

## **AGREEMENT**

This Agreement is entered into on this \_\_\_ th day of ..... 20.... by and between:

The Department of Technical Education under Higher Education Department, Government of Kerala represented by The Director, Directorate of Technical Education, having its office at Padmavilasam Road, Fort, Pazhavangadi, Thiruvananthapuram, Kerala 695023 (hereinafter called as “DTE Kerala”) which expression shall, unless repugnant to the context or meaning thereof, shall include its successors and permitted assigns of the FIRST PARTY.

Name, registration no: of College..... represented by  
.....,designation..... having its registered  
office at ..... which  
expression shall unless repugnant to the context or meaning thereof mean and include its  
successors and assigns of the SECOND PARTY.

**AND**

Name and registration no: of Industry..... represented by  
....., having its registered office at  
....., which expression shall  
unless repugnant to the context or meaning thereof mean and include its successors and assigns  
of the THIRD PARTY;

**DTE Kerala, ..... and.....** are hereinafter referred to singly as “**Party**”  
and jointly as “**Parties**”.

The Parties have mutually agreed to enter into this agreement to record the terms and  
understanding between the Parties and the manner in which the Parties wish to combine their  
efforts and collaborate with each other.

**NOW, THEREFORE,** the Parties hereby record the terms of their understanding as follows:

## 1. SCOPE OF AGREEMENT

- a) The Parties intend to investigate the prospect of working together and/or to actually work together, on a project which will be referred to Industry on Campus (hereinafter referred as 'IoC') at <Polytechnic college concerned>.
- b) The Project has the following purpose ("the Purpose"): <To be filled based on the project/work undertaken> to be completed with -----.
- c) Detailed Scope of the Project: <To be filled based on the project/work undertaken>  
Project delivery Schedule: <To be filled based on the project/work undertaken>

### OBLIGATIONS OF DTE KERALA (First Party)

The Directorate of Technical Education is responsible for providing all administrative, technical advice, guidance and support for the effective implementation of IOC activities.

## 2. OBLIGATIONS OF <Name of the Polytechnic> (Second Party)

In addition to and not in derogation or substitution to any of the obligations, undertakings, terms and conditions or covenants set out elsewhere in this agreement, the Second Party shall at its own cost and expense observe, undertake and comply the following obligations:

- a) Shall ensure the availability of the required facilities, infrastructure for the effective implementation of the project.
- b) Shall convene the Institute Committee for approval of the Project.
- c) Shall assign a Coordinator who shall be responsible for organizing, coordinating, executing and monitoring all the activities for the effective implementation of the project.
- d) Shall send Expression of Interest to DTE (in the template provided by DTE) when an institution decides to have an Industry On Campus.
- e) Shall assign experienced faculty if required in addition to faculty who played key role in getting the particular IOC project as well as suitable students for various roles of the project.
- f) Shall supervise and monitor all the activities related to the project.
- g) Shall conduct all purchases as per Store Purchase manual.
- h) Shall take into stock register all raw materials supplied by Industry/ bought by institute for IOC activities.
- i) Institute IOC coordinator shall systematically maintain a detailed register of all expenditures inconnection with IOC projects and the concerned officials shall certify it.

- j) Institute IOC coordinator shall maintain Asset Maintenance Register.
- k) Shall assign a clerical staff of the institute the responsibility of maintaining all documents related to the financial transactions in connection with IOC activities.
- l) Shall allow IOC to function under Continuing Education centre of the institute and as and when it becomes self-sustained, it shall be allowed to function independently.
- m) Shall be responsible for developing a mechanism within the campus for ensuring the quality of the products developed under IOC projects
- n) Shall ensure that only products of high quality are manufactured under this scheme.
- o) Shall set aside 40 % of the total revenue from each IOC project for students involved in the project, 20 % to the faculty member who was responsible for getting the project to the institute (project coordinator), 5% to Institute IOC coordinator and 10 % to meet the expenses incurred by the institute in connection with the IOC project, 25 % as Institution Development Fund (IDF).
- p) Shall use IDF as corpus fund of the institute once IOC becomes self-sustained.
- q) Shall present before the FIRST party the details of the amount available in IDF when permission is sought from FIRST party for 2<sup>nd</sup> IOC project of the institute onwards.
- r) Institute IOC coordinator shall send the "Detailed Statements of receipts and utilization of funds" to the FIRST Party after the full/part completion of each IOC project.
- s) Institute IOC coordinator shall systematically maintain all registers and related documents and it shall be made available before the inspection team from FIRST party.
- t) Shall ensure the quality of the products/training in relation to the project.
- u) Shall ensure that consent of participating students are obtained stating that they will observe and obey all the regulations prescribed in the project and will complete the session as stipulated in the MoU.
- v) Shall ensure full participation and other supports for the successful implementation of the project.

