

AGREEMENT FOR SOFTWARE TECHNOLOGY PARK

An agreement made on this day of _____ between **M/s.** _____, a 100% Export Oriented Unit having its registered office at “_____” and _____ unit _____ location _____ at “_____” (hereinafter referred to as “the Unit” which expression shall include its successors and assigns) of the one part and President of India acting through Director of Software Technology Parks of India (hereinafter referred to as “Government” which expression shall include his successors in office and assigns) of the other part.

WHEREAS the Government have communicated vide Letter No. _____ dated _____ to the unit the terms and conditions for setting up of the 100 % Export Oriented Software Technology Park under Software Technology Park (STP) Scheme of Department of Electronics and Information Technology, Ministry of Communications & Information Technology, Govt. of India for the development and export of Computer Software (IT

Software) & IT Enabled Services and the unit has duly accepted the said terms and conditions vide their Letter No. Nil Dated _____.

AND WHEREAS the unit has been granted the status of 100 % Export Oriented unit, as defined in Ministry of Commerce Notification No. 33/ (RE) 92-97 dated 22nd March 1994, on Software Technology Parks.

AND WHEREAS the unit has been allowed to import/purchase indigenously the capital goods, raw material, spares and consumables etc. free of Import / Excise duty for development of Computer Software (IT Software) & IT Enabled Services for export through Satellite Data Link and / or physical form.

AND WHEREAS an approval has been granted to the unit by the Government, subject to the achievement of positive Net Foreign Exchange (NFE) as provided in the STP Scheme by exporting 100% of the production of export product, namely Computer Software (IT Software) & IT Enabled Services for a period of 5 years beginning from the first day after completion of the gestation period allowed by the government (hereinafter referred to as the "prescribed date")

NOW THIS AGREEMENT WITNESSTH AS FOLLOWS:

1. The unit shall achieve positive Net Foreign Exchange (NFE) cumulatively over a period of 5 years as provided in the STP Scheme.
2. Such performance shall be subject to annual monitoring by the Director of STPI (Designated Officer, Department of Electronics and Information Technology, Ministry of Communications & Information Technology, Government of India) having Jurisdiction over the activities under the guidelines issued by the Government of India from time-to-time and the unit shall be liable for penalty under the Foreign Trade (D&R) Act, 1992 as amended from time to time for failure to fulfill such obligation.
3. The unit shall earn Foreign Exchange by exporting 100% of their production of Computer Software (IT Software) & IT Enabled Services for a period of five years, counting from the prescribed date. Exports to Bhutan or Nepal shall qualify, if payment is made in free Foreign exchange.
4. The Unit shall intimate the date of commencement of production for 100% export within one month of such date to the concerned Director of STPI.
5. The unit shall not dispose of its production in the domestic market except in terms of the provisions of STP Scheme and/or when specifically allowed by the competent authority.
6. The unit under implementation shall submit quarterly report to the concerned Director, Software Technology Parks of India in the prescribed format at Annexure II.
7. The Unit shall after the commencement of production / operation, submit to the concerned Director of STPI, quarterly performance report in the prescribed format for the period ending March / June / September and December every year within 30 days of the close of quarter giving details of the imports/exports effected and purchases made from the Domestic Tariff Area by the Unit during the period. An annual performance report shall also be submitted in the prescribed format within a period of 90 days following the close of financial year failing which further imports and DTA sale will not be permitted. Annual Performance Reports shall be certified by a Chartered Accountant. In case of wrong submission of such information or failure to submit such information within the stipulated time, Director of STPI may withdraw the permission granted to the unit for operation.
8. The Minimum Export Performance on the STP unit on Net Foreign Exchange terms will be as below:

The Unit shall be a Positive Net Foreign Exchange Earner. Net Foreign Exchange Earning (NFE) shall be calculated cumulatively for a block of five years from the commencement of production according to the formula given below. Items of manufacture for export specified in the Letter of Permission (LOP) / Letter of Intent (LOI) alone shall be taken into account for calculation of NFE.

$$\text{Positive NFE} = A - B > 0$$

Where

NFE is Net Foreign Exchange Earning.

