

महाराष्ट्र MAHARASHTRA

2022

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सी. व्ही. शिंदे  
 पत्ता क्र. २२०११५२  
 चिडखवाडी, साकुरी, पुणे-३०



17 JUN 2022

This stamp paper forms an integral part of the Escrow Agreement dated June 28, 2022 attached hereto, executed between Birlasoft limited, Kotak Mahindra Capital Company limited and Kotak Mahindra Bank limited.



## ESCROW AGREEMENT

This Escrow Agreement (this "**Agreement**") is made on, 28<sup>th</sup> June, 2022, by and amongst:

**Birlasoft Limited**, a company incorporated under the Companies Act, 1956 with its registered office at 35 & 36, Rajiv Gandhi Infotech Park, Phase – I, MIDC, Hinjawadi, Pune – 411057 (Maharashtra), (hereinafter referred to as the "**Company**", which expression shall, unless it be repugnant to the meaning or context hereof, mean and include its successors in business and permitted assigns) of the **FIRST PART**; and

**Kotak Mahindra Capital Company Limited**, a company established under Indian laws and having its registered office at 27BKC, 1st Floor, Plot No.C-27, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai – 400051 (Maharashtra) (hereinafter referred to as the "**Manager**" or "**Manager to the Offer**", which expression shall, unless it be repugnant to the meaning or context hereof, mean and include its successors in business and permitted assigns) of the **SECOND PART**; and

**Kotak Mahindra Bank Limited**, a banking company incorporated under the Companies Act, 1956 and licensed under the Banking Regulation Act, 1949 and having its registered office at 27 BKC, C27, G Block, Bandra Kurla Complex, Bandra (East), Mumbai 400 051 (hereinafter referred to as the "**Escrow Bank**" or "**Bank**", which expression shall, unless it be repugnant to the meaning or context thereof, mean and include its successors in business and permitted assigns) of the **THIRD PART**.

The Company, the Manager and the Escrow Bank shall be hereinafter collectively referred to as the "**Parties**" and individually as a "**Party**".

### WITNESSETH:

**WHEREAS**, the Company proposes to buyback, subject to requisite approval from the Company's shareholders, up to 7,800,000 fully paid-up equity shares of the Company each having a face value of INR 2/- ("**Shares**"), at a price of INR 500/- per Share ("**Buyback Price**") aggregating up to INR 3,900 million ("**Buyback Size**") from the existing holders of Shares through a tender offer, in accordance with the Companies Act, 2013 Securities and Exchange Board of India (Buy-Back of Securities) Regulations, 2018, as amended, ("**Buyback Regulations**") (and such buyback, the "**Buyback**");

**AND WHEREAS**, Regulation 9(xi) of the Buyback Regulations requires the Company to deposit escrow amount as stipulated in Regulation 9(xi)(b) in an escrow account as security for performance of its obligations under the Buyback Regulations in connection with the Buyback;

**AND WHEREAS**, the Company in order to secure performance of its obligation proposes to open an Escrow Account (as defined below) and a Special Account (as defined below) with the Escrow Bank's branch office at Mumbai, India;

**AND WHEREAS**, the Company and the Manager agree with the opening of the Escrow Account and Special Account with the Escrow Bank and the operation of the Escrow Account and the Special Account shall be in accordance with the written instructions issued by the Manager to the Escrow Bank and shall be strictly in accordance with the terms of this Agreement and the Buyback Regulations;

**AND WHEREAS**, the Company shall deposit the escrow amount in the Escrow Account in accordance with the terms of the Buyback Regulations as security for the performance of the Company's obligations in relation to the Buyback.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties to the Agreement hereby confirm and agree as follows:

### 1) DEFINITIONS AND INTERPRETATION

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1.1 In this Agreement, unless the context otherwise requires:

- a. **"Applicable Law"** means to the extent applicable to a Party, any applicable statute, law, regulation, ordinance, rule, judgment, rule of law, order, decree, clearance, approval, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision, or determination by, or any interpretation or administration of any of the foregoing by any governmental authority in effect, as amended from time to time.
- b. **"Business Day"** shall mean any day (other than a Saturday or a Sunday or a bank holiday) on which banks are open for business during banking business hours in Mumbai;
- c. **"Escrow Agreement"** shall mean this escrow agreement, together with the Schedules hereto, as may be amended, modified or supplemented from time to time, in accordance with its terms.

All capitalized terms, unless specifically defined in this Escrow Agreement shall have the meanings ascribed to them respectively in the Agreement.

## 1.2 Interpretation

1.2 In this Escrow Agreement, unless the context requires otherwise:

- 1.2.1 Reference to a clause or schedule is a reference to a clause of, or schedule to, this Agreement.
  - 1.2.2 Words and expressions in the singular include the plural and vice versa.
  - 1.2.3 References to documents shall be construed as references to such documents as may be amended from time to time.
  - 1.2.4 References to times and dates in this Escrow Agreement are references to times and dates in India.
  - 1.2.5 Any date or period as set out in any Clause of this Escrow Agreement may be extended with the written consent of the Parties, failing which, time shall be of the essence.
  - 1.2.6 The Schedules form an integral and operative part of this Escrow Agreement and references to this Escrow Agreement shall include references to the Schedules.
- 2) The Bank shall open an escrow account with no cheque book facility with the Escrow Bank's branch office at Mumbai, India bearing the name **"Birlasoft Limited Buyback Escrow Account 2022 – 23"** at the instructions of the Company, in terms of this agreement ("**Escrow Account**"). The Company shall deposit an amount of INR 540 million ("**Escrow Amount**") in accordance with the Buyback Regulations in the Escrow Account. Upon receipt of the Escrow Amount, the Escrow Bank shall confirm to the Manager and the Company (as per format in Annexure I) that the Escrow Account has been opened and specify the balance to the credit of the Escrow Account.
- 3) Subject to the provisions of the Buyback Regulations and subject to applicable laws including rules, regulations and guidelines of the Reserve Bank of India ("**RBI**"), Securities and Exchange Board of India ("**SEBI**") and terms and conditions of the Escrow Bank governing term deposits, the Escrow Bank shall, immediately and not later than 2 (two) Business Day from receipt of joint instructions from the Manager and the Company (as per Annexure III), place the Escrow Amount in a fixed

