

Franchise Agreement

THIS AGREEMENT made this _____ day of _____, 2019

BETWEEN

National Research Development Corporation, an Enterprise of Department of Scientific & Industrial Research, Ministry of Science & Technology, Govt. of India a Company dealing within the meaning 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 referred to as **NRDC** which expression shall, unless it be repugnant to the context or meaning thereof, mean and include its successors in interest/business and permitted assigns) of the **FIRST PART**

AND

_____, including all its branch offices, a Company/Individual incorporated under Companies Act 1956/2013 _____ and registered _____, having its CIN _____ and having its Registered Office at _____ (hereinafter referred to as "**FRANCHISEE**" which expression shall, unless it be repugnant to the subject or context or meaning thereof, mean and include its successors in interest/business and permitted assigns), of the **SECOND PART**.

WHEREAS NRDC is a company established by the Government of India with the objectives, for promotion, development, licensing and commercialisation of technologies, know how and inventions, processes, including the technical and engineering know-how and any other intellectual property generated by various departments of Government of India and State Governments, commodity research committees, and other research organizations, publicly funded R&D laboratories, institutions, Universities and technical institutes, individuals, etc. and endeavouring in providing the technologies and related services to industry in India and abroad. Over the years it has signed about 5000 technology transfer/licence agreements with industry/start-ups. It has also set up Technology Demonstration Centre abroad and has long experience in technology transfer and establishing Technology Demonstration Centre/Incubation Centre

Whereas NRDC has been in possession of large number of technologies which are marketed by it and licensing to entrepreneurs/start-ups/ industry on payment of technology fee (Lump sum Premium and Royalty) and other terms and conditions

WHEREAS NRDC within its objective of licensing the technologies to a large number of entrepreneurs/start-ups/ industry on Pan India basis as well as abroad and intend to engage Franchise for marketing of the technologies under the terms and conditions mentioned here in under this Franchise Agreement.

WHEREAS NRDC intends to include, but are not limited to, the services along with the technologies it want to market both in India and abroad for expanding its business horizon.

WHEREAS by reason of its existence with huge experience of more than 64 years in technology transfer and related services, NRDC has established an excellent business reputation, created a large depository of technologies which are to be marketed Pan India basis as well as abroad with valuable goodwill.

AND WHEREAS the FRANCHISEE is a Public/Private/Corporation/jt. Sector/Partnership/ Proprietorship/ Technically qualified Individuals running a business / has a business set up and is desirous / interested to market the technologies and related services offered by NRDC in India and abroad on the terms and conditioned stipulated under this agreement.

NOW THEREFORE this Franchise Agreement witnesseth that in consideration of the mutual covenants and agreements herein contained the parties hereto do hereby covenant and agree with each other as follows:

1. DEFINITIONS

'NRDC' shall mean National Research Development Corporation

'Franchisee' shall mean any Public/Private/Corporation/jt. Sector/Partnership/ Proprietorship/ Technically qualified Individuals running a business / has a business set up interested to sign a Memorandum of Agreement to become Franchisee of the Corporation for licensing of technology offered by NRDC.

'Memorandum of Agreement' shall mean the Agreement to be signed by the Franchisee with NRDC for licensing of the technologies offered by NRDC under the terms and conditions herein after mentioned below.

'Region' shall mean the specified regions or States in India wherein the Franchisee intend to operate.

'Client' shall mean individuals, firms, societies, companies, private and Government departments/organisatio or other entities located in India identified by Franchisee who intends to buy either technology or technologies for the purpose of setting up of projects, industrial development, manufacture of products and/or product(s) for its further sales and/or for its captive use.

'Technology' shall mean the process and/or manner of production involved, know-how and other design criteria and parameter including manuals etc., which are required for manufacturing end products in various fields of industries.

‘Licence Agreement’ shall mean the agreement entered into amongst Client, NRDC and the research institute/university or, between NRDC and client for obtaining the licence of the technology(ies).

‘Lumpsum Premium’ shall mean the initial amount of technology fee the licensee shall pay at the time of signing the Licence agreement with NRDC for obtaining licence for production and setting of the product/service emerging out of the technology(ies)/process/patents/know-hows.

‘Service Charges’ shall mean the percentage of NRDC’s share of Lumpsum Premium received by it and intends to pay to the Franchisee for their effort for identifying and convincing client to obtain technology and execute Licence Agreement with NRDC

2. PERIOD OF FRANCHISE

2.1. The terms of this Franchise Agreement shall be initially for a period of two years commencing with effect from _____ (hereinafter to be referred to as the “Effective Date” and ending on expiry date. NRDC and the FRANCHISEE amicably shall have the option to renew this Franchise Agreement and shall be exercised at least Two months prior to the expiry of the expiry date.

