

# MEMORANDUM OF AGREEMENT

BETWEEN

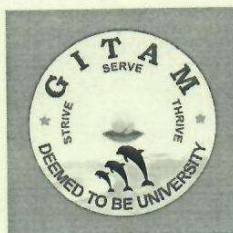


## NATIONAL RESEARCH DEVELOPMENT CORPORATION

(An Enterprise of DSIR, Ministry of Science & Technology, Govt. of India)

20-22, ZAMROODPUR COMMUNITY CENTRE  
KAILASH COLONY EXTENSION, NEW DELHI 110048

AND



## GANDHI Institute of Technology and Management (GITAM)

(Deemed to be a University)

RUSHIKONDA, VISAKHAPTNAM  
ANDHRA PRADESH-530045

January 2018





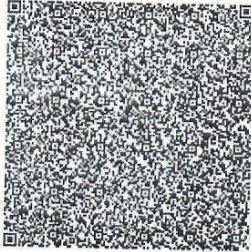
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# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

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### MEMORANDUM OF AGREEMENT

#### BETWEEN

National Research Development Corporation  
20-22, Zamroodpur Community Centre, Kailash Colony Extension,  
New Delhi 110048

#### AND

GANDHI Institute of Technology and Management (GITAM)  
Rushikonda, Visakhapatnam  
Andhra Pradesh -530045



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## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018

### BETWEEN

**National Research Development Corporation**, an Enterprise of Department of Scientific & Industrial Research, Ministry of Science & Technology, Govt. of India, dealing within the meaning of and registered under the Companies Act, 1956, having its Registered Office at 'Anusandhan Vikas', 20-22, Zamroodpur Community Centre, Kailash Colony Extension, New Delhi-110 048 (hereinafter called '**NRDC**' which expression shall include its successors in interest/business and permitted assigns) of the one part;

### AND

**Gandhi Institute of Technology and Management** a "Deemed to be University" registered under section 3 of UGC Act on 13th August, 2007 having its Registered Office at Rushikonda, Vishakhapatnam, Andhra Pradesh (herein after referred to as "**GITAM**" which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assignees) of the second part.

GITAM is spread across three States with campuses having state-of-the-art facilities and infrastructure in Visakhapatnam, Hyderabad and Bengaluru, offering undergraduate to doctoral programs in Engineering, Technology, Management, Sciences, International Business, Pharmacy, Architecture, Law, Medical Sciences, Nursing, and Social Sciences.

**WHEREAS 'NRDC'** is a company established by the Government of India with the objectives, inter-alia of promotion, development, licensing and commercial exploitation of indigenous technology, know-how and inventions, including the technical and engineering know-how generated by various publicly funded R&D laboratories, universities and institutions. Since its inception, '**NRDC**' has already transferred to industry and successfully commercialised a large number of technologies both in India and abroad.

**WHEREAS, 'GITAM'** is a leading deemed to be a university academic research and development programme in various disciplines and doing pioneering work for the advancement of R&D and as a result of research work carried out at the **GITAM**, a number of technologies/know how process(es)/ product(s)/ technology(ies)/ copyrights/ patents/trademarks, etc. (hereinafter called 'Technologies') which may be commercially exploited by the industry.





**WHEREAS 'GITAM' and 'NRDC'** recognise the respective strengths of the two organisations and accordingly agree to cooperate in the development of technologies and their successful transfer to industry for commercial exploitation and socio-economic benefits.

