subject to a further **penal interest @\_\_\_\_\_ %** per annum for the period of default of payment of EMI.

4. The payment criteria for interest and principle as per the Option-…….. chosen by the \_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_vide letter dated …………………., which is detailed in Terms of financial support placed as Annexure- I.

**Annexure – I**

**Terms of financial support**

Following are the options in view of the rate of interest, loan and equity components, repayment criteria etc.:

1. Option – I:

Full amount would be paid back with an interest, which will be Prime Lending Rate (PLR) of State Bank of India (on the date of sanction) less 4% and remains fixed for the tenure of the loan. The loan amount along with interest will repaid in 36 EMIs (Equal Monthly Installments) and the repayment will start after 18 months from the date of first disbursement of loan.

1. Option – II:
2. 50% of the total seed fund sanctioned will be interest free loan, repayment of which would start after 18 months from the date of first disbursement of loan. The component will be repaid in 36 EMIs.
3. 50% of the total seed fund sanctioned would be convertible into equity (@ 4% equity against loan up to Rs. 5 lakhs) at par.
4. Option – III
5. 75% of the total seed fund sanctioned will be a loan and will repaid back with an interest of PLR less 6%. The loan amount along with interests will be repaid in 36 EMIs (Equal Monthly Installments) and the repayment will start after 18 months from the date of first disbursement of loan.
6. 25% of the seed fund sanctioned would be convertible into equity (@2% equity against loan up to Rs. 5 lakhs) at par.

The company would have option to choose any one of the options are stated above and communicate to SIIC in writing. Once the option is chosen and communicated by the company, in no case it can be changed. In case of default payment, the entire loan amount will be converted into equity of 25% at par.

In addition to the nominee director from IIT Kanpur against the incubation equity, there shall be one more nominee director from IITK for the equity against seed fund disbursed.

**Terms of Repayment**

**Place:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date :\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Day) (Month) (Year) of loan agreement**

**Rate of Interest (Tick, whichever is applicable)**

1. **SBI PLR as on the date of Sanction less 4% (Option I)**
2. **Nil Rate of Interest (Option II)**
3. **SBI PLR as on the date of Sanction less 6% (Option III)**

**Name of the Borrowers**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**Address of the Borrowers**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**Amount of Loan**

**Rs. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Rupees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ only)**

**Interest**

1. **SBI PLR : \_\_\_\_\_\_\_\_\_% p.a. (as on the date of Sanction).(PLR notice attached)**
2. **SBI PLR less \_\_\_\_\_\_% p.a. = \_\_\_\_\_\_\_\_% p.a.**
3. **Pre-EMI Interest \_\_\_\_\_\_\_\_\_\_% p.a.**
4. **Penal Interest on delayed payment \_\_\_\_\_\_\_% per .annum.**
5. **Cheque Dishonour Charges/ missed payment charges Rs.\_300/- or charges actually deducted by the bank to IIT Kanpur whichever is more. Repeated Cheque dishonor will attract strict legal action**

**EMI is calculated on the basis of monthly rests.**

**Ammortisation**

1. **Terms of repayment \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ months**
2. **Moratorium Period \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ months from the date of disbursement of 1st Installment.**
3. **EMI Rs. \_\_\_\_\_\_\_\_\_\_\_\_/- \***
4. **Number of EMI’s \_\_\_\_\_\_\_\_\_\_\_\_**
5. **Date of Commencement of EMI \_\_\_\_\_\_\_\_\_\_\_\_\_\_**
6. **Due date of payment of first EMI \_\_\_\_\_\_\_\_\_\_\_\_\_**

**\*will be applicable when the full disbursement is availed by the Incubate Company or the disbursement is reduced subject to the expiry of the Incubation tenure.**

**Loan Procedure/ Process**

**The Incubate Company (Private Limited Company) will open a Current Bank account in the name of the Incubate Company. The bank account will be operable by the Authorized Signatory of the Incubate Company along with the Coordinator, SIIC as a joint signatory of the said Bank account, for the purpose of the operation of the Seed Capital Account.**