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deposit ("FD"). The Escrow Bank shall provide evidence of creation of such FD to the Company and Manager within 2 (two) Business Day of creation of the FD. It is clarified that the FD may be renewed and / or extended, based on joint instructions from the Company and the Manager. Further, the Escrow Bank shall liquidate / partially liquidate or close prematurely the FD only upon the receipt of instructions from the Manager, in accordance with the Annexure IV. On fulfilment of Company's obligations under the Buyback and in accordance with the Buyback Regulations, the FD (to the extent created against the balance funds lying in the Escrow Account after transferring up to 90% of the Escrow Amount funds to the Special Escrow Account) shall be liquidated and credited into the Escrow Account and then transferred to the bank account of the Company on written instruction of the Manager (as per Annexure IV). The FD shall at all times be subject to the rules and regulations introduced or amended from time to time by the RBI or any other applicable authority and the terms and conditions of the Escrow Bank as prevailing at the time of placing the Escrow Amount in a fixed deposit. For avoidance of doubt, (i) interest will not be paid on those term deposits which are cancelled prior to a minimum period of seven days from the date of creation of such term deposits; and (ii) no costs will be levied by the Escrow Bank for cancellation and / or closure / partial liquidation of the FD any time before 180 days from the date of creation of FD. Notwithstanding what is stated herein, all term deposit(s) created in terms of this Agreement shall always be subject to the escrow arrangement contemplated in this Agreement.

- 4) Upon receipt of a written request from the Manager (as per format in Annexure II), the Bank shall forthwith open a Special Account bearing the name "**Birlasoft Limited Buyback Special Escrow Account 2022 - 23**" ("**Special Account**"), for the purpose of payment of consideration to the shareholders who have validly tendered Shares pursuant to the Buyback and whose offers have been accepted by the Company. The Escrow Bank shall be responsible for the maintenance of the Escrow Account and Special Account and the amounts therein in accordance with the terms of this Agreement and shall act upon the written communications from the Manager issued in accordance with this Agreement to the exclusion of all other Parties.
- 5) The money lying to the credit of the Escrow Account shall be utilized on the written instructions of the Manager in the following manner (1) to transfer a sum not exceeding 90% of the Escrow Amount to the Special Account upon receipt of instructions from the Manager to that effect (as per format in Annexure V); or (2) withdraw all or any portion of the Escrow Amount upon receipt of a certificate from the Manager that the money deposited in the Escrow Account can be released to the Company.
- 6) Upon completion of the tendering period under the Buyback, and upon receipt of an intimation from the Manager to the Company and Escrow Bank in accordance with Clause 4 above, the Company shall deposit such sum in the Special Account as would, together with 90% of the Escrow Amount, make up the entire sum due and payable by the Company including the consideration payable to the shareholders for Shares tendered and accepted under the Buyback, securities transaction tax, stamp duty, Securities and Exchange Board of India ("**SEBI**") fees, turnover tax, brokerage etc. to fulfill the obligations of the Company in accordance with the Buyback Regulations.
- 7) The Parties shall perform their respective obligations under Clause 5 promptly in order to ensure that the Special Account is funded within such time period as would facilitate payment to shareholders who have validly tendered Shares under the Buyback and whose offers have been accepted by the Company, within the time period stipulated under Buyback Regulations.
- 8) Upon receipt of funds in the Special Account, the Escrow Bank shall promptly on intimation by Company/ Manager (but in no event later than 1 (One) Business Day from such receipt) notify to the Manager and the Company (as per format in Annexure VI), the balance lying to the credit of the Special Account.
- 9) The Company hereby authorizes the Manager to give operational/banking instructions for forfeiture or transfer of the funds lying in the Escrow Account or Special Account for the purpose of Buyback and in accordance with the relevant provisions of the Buyback Regulations, and instruct the Escrow Bank in writing to make remittances by way of NEFT/RTGS, in accordance with the Buyback Regulations, for the amounts lying to the credit of the Escrow Account or Special Account, and

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authorizes the Escrow Bank to make remittances by way of NEFT/RTGS as per the instructions of the Manager.