Now therefore, in consideration of the premises and mutual covenants hereinafter contained, the parties hereto agree as follow:

1. Subject to the conditions hereinafter contained '**GITAM**' agrees to assign its technologies/Know-hows(s) to '**NRDC**' free from encumbrances and developed by GITAM for sole and absolute right of marketing and licensing for commercial exploitation by '**NRDC**'.
2. '**GITAM**' also agrees to provide '**NRDC**/Licensee of '**NRDC**' as the case may be, technical and engineering know-how relating to such Technology(ies) etc. consisting of documented technical information on the mode of working and using the same by an industry, as may be necessary to commercialise the said invention(s)/ process(s)/ product(s)/ technology(ies) and associated patents/ designs/ copyrights/ trademarks etc. by '**NRDC**' during the currency of this MOA being in force on mutually agreed terms and conditions.
3. '**GITAM**' shall also keep **NRDC** informed of any further development, improvement in the said invention(s)/ process(s)/ product(s)/ technology(ies) and shall also assign the same for licensing by **NRDC** for commercial exploitation.
4. '**GITAM**', shall on successful demonstration of the technologies and handing over the know-how document to **NRDC and/or its licensee(s)**, sign along with Licensee(s) a certificate of successful demonstration of the technology as per **NRDC** format and send one copy in original to **NRDC**.
5. For the processes licensed by **NRDC**, '**GITAM**' agrees to provide a demonstration of the invention(s)/ process(s)/ product(s)/ technology(ies) to the **NRDC's** licensee(s) at '**GITAM**' on the scale at which the invention/ process/ product/ technology may have been developed by '**GITAM**', within a period of 30 days of the date of signing of the licence agreement by the licensee with '**NRDC**' to familiarise appropriately qualified personnel of the licensee and provide expert assistance to the licensee for implementation of the licensed invention/process/ product/ technology etc.
6. '**NRDC**' agrees to give publicity to the availability of the invention(s)/ process(s)/ product(s)/ technology(ies) assigned to it by '**GITAM**' for commercial exploitation and also agrees to generate necessary market data/profiles, prefeasibility, feasibility and project reports, to promote speedy and effective licensing and commercialisation of the invention(s)/ process(s)/ product(s)/ technology(ies). '**NRDC**' also agrees to associate the **GITAM** during negotiations for deciding the fee to be charged from the prospective licensees and inform the '**GITAM**' about the negotiations for



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deciding the fee to be charged from the prospective licensee at the time of transfer of technology.

7. In consideration of the assignment, provision of technical information and documentation and technical services as aforesaid by '**GITAM**', '**NRDC**' agrees to remit to '**GITAM**' 50% of the entire fees (Lumpsum Premium and Royalty) received by it from the licensees arising from and out of the said commercial exploitation of the invention(s)/ process(s)/ product(s)/ technology(ies) of '**GITAM**' assigned to '**NRDC**'. The royalties payable to '**GITAM**' shall continue for a fixed period agreed between '**NRDC**' and the licensee, and '**NRDC**' will apply its well established and time tested methods of monitoring the extent of exploitation of the said Technology(ies) to ensure full and effective payment of royalties by the licensee concerned.
8. The premia and the royalty agreed upon by '**NRDC**' and the licensee and the period of licensing will be finalised jointly by '**NRDC**' with '**GITAM**' and '**GITAM**' will abide by the same.
9. In view of the cooperation provided for under this MOA, '**NRDC**' agrees to advise '**GITAM**' and facilitate '**GITAM**' in the filing of patent applications (both in the country and abroad) on invention(s)/ process(s)/ product(s)/ technology(ies)), which '**GITAM**' assigns or proposes to assign to '**NRDC**' for licensing on the understanding that when the said patents are granted, '**GITAM**' would assign those patents to '**NRDC**' for commercial exploitation.
10. All the expenses in obtaining the patent(s)/ design(s)/ copyright(s)/ trademark(s) etc. and maintaining in India on the invention(s)/ process(es)/ technology (ies) etc assigned to NRDC shall be borne by '**GITAM**'.
11. '**NRDC**' agrees to take all measures in its control to oppose Indian Patent/ design/trademark application(s) filed by other parties which application(s) may be detrimental to the invention/ process/ product/ technology etc. assigned to '**NRDC**' by '**GITAM**' and '**GITAM**' agrees to provide '**NRDC**' all assistance in this regard. The cost involved shall be borne by GITAM.
12. In the event of any of the aforesaid IPR(s) assigned to '**NRDC**' being infringed and '**NRDC**' initiating or instituting any legal proceedings, after due consultation with '**GITAM**', to prevent such infringement, '**GITAM**' agrees, if so required by '**NRDC**', to render all assistance to '**NRDC**'. The expenses in this regard will be shared in ratio of 50:50 between '**NRDC**' and '**GITAM**'. Similarly, the compensation awarded by the court will also be shared in the ratio of 50:50 by '**NRDC**' and '**GITAM**'.
13. In case '**NRDC**' does not commercialise the assigned technologies within three years from the date of Assignment with '**GITAM**', the parties shall meet and decide on the further course of action and if there are no immediate prospects of commercialization, the assigned technologies shall