2.2. Either party shall have the right to terminate this Franchise Agreement, by issuing a written notice of 30 days prior to termination, but the rights and liabilities accrued to any of the parties shall remain valid and full force till they are fulfilled.

3 CONSIDERATION

3.1 In consideration of NRDC granting to the FRANCHISEE a non exclusive right to operate a Business, and a non-exclusive right to market the technologies and services offered by NRDC, the FRANCHISEE shall be paid / given a service fee/commission of 5% of the NRDC’s share of Lump sum Premium/licensing Fees, provided they earn lumpsum premium of up to Rs. 25/- lakhs/year for NRDC.

3.2 If the Franchisee agencies earn/bring business having total lump sum premium more than Rs. 25.00 lakhs per year, then the NRDC’s share of lumpsum premium/Licence Fees can be enhanced to 10% of the amount over and above Rs. 25 lakhs, i.e. the NRDC’s share of Lump sum Premium/licensing Fees would be as below:

- i) Upto bRs. 25 lakhs in Financial Year : 5% on NRDC share of Premia only
- ii) From Rs. 25 lakhs onwards : 10 % on NRDC share of Premia only on the additional amount above Rs. 25 lakhs

3.3 The Franchisee share would be released once in Six months/half yearly

3.4 No capital expenditure incurred by the Franchisee agencies shall be paid by NRDC.

4. TRAINING AND OPERATING ASSISTANCE

4.1 NRDC may provide, if so required to the FRANCHISEE, training of such duration and at such location, on the procedures/methodologies to be followed while marketing NRDC technologies and services. The FRANCHISEE shall be reimbursed the travel cost (2nd class sleeper/Bus) for attending the training by NRDC.

4.2. Operating Assistance:

During the term of this Franchise Agreement, NRDC shall furnish to the FRANCHISEE such continuing advice and guidance as is from time to time reasonably required by the FRANCHISEE in the sole judgment of NRDC with respect to the planning, opening and operation of the Franchised Business, including consultation and advice regarding:

- (a) Selection, purchasing, stocking and display of brochures/ write ups/ blow ups/sample products/proto type models, etc.
- (b) hiring and training of employees
- (c) formulation and implementation of advertising and promotional programs
- (d) Improvements to the existing marketing setupslike brochures/blow ups/samples, etc, including new product development; and financial advice and consultation.

5. OPERATION OF FRANCHISED BUSINESS

The FRANCHISEE agrees to operate the Franchised Business strictly in accordance with the rules and regulations of NRDC contained in the Guideline and Terms of Reference, or otherwise. Without limiting the generality of the foregoing, the FRANCHISEE agrees as follows:

- 5.1 To operate the Franchised Business with due diligence and efficiency in an up-to-date, quality and reputable manner.
- 5.2 The FRANCHISEE shall ensure that at all times prompt, courteous and efficient service is accorded to its customers. The FRANCHISEE shall in all dealings with its customers, suppliers and the public adhere to the highest standards of honesty, integrity, fair dealings and ethical conduct;
- 5.3 The FRANCHISEE shall market/sell such technologies and services, as have been expressly approved for marketing in writing by NRDC. The FRANCHISEE shall discontinue the sale of any technologies and services whatsoever if NRDC in sole discretion, prohibits in writing;

- 5.4 The FRANCHISEE agrees to provide quarterly progress report to NRDC on the leads generated and queries received by the prospective buyers of the technologies/services
- 5.5 The FRANCHISEE shall help the prospective entrepreneurs/start-ups/industry in filling up the prescribed licence application form and send the application form to NRDC.
- 5.6 The client obtaining the licence of the technology(ies) identified by the FRANCHISEE shall submit/remit the licence fee directly to NRDC
- 5.7 The FRANCHISEE may visit and inspect the NRDC's licensees at NRDC's direction to have the status of production and pursue with licensees for the payment of royalty and report to NRDC. The travel expense involved for such visit shall be born by NRDC
- 5.8 The FRANCHISEE agrees to maintain the condition and appearance of the Franchised Business and the equipment used therein consistent with the image, as it may be from time to time, of franchised business as an attractive, modern, clean, convenient and efficiently operated business offering high quality services promptly and courteously
- 5.9 The FRANCHISEE shall participate fully in all national, regional and local promotions initiated by NRDC;
- 5.10 The FRANCHISEE shall comply with all municipal, provincial and federal laws/rules and regulations and shall obtain clearance and at all times maintain any and all permits, certificates or licenses, necessary for the proper conduct of the Franchised Business pursuant to the terms of this Agreement;
- 5.11 The FRANCHISEE shall devote their full time and attention to the establishment, development and operation of the Franchised Business; and Services Rendered
 - (a) The FRANCHISEE agrees to render services or otherwise deal in only such technologies, as NRDC shall first approve in writing, which approval may be given or withheld at the sole discretion of NRDC.
 - (b) So long as the FRANCHISEE is not in default hereunder, NRDC will endeavour to use its reasonable best efforts to process all applications and render all services to clients referred to NRDC by the FRANCHISEE as promptly as possible. However, NRDC will not be liable for loss or damage due to delay in service resulting from any cause beyond its reasonable control, including, but not limited to, compliance with any regulations, orders or instructions of any federal, provincial or municipal government or any department or agency thereof, acts or omissions of the FRANCHISEE, acts of civil or military authority, fires, strikes, lockouts, embargoes, and delays in