'A' is the FOB value of exports by the STP Unit; and

'B' is the sum total of the CIF value of all imported inputs and the CIF value of all imported capital goods, and the value of all payments made in foreign exchange by way of commission, royalty, fees, dividends, interest on external borrowings / high sea sales during the first five year period or any other charges. "Inputs" mean raw materials, intermediates, components, consumables, parts and packing materials.

9. In the event of the Unit failing to fulfill the terms & conditions of Letter of Permission (LOP) / Letter of Intent (LOI) and NFE as prescribed in the STP Scheme, except when the fulfillment of such conditions is prevented or delayed because of any law & order, proclamation, regulation/ordinance of the Government or the shortfall in fulfillment of NFE is within the permissible norms specified in the monitoring guidelines given at Point No. 6.20 of Chapter 6 of Foreign Trade Policy (1st April 2015 - 31st March 2020) of the STP Scheme, the unit would be liable for penal action under the provisions of Foreign Trade (Development & Regulation)Act, 1992 and the Rules & Orders made thereunder.
10. The unit shall also be subject to the conditions stipulated and required for availing exemption from duty of Customs and Excise under the relevant Customs & Excise Notifications and any customs duties / Excise duties and interest payable to / leviable by the Government for failure to fulfill such conditions shall also, without prejudice to any other mode of recovery be recoverable in accordance with the provisions of Section 142 of the Customs Act 1962 / Section II of the Central Excise Act 1944 and rules made hereunder and / or from any payment due to the Unit from the Government.
11. The Unit shall, on the instructions of the concerned Director of STPI (Designated Officer, Department of Electronics and Information Technology, Ministry of Communications & Information Technology, Government of India), pay to the Government the amount of Customs Duty that would be leviable at the relevant time of the items of Plant, Machinery and Equipment and Raw-materials, Components and Consumables allowed for import by the Unit in terms of approval granted to them. The unit shall in addition pay simultaneously to the Government liquidated damages, the amount of which will be decided by the Government taking into account the circumstances of the case. The amount of liquidated damages shall be determined by the Director of STPI (Designated Officer of Department of Electronics and Information Technology, Ministry of Communications & Information Technology, Govt. of India and the instruction of the said Authority shall be final and binding on the Unit. While determining the extent of liquidated damages the said Authority will, if it is considered necessary, give an opportunity to the Unit to present its arguments.
12. Any order issued by the Government in this regard shall be final and binding and the unit thereby undertake to comply unconditionally with such an order.

13. The unit shall be bound by the changes made in the provisions of STP Scheme from time to time.
14. Any stamp duties payable on this document or any document executed thereunder shall be borne by the unit.
15. The unit shall have an operational Web-Site and permanent e-mail address.
16. Any changes in the Board of Directors, Telephone No., E-mail Address, Web-Site, Passport No., Bank Address and Factory Address shall be duly intimated by the unit within a fortnight.

In witness thereof the common seal of **M/s.** _____ has been here into affixed Sh./Smt. _____, **Director/Authorized Signatory** on behalf of **"M/s.** _____" has set and subscribed his hands here into Common seal of the within named Unit has been affixed here into in the presence.

Signature: of Sh.

Residential address: -

Phone No.:

e-mail:

Signature: of Sh.

Residential address: -

Phone No.:

e-mail:

who have been duly authorized for the purpose by a resolution of the Directors of the Company passed on _____ have signed in the presence of:

Signature: of (I) Sh.

Residential address:

Phone No.:

e-mail:

Signature: of (II) Sh.

Residential address:

Phone No.:

e-mail:

Signed for and on behalf of the President of India

By _____, **Director**
Software Technology Parks of India, Thiruvananthapuram

in the presence of

1.

2.