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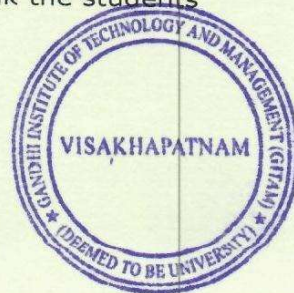


be reassigned to '**GITAM**' and '**NRDC**' shall not use the information relating to such technologies in any manner whatsoever, thereafter.

14. Apart from the above mentioned services: '**NRDC**' will provide the following expert services on a mutually agreed terms and condition on case to case basis :
- 14.1 IPR Management: '**NRDC**' shall provide all the assistance for assessing patentability through Patent search for prior art .
- 14.2 University IPR Policy: '**NRDC**' shall prepare "**GITAM**" IPR and Technology Management Policy on consultancy basis.
- 14.3 Technology Transfer Cell: '**NRDC**' shall mentor and guide "**GITAM**" Technology Transfer & IP Cell Policy on consultancy basis.
- 14.4 IPR awareness / Training programme: Organising one IPR awareness programme for one day to the faculty and students in the '**GITAM**'.
- 14.5 Techno-commercial evaluation of Technologies: Evaluation of technologies developed by faculty and students for their commercial potential.
- 14.6 Market Research and Design Package : Creating Market Research (MR) and Basic Engineering Design Package (BEDP) for most prominent technologies developed by '**GITAM**' to increase the potential of technology transfer.
- 14.7 Linkages with Research funding organizations : '**NRDC**' shall assist faculty and students to get appropriate research funding from government departments such as DST, DBT, AICTE, etc. '**NRDC**' will assist in drafting proposals and their evaluation before submitting to appropriate funding organization.
- 14.8 Mentoring Services: '**NRDC**' shall provide hand holding and mentoring services through its panel of domain experts, and connect to advance laboratory facilities through its vast network of Labs, academic institutions and domain experts.
- 14.9 Facilitating industry visits of students: '**NRDC**' will facilitate industry visits/training of '**GITAM**' final year students in MSMEs/Corporates.
- 14.10 Linking to Start-up India Mission : '**NRDC**' will facilitate '**GITAM**' to establish student and faculty start-up. '**NRDC**' shall provide suitable innovative technologies, give certificate for obtaining start up recognition, file patents under SIPP scheme of DIPP and link the students start-ups to appropriate funding agencies.