- w) Shall be responsible for respecting the confidentiality and intellectual property rights of the techniques, drawings, other related documents, special tools, SOP etc. transferred by the Third party as part of the IOC activities.
- x) Shall ensure that after completion of training session, students are given certificate jointly signed by Head of Institution and representative of the industry stating the skills they have acquired.
- y) Shall facilitate smooth progress of IOC activities within the institution by incorporating guidelines and additions made by Government of Kerala, Directorate of Technical Education, etc. regarding IOC activities from time to time.
- z) In the event of closing of IOC project, a closure report to systematically and responsibly conclude the operations of an IOC unit shall be submitted to DTE as per the closure plan outlined in the Standard Operating procedure for IOC.

### 3. OBLIGATIONS OF **INDUSTRY** (Third Party)

- a) Shall issue work order to the Second Party with detailed description of production work and supply raw materials for the production.
- b) Shall share the specifications/ drawing, if any, related to the Project
- c) Adequate orientation shall be given to the Coordinator and faculty members associated with the project of the Second Party and the selected students before the commencement of the Project.
- d) Shall visit and check the progress of the production in regular intervals
- e) Shall ensure the coordination with the First Party and the Second Party till the Project completion
- f) Shall process and release the payment within 30 days upon receipt of the invoice raised by the Second Party as per the payment milestones referred below in clause 5 of this agreement.
- g) As part of our IOC activities, the employees assigned by the company on the campus shall be responsible for ensuring the appropriate code of conduct within the academic institution's environment.

#### 4. PAYMENT TERMS

##### 4.1 Payment to Second Party by Third Party

**i. The total project cost will be discussed and mutually agreed before execution**

ii. The payment to Second Party by the Third Party will be released in the following instalments

Sl. No	Milestone	Instalment
1	Advance / Part payment for procurement of special tools/fixtures - (to be clearly defined and mutually agreed before MOU)	Actual amount or 25% of the total contract value (IDF) whichever is less
2	100% completion of the Project	Remaining 100% of the total contract value

##### 4.2 Revenue sharing by Second Party in the Project

Production: The Second Party will release the payments to the concerned parties and Institution Development Fund (IDF) as per the following manner:

Milestone	Payment to Students	Payment to faculty member	Payment to Institute IOC coordinator	Payment to institute expense	Institution Development Fund (IDF)
On the receipt of 25% of the total contract value or actual amount for additional requirements whichever is less from the Third Party					100% of the 1 <sup>st</sup> Instalment received from the Third Party
On the receipt of remaining 75% of the total contract	40% of the	20% of the	5% of the contract value	10% of the	25% of the total contract amount

value from the Third Party	contract value	contract value		contract value	minus the initial amount received
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**(Training/Testing services): The Second Party will release the payments to the concerned parties as per the following manner:**

Milestone	Payment to Students	Payment to faculty member	Payment to Institute IOC coordinator	Payment to institute expense	Institution Development Fund (IDF)
On the receipt of 25% of the total contract value or actual amount for additional requirements whichever is less from the Third Party					100% of the 1 <sup>st</sup> Instalment received from the Third Party
On the receipt of the remaining 75% of the total contract value from the Third Party	40% of the total contract value	20% of the total contract value	5% of the total contract value	10% of the total contract value	25% of the total contract amount minus the initial amount received