- 10) Pursuant to the completion of the tendering period under the Buyback, the Escrow Bank shall: (a) upon receipt of instructions from the Manager in accordance with Clause 5 above, transfer a sum not exceeding 90% of the Escrow Amount to the Special Account, and (b) upon receipt of additional funds, as applicable, from the Company in accordance with Clause 6, and upon receipt of instructions from the Manager in the form and manner set out in Annexure VII, transfer the sums lying to the credit of the Special Account to Company's broker's account (not later than 1 (one) Business Days prior to the transfer), so as to make payments to the shareholders who have tendered Shares in the Buyback and whose offers have been accepted by the Company, in accordance with the Buyback Regulations.
- 11) On receipt of letter from the Manager in the form and manner as set out in Annexure VIII (which shall be issued in accordance with Regulation 25(ix) of the Buyback Regulations), the Escrow Bank shall transfer to the Company, the balance of the amounts lying in the Escrow Account in accordance with the Buyback Regulations.
- 12) The Manager is hereby authorized to operate the Escrow Account and Special Account in accordance with the Buyback Regulations. The Escrow Account and the Special Account shall not be closed without the prior written consent of the Manager, whose consent shall not be unreasonably withheld or delayed.
- 13) The Company hereby agrees and confirms that if the Company fails to fulfil its obligations under the Buyback as evidenced by a written intimation to that effect by the Manager addressed to the Escrow Bank with a copy to the Company, the Manager shall be authorised to give operational/banking instructions, including foreclosure of account and transfer the funds lying in the Escrow Account and Special Account, provided that the Manager is acting in accordance with and as required under the Buyback Regulations, which instruction shall be acted upon promptly and notwithstanding any action from the Company and any other third party.
- 14) Notwithstanding anything to the contrary contained in this Agreement, the Escrow Bank shall not have any banker's lien, charge or right of set-off over the amount lying to the credit of the Escrow Account and the Special Account. The Escrow Bank shall not be entitled to deduct from the funds lying in the Escrow Account or the Special Account any fees, expenses and disbursements charged or incurred by it in connection with this Agreement and under no circumstances, shall the Escrow Bank, whether due to delay in receipt of payment of any fees, expenses or disbursements from the Company or for any other reason, withhold any transfer from the Escrow Account or the Special Account. Further, the Escrow Bank shall not be entitled to make any deductions at source, save and except in the event taxes and duties are required to be deducted by the Escrow Bank in terms of applicable law in accordance with the instructions of and through the Manager to the Escrow Bank. It is clarified that such deductions, if any, will only be considered at the time of debit of funds from the Special Account after providing requisite certifications to the Manager and the Company.
- 15) The Escrow Bank shall not be liable or responsible for obtaining any regulatory or governmental or other approval in connection with or in relation to the transactions contemplated herein or the Buyback and shall not be in any manner obliged to inquire or consider whether any regulatory or governmental approvals have been obtained.
- 16) The duties of the Bank under this Escrow Agreement are purely ministerial, administrative and non-discretionary in nature. Neither Bank nor any of its directors, officers, agents and employees shall, by reason of anything contained in this Escrow Agreement, be deemed to be a trustee for or have any fiduciary relationship with the Company, the Manager to the Offer, or any other person. Where the Bank has acted in accordance with this Escrow Agreement, it shall be deemed to have acted as if instructed to do so by the Manager to the Offer.
- 17) The Parties hereto agree that the obligations of the Escrow Bank under this Agreement are limited to those set out in this Agreement and in accordance with the written instructions received

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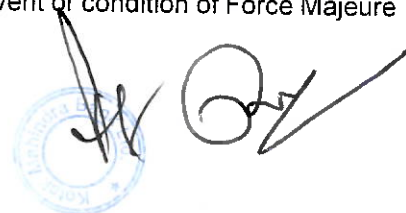
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hereunder. The Escrow Bank shall assume no responsibility and shall have no other obligations or duties other than to act in terms of this Agreement. No implied authorities, duties, obligations or responsibilities shall be read into this Agreement to devolve on the Escrow Bank. The Escrow Bank shall not be obliged to make any transfer from the Escrow Account if so directed by any government authority in writing.

- 18) The Escrow Bank shall not be deemed to have notice of any other agreement that the Escrow Bank is not a party to or any of the terms thereof and shall not be liable to act in accordance with the same.
- 19) The Escrow Bank shall not be liable or responsible in any manner whatsoever for the violation of any Applicable Laws by any of the other Parties to this Agreement.
- 20) The Escrow Bank is not required to withhold any amount from or in respect of the transactions contemplated herein, pursuant to any law, including, without limitation, any requirement of withholding tax. However, in the event of any Indian governmental authorities /investigating agency/enforcement agency issue any direction/order in writing to the Escrow Bank to withhold, any amount lying in the Escrow Account or direct/order in writing to act as per the direction/order of such authorities, the Escrow Bank shall comply with such order/direction with prior written intimation to the Parties.
- 21) The Parties (other than the Escrow Bank) represents, warrants and confirms to the Escrow Bank that it they do not and shall not carry on any business or activity/ies which is/are illegal, unlawful or which falls under the Prize Chits and Money Circulation Scheme (Banning) Act 1978 or which are prohibited under the Escrow Bank's policy including but not limited to crypto currency. The Parties (other than the Escrow Bank) further acknowledges and agrees that the Escrow Bank shall be at liberty to report such transaction/business/activity to statutory or regulatory authority, terminate this agreement forthwith and exit the relationship with the Parties (other than the Escrow Bank) if any party is found in violation of this covenant. It is agreed that the Parties (other than the Escrow Bank) shall indemnify the Escrow Bank at all times from any claims, damages, injury, penalties, charges etc caused to the Escrow Bank pursuant to any party carrying on such business, activities or resulting from any transaction carried on by any such Party.
- 22) The Escrow Bank may, in good faith, accept and rely on any notice, instruction or other document received by it under this Escrow Agreement as conclusive evidence of the facts and of the validity of the instructions stated in it and as having been duly authorised, executed and delivered and need not make any further enquiry in relation to it. The Escrow Bank may act in conclusive reliance upon any instrument or signature believed by it, acting reasonably, to be genuine and may assume, acting reasonably, that any person purporting to give receipt, instruction or advice, make any statement, or execute any document in connection with the provisions of this Escrow Agreement has been duly authorised to do so. The Escrow Bank shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document.
- 23) The Escrow Bank may resign from its appointment, upon giving 35 Business Days prior notice in writing to the Manager and the Company. The Escrow Bank shall hold the Escrow Amount in accordance with the provisions of this Agreement and Applicable Law and continue to be bound by the terms and conditions hereof until the Manager and the Company identify a successor. In case the Manager and the Company fail to identify a successor escrow bank within the above-mentioned 35 Business Days, the Escrow Bank shall by itself appoint a successor escrow bank of equal standing and transfer the monies to the successor and thereafter be discharged of all its obligations under this Agreement in accordance with Applicable Law.
- 24) No Party shall be held liable or responsible for any failure or delay in performance of any or all of its duties under this Agreement, directly caused by any circumstances beyond the control of the such Party ("**Affected Party**"), including, but not limited to, acts of God, orders or restrictions, war or warlike conditions, hostilities, sanctions, mobilizations, blockades, embargoes, detentions, revolutions, riots, looting, strikes, earthquakes, fires or accidents, failure of communication or banking systems (Force Majeure). Upon the occurrence of any event or condition of Force Majeure