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- 14.11 Incubation services : '**NRDC**' shall assist and facilitate GITAM in setting up of incubation centres in their campus. In this endeavour NRDC will guide '**GITAM**' in preparing the DPR, linking funding agencies and all the required hand-holding / mentoring.
- 14.12 Any other Techno-commercial services: If any other Techno-commercial services required by '**GITAM**' and they fall within the ambit of '**NRDC**' capabilities, '**NRDC**' shall provide those services on mutually agreed terms and conditions.
15. If either party fails to fulfill its respective obligations as set out in the previous clauses of this MOA, both parties shall urgently consult one another with a view to correcting the default by the party concerned. If even thereafter the default is not rectified by the defaulting party, the other party may terminate this MOA by giving thirty (30) days advance notice in writing to the defaulting party provided that such termination shall not affect the rights of the parties to MOA which have been accrued prior to such termination.
16. Upon such termination as set out in Clause 15:
- (i) The licence(s) granted by '**NRDC**' shall continue for the period agreed between '**NRDC**' and the licensee(s) concerned. Thereafter such Technologies assigned to '**NRDC**' shall be reassigned to '**GITAM**'. '**NRDC**' also agrees not to grant any further licence(s) of the commercialised Technologies to any further party(ies). All amounts accrued for payment to '**GITAM**' by '**NRDC**' on the date of termination shall be paid by NRDC after closing of annual account of '**NRDC**'. As for payment accruing thereafter from such commercialised Technologies in respect of which licence(s) have already been granted by '**NRDC**' and subsisting on the date of termination of this MOA, '**NRDC**' will continue to remit them to '**GITAM**' as if the MOA is in full force and effect; and
  - (ii) The Technology(ies) assigned to '**NRDC**' by '**GITAM**' which have not been commercialised by '**NRDC**' shall stand withdrawn and shall be reassigned to '**GITAM**'. Thereafter '**NRDC**' shall not use or cause other parties to use documents of such Technologies in any manner whatsoever.
17. (i) If any dispute or difference arises between the parties hereto as to the construction, interpretation, effect and implementation of any provision of this MOA including the rights and liabilities or any claim or demand of any party against other or in regard to any other matter under this MOA but excluding any matters, decisions or determinations of which is expressly provided for in this MOA, such disputes or differences shall be resolved by mutual consultation and if it fails, the dispute shall be referred to the Bench



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of Arbitrators. Each party would appoint one Arbitrator and the two Arbitrators would appoint the third Arbitrator as the Presiding Arbitrator. A reference to the Arbitration under this Clause 17 shall be deemed to be submission within the meaning of the Arbitration and Conciliation Act, 1996 (as amended/modified from time to time) and the rules framed there under for the time being in force.

- a. The venue of the Arbitration shall be at New Delhi.
  - b. The language of arbitration proceeding will be English only.
  - c. Each party shall bear and pay its own cost of the arbitration proceedings unless the Arbitrator otherwise decides in the Award.
  - d. The provisions of this Clause 17 shall not be frustrated, abrogated or become inoperative, notwithstanding this MOA expires or ceases to exist or is terminated or revoked or declared unlawful.
- (ii) If however, '**GITAM**' or '**NRDC**' does not make any claim or demand or raise any dispute or difference in terms of sub clause 17(i) of this Clause 17 within one year from the date on which such demand or claim arises, '**GITAM**' or '**NRDC**' shall be deemed to have waived and abandoned such claim or demand or the right to raise such dispute or difference against the other party.
- (iii) The High Court of Delhi at New Delhi and courts subordinate to it shall have exclusive jurisdiction in all matters concerning this agreement, including any matter arising out of the Arbitration proceeding or any Award made therein.
18. This MOA is valid initially for five years from the date of signing but may be extended for further periods by mutual agreement in writing between the parties.

19. **Copyright and Intellectual Property**

Means all proprietary inventions, processes, product designs, know-how or any other intellectual property of a Party or any other third party which is associated with such Party in development of any products and any other materials/application in any media and information, whether registered by such Party or not and here after acquired or developed by such Party. It also includes any service mark, commercial name, trademark, or trade name, whether registered by a Party or not or hereafter acquired or developed, that is associated with the each institution.

The present course materials which are either in print, audio/video or electronic form belonging to and/or developed exclusively by the respective parties shall continue to remain the exclusive property of the respective parties.





Any Intellectual Property in respect of any training materials which may be developed in future by respective organization for the use of students who are enrolled for these programmes shall be exclusively owned by the respective parties who created / developed it.

Intellectual property in the form of patents, copyrights etc. arising out of project work carried out jointly under these collaborative programmes will be decided in writing in advance before commencement of work.