**\*\*All payments shall be subject to applicable tax and such other deductions.**

## **5. VALIDITY & RENEWAL**

- a. This Agreement shall be effective from the date of signing the agreement and is valid for a period of **ONE** year from the date of signing.
- b. This Agreement will be reviewed one month before the end of the Term or at a time mutually agreed by the Parties for possible renewal. Any of the Parties may terminate this

agreement at any time by giving the other Parties notice of at least 30 calendar days in writing. In the event that this Agreement is terminated, a Party is in possession of any equipment, materials, documents, intellectual property, data or other information ("Items") that are the property of any of the other Parties, then the Party must promptly return all Items to the other Party, or destroy any Items if directed to do so by the other Party.

In the event of Termination, Parties shall be entitled to receive the pro rata Revenue share, if any applicable until the last date of termination.

c. This MoU is subject to government directives and policy changes from time to time.

## 6. CLOSURE AGREEMENT

In the event an IOC project decides to close due to any reasons and has to be approved by the IOC committee of the Second Party and forward to the First Party.

## 7. OTHER COVENANTS

7.1 a. **Representations:** Parties represent and warrant to have full right and legal capacity to execute and fully perform this Agreement and that there are no claims, actions or litigation, either pending or threatened, which will or may in any way limit, restrict, impair or interfere with this Agreement.

b. Neither Party shall represent the other Party in any manner. This agreement does not give any authority to any of the Parties to represent or exercise opinion or decision, on behalf of the other Parties unless a written consent is received.

7.2 **Successors and Assigns:** The provisions of this agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns and its connected persons, affiliates, provided that no rights or obligation herein shall be assigned by the parties without the prior written consent of the other Parties.

7.3 **Indemnify:** The Parties hereby undertakes to indemnify and keep each other Party unconditionally, and its connected persons, affiliates, and their respective employees and agents indemnified against all losses which they may suffer or incur arising from:

a) Any breach of its respective representations, warranties, covenants, undertakings, or obligations under this agreement; or

- b) Non-fulfilment of or failure to perform any covenant, obligation, agreement or undertaking contained in this agreement

Third Party further agrees to indemnify other parties from any claims, liability, arising from delivery of the Project.

**7.4 Non- Disparagement:** The Parties shall not, at any time during the term of this agreement and thereafter, make statements or representations, or otherwise communicate, directly or indirectly, in writing, orally, or otherwise, or take any action which may, directly or indirectly, disparage the other Parties, its connected persons, affiliates, its partners or the staff of any other Party or any of its connected persons, subsidiaries or affiliates or their respective officers, directors, employees, advisors, businesses or reputations. This provision as aforesaid and the non-disparagement obligation as mentioned in this agreement shall survive the termination of this agreement.

**7.5 Exclusivity:** Nothing contained herein shall restrict the right of the Parties to enter into negotiations, business arrangements, partnerships, agreements, and the like with third parties of its choice so long as such business arrangements, partnerships, agreements, and the like do not affect the performance of the obligations of the respective parties under any definitive agreement/s the parties shall enter into and as may have been envisaged under this agreement. Nothing contained in this agreement shall restrict either Parties from offering same or similar programmes elsewhere, adhering to the norms if applicable.

**7.6 Relationship:** It is agreed between the Parties that nothing in this agreement shall be deemed to create a partnership, joint venture, or agency relationship between the Parties. No relationship of employer and employee is created between the Parties and / or any person engaged by the Parties.

**7.7 Publicity:** All materials intended to publicize the initiatives and activities resulting from the Parties discussions will be approved by all Parties prior to release. Upon the other Party's prior written consent (which may be via email), respective Party may use the other Party's trade names, trademarks, service marks, logos, domain names and other distinctive brand features in presentations, marketing materials, and website listings for the purpose of publicizing the initiatives and activities resulting from this Agreement. No Party may acquire any right, title or interest in any other Party's trademarks under this Agreement and no Party shall use the trademarks of the other Party without prior written consent.