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which affects the performance of the Affected Party, the Affected Party shall, as soon as is reasonably possible and not later than 1 (one) Business Day, notify the other parties of the nature of the event or condition, the effect of the event or condition on the Affected Party's performance and, on a best efforts basis, the estimated duration of the event or condition. The Affected Party shall also notify the other parties immediately upon cessation of or changes in the event or condition constituting Force Majeure. The Affected Party shall not be liable for any indirect or consequential loss or damage, or special or punitive or exemplary damages, or loss of profit, business, revenue, goodwill or anticipated savings to the other Parties because of a Force Majeure. The Affected Party shall also not be liable for any liability, losses, damages, costs, expenses, (including legal fees, court fees and professional fees), suits and claims that are finally judicially determined to have resulted primarily from the negligence of or breach of this Agreement by the Escrow Bank, Company and/or the Manager or any other person.

- 25) The Escrow Bank shall, if by the terms hereof, be required to perform any act / take any action on or within a period ending on a day which is not a Business Day ("**Non Business Day**"), then such action will be performed / taken by the Escrow Bank on the immediately succeeding Business Day. For the purposes of this agreement Business Day shall mean a day other than a Sunday on which the scheduled commercial banks are open for business in Mumbai.
- 26) The Parties hereby represent, warrant, undertake and covenant to the other that:
- (i) this Agreement constitutes a valid, legal and binding obligation and is enforceable in accordance with the terms hereof; and
  - (ii) the execution, delivery and performance of this Agreement has been duly authorised and do not and will not contravene (a) any Applicable Law or (b) the organisational documents of such Party.
- 27) The Escrow Bank represents and warrants to the other Parties that:
- (i) It is a scheduled commercial bank under the laws of India and is duly licensed to do business in India and has a valid and existing registration with SEBI as a banker to an issue with registration no. INBI00000927 and such registration shall remain valid till the date of completion of all its obligations under this Agreement, and all regulatory approvals and permissions which are necessary for the Escrow Bank to undertake its obligations under the Agreement have been obtained and remain in effect.
  - (ii) It shall honor all written instructions duly given under this Agreement; Its obligations under this Agreement constitute legal, valid and binding obligations enforceable in accordance with the terms of this Agreement; and
  - (iii) It has the power and authority to execute this Agreement, and the execution and delivery of this Agreement in its capacity as Escrow Bank and compliance with the terms and conditions herein contained in its capacity as the Escrow Bank have been duly authorized by all necessary corporate action.
- 28) The Manager shall stand fully discharged of all obligations under this Agreement upon fulfilment of its obligations mentioned herein.
- 29) Without prejudice to the other provisions of this Agreement, the Escrow Bank shall not be obliged to make any payment or otherwise to act on any request or instruction notified to it under this Agreement if:
- i. any facsimile or any other instructions (in original or otherwise) are illegible, unclear, incomplete, garbled or self-contradictory; or

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- ii. it is unable to verify any signature on the communication against the specimen signature provided for the relevant authorized signatory by the concerned Party.

In the event that the Escrow Bank receives such an instruction from the Parties and is thereafter unable to act on such instructions due to the causes mentioned in this clause, the Escrow Bank shall immediately seek clarification from the concerned Party and shall act upon such instructions only when all ambiguities have been successfully removed to its satisfaction.