Overall, Both the institutions shall strive to protect the interest of other in the context of IPRs and agrees to do nothing which is void of such laws and regulation of the land wrt to IPRs

**20. Use of Name**

Either party may use other's name for the purpose of identifying above mentioned programmes and shall not use, or be entitled to use, parties' name, trademarks, logos, trade name or any other intellectual property in any other way without the prior written consent or as may be authorized under a separate written consent. Upon termination by efflux of time, or prior determination thereof as provided for herein, of this MOA either party shall immediately stop using name, trademarks, trade name and logos, etc.

**21. Force Majeure**

The parties to this MoA shall not be liable to each other for failure or delay in the performance of any of their obligations under this MOA for the time and to the extent such failure or delay is caused by riots, civil commotion, wars, hostilities between nations, government loss, orders regulations, embargos, action by the government(s) or any agency thereof act of God, storms, fires, accidents, strikes, sabotages, explosions; or other similar or different categories beyond the reasonable control of the respective parties to this MoA.

**22. Headings**

The heading used in the MoA is inserted for convenience / reference only and shall not affect the interpenetration of the respective clauses and paragraphs of this MOA.

**23. Non Waiver**

The failure or neglect by either of the Parties to enforce any of the terms of this MoA shall not be construed as a waiver of its rights preventing subsequent enforcement of such provision or recovery of damages for breach thereof.



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#### 24. No partnership

Nothing in this MoA shall be deemed to neither constitute or create an association, trust, partnership or joint venture between the Parties nor constitute either party the agent of the other party for any purpose.

#### 25. Relationship between parties

It is clearly understood by the parties that this MOA does not create any employer-employee agency relationship between the parties.

#### 26. Notices

Any notice or communication with reference to this MoA, required to be served on any of the parties shall be deemed to be duly served if the same shall have been delivered to, left with or posted by Registered Mail/Speed Post/Courier to the concerned party at its last known place of business or the registered office.

Either party may by a similar written notice to the other party change its address.

#### 27. Indemnity

Either party shall save and indemnify, protect and keep saved and indemnified the other party against all claims, actions, losses, costs, damages, expenses, legal suits and other proceedings resulting from and arising out of actions, inaction or negligence of either party or their employees, agents or for violation of any provision of this MoA or any provision thereof by any party or its employees or for infringement of any patent, trademark copy right of any third party.

#### 28. Entire agreement:

This MoA constitutes the entire Understanding between the Parties. Any and all written or oral agreements, representations or understandings of any kind that may have been made prior to the date hereof shall be deemed to have been superseded by the terms of this MoA.



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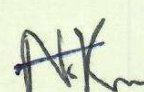
**IN WITNESS WHEREOF**, both the parties herein set their respective hands and seals on the day, month and year first above written in the presence of following witnesses.

For and on behalf of  
**National Research Development Corporation, New Delhi**

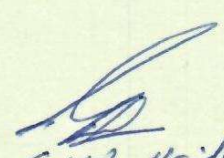
  
(**Dr. H Purushotham**)  
Chairman & Managing Director  
**Dr. H. Purushotham**  
Chairman and Managing Director  
National Research Development Corporation  
New Delhi-110048

Witnesses:

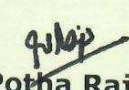
1. Signature:  
Name:  
Address:

 BK Sahu  
BK Sahu  
NRDC IPFC  
Vizag

2. Signature:  
Name:  
Address:

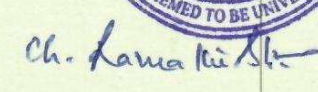
 G. R. Naik  
G. R. Naik  
Ad, BMSMED  
Vizag

For and on behalf of  
**GITAM**  
(Deemed to be University),  
Visakhapatnam

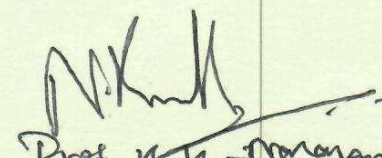
  
(**Prof. M. Potha Raju**)  
Registrar

Witnesses:

1. Signature:  
Name:  
Address:

 Ch. Rama Krishna

2. Signature:  
Name:  
Address:

 Prof. N. K. Manojan  
Joint Director, CSIR