**7.8 Amendment and Waiver:** No Amendment for change hereof or addition hereto shall be effective or binding on the Parties hereto unless set in writing and executed by the

respective duly authorized representatives of the Parties hereto. Further, any waiver of any of the terms hereof shall be valid if made by mutual consent of the Parties.

**7.9 Confidentiality:** The Parties hereby acknowledge and agree that in connection with this Agreement, they shall have access to information that is confidential and/or commercially valuable to the other Party ("Confidential Information").

The Parties hereby acknowledge and agree that they may be both the receiving party in relation to some Confidential Information ("Receiving Party"), and the disclosing party in relation to some other Confidential Information ("Disclosing Party"), and that the terms of this Agreement may apply to a Party as both a Receiving Party and as a Disclosing Party, as the context so provides.

For the purpose of this Agreement, Confidential Information may include but is not limited to:

- a) information of whatever nature relating to the Project or to another Party (whether relating to the Project or otherwise);
- b) any information derived from any other information which falls within this definition of Confidential Information; and
- c) any copy of any Confidential Information.

But does not include information which:

- a) was known or in the possession of the Receiving Party before it was provided to the Receiving Party by the Disclosing Party, provided that it was known or in the possession of the Receiving Party through legal means, and not as a result of any breach of this Agreement or any other agreement or obligation relating to confidentiality (whether or not the Receiving Party was a party to such other agreement or obligation);
- b) is, or becomes, publicly available, through no fault of the Receiving Party;
- c) is provided to the Receiving Party without restriction or disclosure by a third party, who did not breach any confidentiality obligations by making such a disclosure;
- d) is provided to the Receiving Party by the Disclosing Party and is marked "Non Confidential"; or

e) is required by law or regulation to be disclosed, but in the event that this exception applies, it applies only to the absolute minimum necessary and provided that the Disclosing Party is first consulted to establish whether and if so how far it is possible to prevent or restrict such enforced disclosure.

In relation to any Confidential Information:

- a) the Receiving Party shall keep the Confidential Information confidential and secret.
- b) the Receiving Party shall only use the Confidential Information for the purpose of working in good faith on the Project in accordance with this Agreement.
- c) the Receiving Party shall not release the Confidential Information to any other party, unless that other party is an advisor who is under a duty of confidentiality, is assisting with the Project, and needs to have the Confidential Information in order to assist with the Project.

If there is any doubt as to whether any particular information constitutes Confidential Information, the Receiving Party should presume it is Confidential Information, until the Receiving Party obtains explicit confirmation from the Disclosing Party that it is not Confidential Information.

Each Party's respective obligations of confidentiality under this clause will survive the termination or expiration of this Agreement and will continue after Parties ceases to participate in the Project.

**7.10 Implementation:** The responsibility for the implementation of activities pursuant to the framework established by this Agreement lie with the Parties, each of which has designated a representative. By written notice or e- mail to the other Parties, each Party may designate different or additional persons as its representatives.

**7.11 Ownership of Materials/Intellectual Property:** Each Party acknowledges and agrees that the other Parties owns the intellectual property rights that they owned or controlled prior to or created separately during but unrelated to this Agreement, including any modifications thereto. Any work by the Parties resulting in the creation of new intellectual property will be governed by the applicable Definitive Agreement(s) that addresses intellectual property

ownership. No right or license is granted to Parties or its affiliates under this Agreement to any Confidential Information, know-how, or other intellectual property right owned or controlled by the other Party or such other Party's affiliates.

Except for rights expressly granted under this agreement,

1. nothing in this agreement will function to transfer any of the party's Intellectual Property rights to the other party, and
2. each party will retain exclusive interest in and ownership of its Intellectual Property developed before this agreement or developed outside the scope of this agreement

**Pre-existing Intellectual Property:** Except for rights expressly granted under this agreement, each party will retain exclusive interest in and ownership of its Intellectual Property developed before this agreement or developed outside the scope of this agreement.