- 30) The Company undertakes and agrees to indemnify and keep the Escrow Bank and its employees indemnified against all consequences, liabilities, obligations, expenses, damages, direct losses and costs of every kind and nature (including all legal costs and expenses that Bank may be required to incur in legal proceedings and in engaging legal counsel) ("Losses") which the Bank may suffer and/or incur or be required to bear/incur by virtue of or as a consequence of a breach of the obligations of the Company under this Agreement, provided the Company will not be under an obligation to indemnify the Escrow Bank or its employees for any Losses which are attributable to the gross negligence, wilful misconduct, fraud and/or breach of this Agreement by the Escrow Bank and/or its employees. Further, the Escrow Bank undertakes and agrees that upon Escrow Bank's gross negligence, wilful misconduct or fraud, the Escrow Bank undertakes and agrees to indemnify the Company and the Manager against all consequences, liabilities, obligations, expenses, damages, direct losses and costs of every kind and nature (including all legal costs and expenses) which the Company or the Manager suffer and/or incur, as a consequence of the gross negligence, wilful misconduct or fraud on part of the Escrow Bank and/or its employees. This clause shall survive the termination of the Agreement and/ or the resignation of the Escrow Bank.
- 31) It is understood that Escrow Bank's liability to release the amount lying in the Escrow Account and/or Special Account under this Agreement shall not be affected, varied or prevented by any underlying dispute between the other Parties pending before any government authority, including SEBI and the courts of competent jurisdiction in India, unless there is a specific order in writing from such government authority, including SEBI and the courts of competent jurisdiction in India, to that effect and unless the same is furnished to the Escrow Bank by the Party concerned.
- 32) Notwithstanding anything to the contrary in this Agreement, under no circumstances will the Escrow Bank and the Company be liable to any Party for any indirect, punitive or consequential loss or damages (inter alia, being loss of business, goodwill, opportunity or profit, revenue or anticipated savings be it arising directly or indirectly).
- 33) Any notice, request or other communication pursuant to this Agreement must be in writing and (a) delivered personally, (b) sent by way of e-mail in "portable document form" ("pdf."), or (c) sent by registered mail, postage prepaid or established courier service to the address or email address of the Party specified below or such other address as such Party notifies to the other Parties from time to time, or to such fax number as may be designated in writing by such Party. All notices and other communications required or permitted under this Agreement that are addressed as provided in this section will (a) if delivered personally or by an established courier service, be deemed given upon delivery; (b) if delivered by telefacsimile or similar facsimile transmission, be deemed given when electronically confirmed; (c) if sent by registered mail, be deemed given when received; and (d) if delivered by electronic mail, be deemed given when electronically confirmed.

For the Company:

At: **Birlasoft Limited**  
**Attention:** Ms. Sneha Padve  
**Address:** 35 & 36, Rajiv Gandhi Infotech Park, Phase – I, MIDC, Hinjawadi, Pune – 411057 (Maharashtra),  
**Telephone:** 020 66525010  
**Email:** sneha.padve@birlasoft.com





For the Manager:

At: **Kotak Mahindra Capital Company Limited**  
**Attention:** Mr. Arun Mathew (Chief Legal & Compliance Officer) / Mr. Sourav Mallik (Joint Managing Director) / Amit Joshi (Director) / Anup Poddar (Director)  
**Address:** 27BKC, 1st Floor, Plot No. C-27, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai – 400 051  
**Telephone:** +91 (22) 6713 2446  
**Email:** arun.mathew@kotak.com; sourav.mallik@kotak.com; [joshi.amit@kotak.com](mailto:joshi.amit@kotak.com); anup.poddar@kotak.com

For the Bank:

**Kotak Mahindra Bank Limited,**  
**Attention:** Kushal Patankar  
**Address:** 2<sup>nd</sup> Floor, 27 BKC, Plot No. C-27, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai 400 051  
**Telephone:** +91-22-66056587  
**Email:** [cmsipo@kotak.com](mailto:cmsipo@kotak.com); [gts.escrowproduct@kotak.com](mailto:gts.escrowproduct@kotak.com)

Each of the parties understands, acknowledges and accepts that communication sent via facsimile machines, email, internet, diskettes, or any other method over public lines is not encrypted, and that these transmission methods are not necessarily secure means of transmission and delivery of information, and that there are associated risks, including of breach of confidentiality, possible unauthorized alteration and/or unauthorized use, and failure of communication. Each of the Company and the Manager agrees to exempt the Escrow Bank from any and/or all responsibility in this regard including as to any misuse of Communication, and to hold the Escrow Bank harmless for any cost or loss, unless such cost/loss is attributable to the negligence, wilful misconduct or fraud by the Escrow Bank and/or its employees. When the Escrow Bank acts on any notice, demand or other communication sent by facsimile, or other form of electronic or data transmission, the Escrow Bank, acting upon such instruction so received shall not be responsible or liable in the event such notice demand or other communication is not an authorized or authentic notice, demand or other communication of any of the other Parties (issued either individually or jointly) is not in the form any of the other Parties sent or intended to send (issued either individually or jointly) (whether due to fraud, distortion or otherwise), the Company shall indemnify the Escrow Bank against any direct loss, liability, claim or expense (including legal fees and expenses) it may incur with its acting in accordance with any such notice, demand or other communication acted upon by the Escrow Bank in good faith, unless such cost/loss is attributable to the negligence, wilful misconduct or fraud by the Escrow Bank and/or its employees. This clause shall survive the termination of the Agreement and/ or the resignation of the Escrow Bank.

- 34) The Parties shall keep all non-public information confidential which will be shared by the other Parties during the course of this Agreement and shall not disclose such confidential information to any third party without prior permission of the respective Party, except in case of any legal or statutory requirement to disclose the same. The terms of this confidentiality clause shall survive the termination of the Agreement for reasons whatsoever.
- 35) If any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remaining provisions of this Agreement.
- 36) In the event of any inconsistency or conflict between the provisions of this Agreement, and any other agreement or contract between the Company and the Manager, this Escrow Agreement shall prevail.

37) **Amendment:**

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This Agreement may only be modified by an instrument in writing signed by all the Parties.

**38) Severability:**

If any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remaining provisions of this Agreement.

**39) Governing Law and Jurisdiction:**

This Agreement shall be governed by and construed in accordance with the laws of India, the Parties submit to the exclusive jurisdiction of the courts of Mumbai.