transportation. In no event shall NRDC be liable for any financial loss, including consequential or special damages on account of delay due to any cause.

(c) The FRANCHISEE acknowledges and agrees that NRDC may, from time to time hereafter add to, subtract from, modify or otherwise change the information pertaining to the technologies, or services and new techniques in connection therewith, and the FRANCHISEE agrees, at its own cost, to promptly accept, implement, use and display all such alterations, modifications and changes.

(d) The FRANCHISEE shall market the technologies/services only as per the techno-commercial information provided by NRDC for each technology/services.

6. CONFIDENTIALITY

Non-Disclosure

- 6.1 The FRANCHISEE agrees to maintain the confidentiality of all such information during the currency of this Franchise Agreement or at any time thereafter any information whatsoever with respect to the technologies offered by NRDC other than as may be required to enable the FRANCHISEE to conduct its business, and the FRANCHISEE further agrees not to use any such information in any other business or in any manner not specifically approved in writing.
- 6.2 The FRANCHISEE shall not at any time file application for registration of any form of the IPR based on the information on any of the technologies, designs, etc provided to him by NRDC for marketing

7. ADVERTISING

Local Advertising

- (1) The cost of the local advertising will be borne by the FRANCHISEE.
- (2) NRDC approved content only will be used by the Franchisee for advertising for marketing of NRDC technologies/services
- (3) The required advertising/promotional/marketing material/Catalogues/Brochures shall be provided by NRDC to the Franchisee
- (4) The FRANCHISEE shall have the right to conduct such advertising and promotions in respect of the Franchised business as the Franchisee may in its discretion desire, provided that
- (a) The FRANCHISEE shall advertise and promote only in such a manner that will reflect favourably on NRDC, the FRANCHISEE, the technologies and the good name, good will and reputation thereof

(b) the FRANCHISEE shall submit to NRDC for its approval, which approval shall not be unreasonably and promotions to be utilized by the FRANCHISEE and until such time as NRDC shall give its prior written approval to the use of such advertising and promotions, the FRANCHISEE shall not utilize the same in any advertising or promotional activities;

(c) the FRANCHISEE shall prominently display, at its expense, in and upon the Premises signs of such nature, form, colour, number, location and size and containing such matters as NRDC may direct or approve in writing from time to time and such signs shall be purchased from NRDC or, at its option, from suppliers approved by it;

(d) the FRANCHISEE hereby acknowledges that NRDC is the sole and absolute owner of all copyrights that any and all advertising and promotional material prepared by or on behalf of NRDC and shall at all times remain the property of NRDC; and

(e) the FRANCHISEE agrees to advertise the Franchised Business (at the FRANCHISEE'S expense) in the white pages and classified section (yellow pages) of all local telephone directories, using only such matters as maybe approved by NRDC. If other FRANCHISEES are served by the same white pages or classified section, NRDC shall have the right to require group listings therein, to make direct arrangements with the telephone company and to allocate an equitable part of the cost thereof of the FRANCHISEE.

8. RIGHT TO INSPECTION

NRDC and/or its authorised representatives shall have the rights at all times to inspect the Premises and the furnishings, equipment and fixtures thereon and the documents, to take information of such services, and otherwise to examine the manner in which the FRANCHISEE is conducting its business; in the event of any such inspection, the FRANCHISEE and its staff shall co-operate fully.

9. RESTRICTIVE COVENANTS AND TRADE SECRETS

9.1 The FRANCHISEE covenants and agrees that, during the term of this Franchise Agreement and any renewal period thereof, the FRANCHISEE shall not, without prior written consent of NRDC, either individually or in partnership or jointly or in conjunction with any person, firm, association, syndicate or corporation, as principal, agent, shareholder or in any manner whatsoever, carry on or be engaged in or be concerned with or interested in or advise, lend money to, guarantee the debts or obligations of or permit their names or any part thereof to be used or employed in any business operating in competition with or similar to the Franchised Business or franchising businesses similar to the Franchised Business.