**Independently Developed Intellectual Property:** Any Intellectual Property developed solely by a party under this agreement without the participation of the other party is and will remain the sole and exclusive property of the developing party.

**Jointly Developed Intellectual Property:** In the event that the parties jointly develop Intellectual Property, the parties will engage in good faith negotiations to establish their respective rights. In the event the parties cannot reach an agreement with regard to such jointly developed property, each party will have equal ownership and rights in such intellectual property, without further obligation and without a duty to account to the other party.

7.12 **No other Rights Granted:** Nothing in this Agreement is intended to grant any rights under any patent, copyright or other intellectual property rights of any Party in favour of the other, nor shall this Agreement be construed to grant any Party any rights in or to the other Party's Confidential Information, except the limited right to use such Confidential Information in connection with the Project under this Agreement.

7.13 **Force Majeure:** If the performance of any obligations by any Party as specified in this agreement is prevented, restricted, delayed or interfered by reason of force majeure then notwithstanding anything contained hereinabove, the Party affected shall be excused from its performance to the extent of such performance related to such prevention, restriction, delay or

interference and provided the Party so affected uses its best efforts to remove such cause of non-performance and when removed the Party shall continue performance with utmost urgency. For the purpose of this article “Force Majeure” means and includes fire, explosion, cyclone, floods, war, revolution, blockage, pandemic or embargo, any law, order, demands or requirements of any Government or statutory authority, strikes, which are not instigated for the purpose of avoiding obligations herein or any other circumstances beyond the control of the Party affected.

7.14 **Disputes:** Any difference or dispute between the Parties concerning the interpretation and/or implementation and/or application of any of the provisions of this agreement shall be settled amicably through mutual consultation or negotiations between the Parties, without reference to any third Party. All disputes, differences or questions arising out of this Agreement including the interpretation of the terms herein or in regard to the obligations, failure or breach of any terms thereof by the Party under this Agreement or of any matter whatsoever arising under this Agreement which have not been mutually settled, shall be referred to Arbitration under the provisions of the Arbitration and Conciliation Act, 1996. The Parties shall mutually appoint an Arbitrator. The place of Arbitration shall be Thiruvananthapuram. The language for Arbitration shall be English. The provisions of this clause shall survive the termination of this Agreement.

7.15 **Governing Law and Jurisdiction:** This agreement and any matter relating to this agreement shall be governed by and construed in accordance with the laws of India, and shall be subject to exclusive jurisdiction of the courts at Thiruvananthapuram.

7.16 **Notices and notifications:** Any notice or notification required to be given under the provisions of this agreement must be given in writing.

7.17 **Matters not provided in:** If any doubt arises as to the interpretation of the provisions of this agreement or as to matters not provided therein, the Parties shall consult with each other for each instance and resolve such doubts in good faith.

7.18 If for any reason whatsoever any provision of this Agreement becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision.

7.19 No failure or delay on the part of any of the Parties to this Agreement relating to the exercise of any right, privilege or remedy provided under this Agreement shall operate as a waiver of such right, power, privilege or remedy or as a waiver of any preceding or succeeding breach by the other Party to this Agreement nor shall any single or partial exercise of any right power, privilege or remedy preclude any other or further exercise of any right power privilege or remedy provided in this Agreement all of which are several and cumulative and are not exclusive of each other or of any other rights or remedies otherwise available to a Party at law or in equity.

7.20 **Counterparts:** This agreement may be executed in counterparts, each of which shall be deemed to be the original and all counterparts shall collectively constitute a single instrument.

7.21 The Stamp Duty payable on this Agreement shall be borne by the Third Party.

For **DTE Kerala**

Name and Designation of  
Authorized Signatory:

Sign:

Date:

Witness:

Name and Signature:

For <Polytechnic College>

Name and Designation of  
Authorized Signatory:

Witness:

Name and Signature:

For <Industry>

Name and Designation of  
Authorized Signatory:

Witness:

Name and Signature