Any dispute or difference between the Parties hereto or anyone claiming through or under them, at any time hereafter, in respect of the construction or interpretation of any term or provision hereof and/or as regards the responsibility and/or obligation of the respective Parties and/or otherwise in any way arising out of, relating to, concerning or touching this Agreement, shall be resolved and finally settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and as may be amended from time to time or its re-enactment. The Company along with the Manager shall jointly appoint one (1) arbitrator. The Escrow Bank shall jointly appoint one (1) arbitrator. The two (2) arbitrators so appointed shall together appoint one (1) more arbitrator so that the total number of arbitrators shall be three (3). In the event of a Party failing to appoint an arbitrator or the arbitrators failing to appoint the third arbitrator as provided hereinbefore, such arbitrator(s) shall be appointed in accordance with the Arbitration and Conciliation Act, 1996, as amended from time to time. The award given by the majority of the arbitrators shall be final, conclusive and binding upon the Parties and the Parties agree to be bound by the same and the successful Party may seek to enforce the same through a competent court. The venue of arbitration shall be Mumbai, India. The Parties agree that the courts in Mumbai shall have jurisdiction in respect of matters relation to grant of injunctive relief.

**40) Waiver:**

No delay or omission by any Party in exercising any right with respect hereto shall operate as a waiver of such right. A waiver on any one occasion shall not be construed as a bar to, or waiver of, any right or remedy on any other occasion.

**41) Entire Agreement:**

This Agreement constitutes the entire agreement between the Parties relating to the subject hereof and shall supersede any prior agreements or understandings (written or oral) in respect of such subject matter.

**42) Assignment**

No rights or liabilities under this Agreement shall be assigned by any of the Parties hereto without having obtained the prior written consent of the other Parties.

**43) Further Assurances**

Subject to the terms and conditions of this Agreement, each Party shall use its respective reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable under applicable law, and take all such other actions and to execute all such documents, certificates, agreements and other writings as such Party may reasonably be requested to take or execute by the other Party from time to time, to effectuate the provisions and purposes of this Agreement.

**44) Counterparts**

*Shadve*



*Cy*



*VS*

*[Handwritten signatures]*

This Agreement may be executed in one or more counterparts each signed by one of the Parties and each such counterpart shall be deemed to be an original agreement. Any Party may enter into this Agreement by signing any such counterpart. This Agreement is deemed to be complete and executed upon the last of the signatures applied hereto.

**45) No third party rights**

This Agreement is solely for the benefit of the Parties hereto and is not intended to provide any rights or obligations in favour of any third parties.

**46) Termination of Agreement:**

If the shareholders of the Company do not approve the Buyback by way of a special resolution in accordance with the applicable provisions of the Companies Act, 2013 and the rules made thereunder, the Company and the Manager shall be entitled to terminate this agreement by giving a joint notice to the Escrow Bank. Within two (2) Business Days of receipt of such notice, the Escrow Bank shall return to the Company the entire amount, if any, deposited by the Company in the Escrow Account (including any such funds which were placed in fixed deposit in terms of clause 3 of this Agreement).

This Agreement shall terminate on: (a) closure of Escrow Account and/or Special Account, which shall be closed upon transfer of all monies therein, in accordance with the terms of this Agreement; or (b) prior to the occurrence of the event in sub-clause (a) above, upon the Bank handing over the Escrow Amount and/or the amounts lying in the Escrow Account and/or Special Account to a successor escrow bank, in accordance with this Agreement. Notwithstanding the above, Company may at will, in consultation with the Manager, replace the Escrow Bank by issuing to the Escrow Bank a written communication to such effect countersigned by the authorised representatives of the Manager indicating the person/successor Escrow Bank appointed by it ("**Termination Communication**"). Within 35 (Thirty Five) Business Days of receipt of such Termination Communication, the Escrow Bank shall transfer the Escrow Amount lying in the Escrow Account to the person/successor Escrow Bank so named in the Termination Communication from the Company. Until such transfer of the Escrow Amount to the successor Escrow Bank, the Escrow Bank shall continue to act in accordance with this Agreement.

**47) Closure of the Accounts:**

The Escrow Account shall be closed upon the termination of this Agreement. Notwithstanding anything contained herein, the Escrow Account shall not be closed without a 35 (thirty five) Business Day prior written notice of the Manager. The Escrow Account and Special Account shall be closed and the Escrow Bank shall take all necessary steps to ensure closure of the Escrow Account and Special Account upon transfer of all Funds therein in accordance with the terms of this Agreement. The Parties agree that in the event that the Escrow Bank is directed to close the Escrow Account by an order of a statutory, regulatory or judicial authority in India, the Escrow Bank, where legally permissible and/or practicable possible, shall provide a copy of such order to the Manager and the Company, and shall consult the other Parties on the procedure to be followed for the closure of the Escrow Account in order to comply with the aforesaid order.

*Stadve*



*OR*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

**SIGNED AND DELIVERED** by **Birlasoft Limited**  
by its authorized signatory

By: Sadve  
Name: SNEHA PADVE  
Title: COMPANY SECRETARY



**SIGNED AND DELIVERED** by **Kotak Mahindra Capital Company Limited**  
by its authorized signatories

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*S. Mallik*  
*Rajeev K. S.*



**SIGNED AND DELIVERED** by Kotak Mahindra Bank Limited  
by its authorized signatories

By: \_\_\_\_\_  
Name:  
Title:

A large, stylized handwritten signature in black ink, written over a horizontal line.A smaller, more fluid handwritten signature in black ink, located to the right of the stamp.

**Annexure I**

To

[•]

Kind Attention:[•]

Dear Sir/ Madam,

Re: Escrow Account in respect of buyback of shares by Birlasoft Limited ("Company")

We confirm that we have, in terms of the Escrow Agreement dated [Agreement Date] ("**Escrow Agreement**") between Birlasoft Limited, Kotak Mahindra Capital Company Limited, and Kotak Mahindra Bank Limited, opened an Escrow Account no. [Account Number] in our bank branch at [Branch], Mumbai, India. The title of the account is "[•] Buyback – Escrow Account".

We confirm that the balance to the credit of the Escrow Account is Rs. [Amount in figures]/- (Rupees [Amount in words] Only) as on [Date].

We confirm that the account shall be allowed to be operated in accordance with the Escrow Agreement. We also confirm that we will release the monies in the Escrow Account only upon receiving instructions as per the Escrow Agreement.

Capitalised terms not defined herein shall have the meanings ascribed to them in the Escrow Agreement.

Kindly send us confirmation of the same.

Yours sincerely,

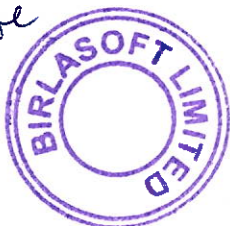
For **Kotak Mahindra Bank Limited**

\_\_\_\_\_  
**Authorized Signatory**

Place: Mumbai

Date: [•]

*Shadve*



*[Signature]*

Annexure II

To

**Kotak Mahindra Bank Limited**  
27BKC, Plot No. C-27,  
"G" Block, Bandra Kurla Complex,  
Bandra (East), Mumbai – 400 051

Attention: [-]

Dear Sir/ Madam,

Re: Special Account in respect of buyback of shares by Birlasoft Limited ("Company")

We refer to the Escrow Agreement dated [Agreement Date] entered into between Birlasoft Limited, [-], Kotak Mahindra Capital Company Limited, and Kotak Mahindra Bank Limited regarding the captioned subject.

We hereby instruct you to open the Special Account with your [insert address] branch in Mumbai, India within 1 (One) Business Day from the date of this letter.

Capitalised terms not defined herein shall have the meanings ascribed to them in the Agreement.

Kindly send us the confirmation of the same.

Yours sincerely,

For **Kotak Mahindra Capital Company Limited**

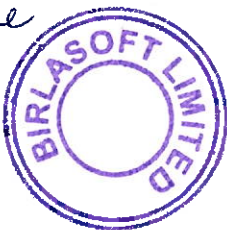
\_\_\_\_\_  
Authorized Signatory

Place: Mumbai

Date: [-]

Copy to: Company

*Shadve*



*Cy*



*VJ*



*[Handwritten signature]*

*[Handwritten signature]*



**Annexure III**

To  
**Kotak Mahindra Bank Limited**  
27BKC, Plot No. C-27,  
"G" Block, Bandra Kurla Complex,  
Bandra (East), Mumbai – 400 051

**Attention: [•]**

Dear Sir/ Madam,

Re: Escrow Account in respect of buyback of shares by Birlasoft Limited ("Company")

We refer to the Escrow Agreement dated [•] entered into between Birlasoft Limited, Kotak Mahindra Capital Company Limited, and Kotak Mahindra Bank Limited regarding the captioned subject ("**Escrow Agreement**").

Pursuant to clause 3 of the Escrow Agreement, the Company and Kotak Mahindra Capital Company Limited hereby give you an instruction to create a fixed deposit ("**FD**") with the tenure of [•] at an interest rate of [•] per annum by debiting Escrow Account for an amount of Rs. [•]. The maturity date of the FD shall be [•].

At the time of the liquidation of the FD (either on maturity or on early liquidation), we request you to credit the interest and principal amount on the FD to [Escrow Account No.] with Kotak Mahindra Bank Limited

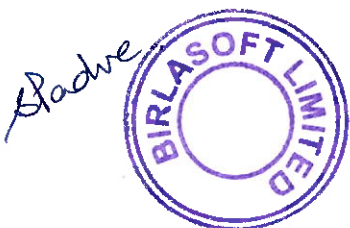
With regards to the FD, and as required by the Escrow Agreement, we request Kotak Mahindra Bank Limited to continue to act upon the instructions, of Kotak Mahindra Capital Company Limited, in accordance with the terms of the Escrow Agreement.

Capitalised terms used but not defined herein shall, unless the context otherwise requires, have the same meaning as in the Escrow Agreement.

Kindly send us confirmation of the same with details of FD (including the fixed deposit certificate and number).

Yours sincerely,

For and on behalf of <b>Kotak Mahindra Capital Company Limited</b>	For and on behalf of <b>Birlasoft Limited</b>
Authorized Signatory	Authorized Signatory



**Annexure IV**

To  
**Kotak Mahindra Bank Limited**  
27BKC, Plot No. C-27,  
"G" Block, Bandra Kurla Complex,  
Bandra (East), Mumbai – 400 051

**Attention: [•]**

Dear Sir/ Madam,

Re: Escrow Account in respect of buyback of shares by Birlasoft Limited ("Company")

We refer to the Escrow Agreement dated [•] entered into between Birlasoft Limited, Kotak Mahindra Capital Company Limited, and Kotak Mahindra Bank Limited regarding the captioned subject.

In accordance with clause [3] of the Escrow Agreement, we, Manager request you to kindly liquidate prematurely the fixed deposit number [•] and deposit the principal and interest in the Escrow Account (account number [•]) (account with Kotak Mahindra Bank Limited).

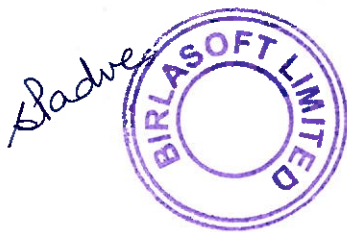
Words and capitalised terms used but not defined herein shall, unless the context otherwise requires, have the same meaning as in the Escrow Agreement.

Kindly send us confirmation of the same.  
Yours sincerely,

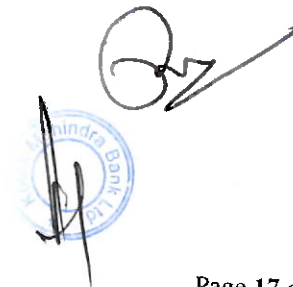
For and on behalf of **Kotak Mahindra Capital Company Limited**

Authorized Signatory

Place: Mumbai  
Date: [•]



VS



**Annexure V**

To

**Kotak Mahindra Bank Limited**  
27-BKC, Plot No. C-27,  
"G" Block, Bandra Kurla Complex,  
Bandra (East), Mumbai – 400 051

**Attention: [•]**

Dear Sir,

Re: Escrow Account in respect of buyback of shares by Birlasoft Limited ("Company")

We refer to the Escrow Agreement dated [Agreement Date] entered into between Birlasoft Limited, [•], Kotak Mahindra Capital Company Limited, and Kotak Mahindra Bank Limited regarding the captioned subject.

We, Manager, hereby instruct you to transfer on [•], Rs. [•] from the Escrow Account No. [•] to the Special Account no. [•] with Kotak Mahindra Bank Limited.

Capitalised terms not defined herein shall have the meanings ascribed to them in the Escrow Agreement.

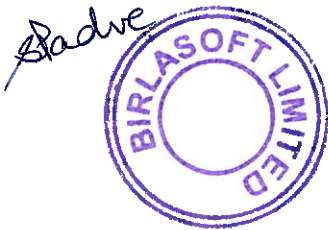
Kindly send us confirmation of the same.

Yours sincerely,

For and on behalf of **Kotak Mahindra Capital  
Company Limited**

Authorized Signatory

Place: Mumbai  
Date: [•]



**Annexure VI**

To

**Kotak Mahindra Capital Company Limited**

27BKC, 1<sup>st</sup> Floor, Plot No. C-27,  
"G" Block, Bandra Kurla Complex,  
Bandra (East), Mumbai – 400 051

Kind Attention: [\*]

Dear Sir/ Madam,

Re: Special Account in respect of buyback of shares by Birlasoft Limited ("Company")

We refer to the Escrow Agreement dated [Agreement Date] entered into between Birlasoft Limited, Kotak Mahindra Capital Company Limited, and Kotak Mahindra Bank Limited regarding the captioned subject.

We reference to the Special Account titled "[Title of the Special Account]" bearing account number [Special Account Number] opened by us at our [insert address] branch for the purpose of payment of consideration to the shareholders who have validly tendered Shares under the Buyback and whose offers have been accepted by the Company.

We confirm that the total balance as on [Date] in the Special Account is Rs. [Amount in figures]/- (Rupees [Amount in words] Only).

Words and capitalised terms used but not defined herein shall, unless the context otherwise requires, have the same meaning as in the Escrow Agreement.

Thanking you,

Yours faithfully,

For **Kotak Mahindra Bank Limited**

Authorised Signatory

*Stadve*  


*gy*  
  
*VS*

  
*[Signature]*

**Annexure VII**

To

**Kotak Mahindra Bank Limited**  
27-BKC, Plot No. C-27,  
"G" Block, Bandra Kurla Complex,  
Bandra (East), Mumbai – 400 051

**Attention: [-]**

Dear Sir,

Re: Special Account in respect of of buyback of shares by Birlasoft Limited ("Company")

We refer to the Escrow Agreement dated [Agreement Date] entered into between Birlasoft Limited, Kotak Mahindra Capital Company Limited, and Kotak Mahindra Bank Limited regarding the captioned subject.

We instruct you to:

- (i) debit on [Date], Rs. [-] from the Special Account [No.] [-], and
- (ii) credit by way of direct credit Company's broker [(as per the details provided therein)] / [transfer the funds to the bank account no. [-] with [name of bank] for making payment to the shareholders], in accordance with all applicable laws.

Capitalised terms not defined herein shall have the meanings ascribed to them in the Agreement.

Kindly send us and the Company confirmation of the same.

Yours sincerely,

**For Kotak Mahindra Capital Company Limited**

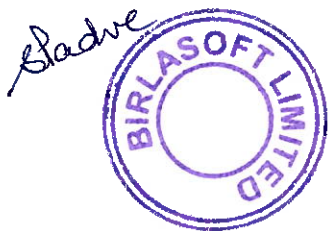
**Authorized Signatory**

Place: Mumbai

Date: [-]

Copy to:

Company



**Annexure VIII**

To

**Kotak Mahindra Bank Limited**  
27BKC, Plot No. C-27,  
"G" Block, Bandra Kurla Complex,  
Bandra (East), Mumbai – 400 051

**Attention: [•]**

Dear Sir/ Madam,

Re: Release of funds from [Escrow Account/Special Account]

We refer to the Escrow Agreement dated [Agreement Date] entered into between Birlasoft Limited, Kotak Mahindra Capital Company Limited, and Kotak Mahindra Bank Limited regarding the captioned subject.

We hereby irrevocably direct you to release the amount of Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ only) from the [Escrow Account] (Account No. \_\_\_\_\_) to Company in their account bearing number [•] maintained with \_\_\_\_\_ Bank in accordance with Regulation (xi)(i) of the Buyback Regulations and clause 10 of the Escrow Agreement.

Capitalised terms not defined herein shall have the meanings ascribed to them in the Agreement.

Kindly send us the confirmation of the same.

Yours sincerely,

For **Kotak Mahindra Capital Company Limited**

**Authorized Signatory**

Place: Mumbai

Date: [•]

Copy to: Company