9.2 Competition after Termination- In the event of the expiration or termination of this Franchise Agreement for any reason whatsoever, each of the FRANCHISEE shall

not , without the prior written consent of NRDC , at any time during the period of five (5) years from the date of such expiration or termination either individually or in partnership or jointly or in conjunction with any person or persons , firm , association , syndicate , company or syndication as principal , agent , shareholder or in any other manner whatsoever carry on, be engaged in or be concerned with or interested in or advise , lend money to , guarantee the debts or obligations of or permit its name or any part thereof to be used or employed by any person or persons , firm , associations, syndicate , company or corporation engaged in or concerned with or interested in any business competitive with or similar to the Franchised Business or Franchising Business similar to the Franchised Business within the territory or anywhere else.

- 9.3 Acknowledgement of Corporate FRANCHISEE-In the event the FRANCHISEE is a corporation, the FRANCHISEE covenants and agrees to deliver to NRDC at any time NRDC may request, the written acknowledgement of such directors, officers, shareholders or employees of the FRANCHISEE, as NRDC shall in its discretion determine, acknowledging that they have reviewed the provisions of this Article 9 and that they agree to abide by and be bound by all such provisions.

10. SALE, ASSIGNMENT, TRANSFER

The FRANCHISEE shall not sell, assign or transfer this grant and/or the rights and interest under this Agreement.

11. 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 Franchised Agreement or any provision thereof by any party or its employees or for infringement of any patent, trademark copy right of any third party.

12. TERMINATION

Events of Termination

NRDC shall have the right to terminate this Franchise Agreement and the rights granted without prejudice to the enforcement of any other legal right or remedy, immediately upon giving written notice of such termination upon the happening of any of the following events:

- (a) if in NRDC's opinion , acting reasonably , the FRANCHISEE's participation in NRDC's initial training program hereof discloses the FRANCHISEE'S or the FRANCHISEE'S key employees' inability to adequately manage and operate the business.
- (b) if the FRANCHISEE shall breach any of the terms or conditions of this Franchise Agreement or any other agreement or undertaking entered into with NRDC, the FRANCHISEE continues such breach for a period of ten (10) days after written notice thereof has been given to the FRANCHISEE;
- (c) if the FRANCHISEE fails to conduct business in, at or from its premises for a period of five (5) consecutive months without the prior written consent of NRDC or if the premises are used by any party other than such as are properly entitled to use the same;
- (d) if the FRANCHISEE ceases or threatens to cease to carry on business or takes or threatens to take any action to liquidate its assets
- (e) if the FRANCHISEE makes or purports to make a general assignment for the benefit of creditors;
- (f) if the FRANCHISEE makes or purports to make a bulk sale of their assets;
- (g) if FRANCHISEE shall institute any proceeding under any statute or otherwise relating to insolvency or bankruptcy , or should any proceeding under any such statute or otherwise be instituted against the FRANCHISEE;
- (h) if the custodian , receiver , manager or any other person with like powers shall be appointed to take charge of all or any part of the FRANCHISEE'S undertaking, business , property or assets;
- (i) if any lessor or encumbrancer or any other person, corporation or entity lawfully entitled, shall take possession of any of the undertaking, business, property or assets of the FRANCHISEE;
- (k) if the FRANCHISEE shall commit or suffer any default under any contract of conditional sale, mortgage or other security instrument;
- (k) if a distress or execution against any of the undertaking, business, property or assets of either the FRANCHISEE shall not be discharged, varied or stayed within twenty (20) days after the entry thereof or within such time period as action must be taken in order to discharge, vary or stay the distress or execution , whichever shall be the earlier;
- (l) If the franchise fails to generate adequate business as per the targets fixed by NRDC for specific months: and,
- (m) upon the death or incapacitation of the FRANCHISEE.

Effects of Termination

Upon termination of this Franchise Agreement for any reason whatsoever, the following shall apply:

(a) the FRANCHISEE shall, immediately upon request permit NRDC'S representative to enter the premises and, at its option, to cure any default by the FRANCHISEE, to operate the Franchised Business for account or to secure the FRANCHISEE'S complete and timely compliance with the other obligations set forth in this section;

(b) if the FRANCHISEE retains possession of the Premises, the FRANCHISEE shall promptly and, at its expense, make such modifications to the interior and / or exterior decor of the Premises shall require to remove all identification as its business;

(c) Within seven (7) days after the effective date of expiration or termination, the FRANCHISEE shall return to NRDC all copies of the documents, all other confidential material provided to the FRANCHISEE by NRDC and all other materials required to be returned in accordance with this Franchise Agreement.

Survival of Covenants

(1) Notwithstanding the expiration or termination of this Franchise Agreement for any reason whatsoever, all covenants and agreements to be performed and/or observed by the FRANCHISEE under this Franchise Agreement or which by their nature survive the expiration or termination of this Franchise Agreement, shall survive any such termination.

Failure to act not to affect rights

(2) the failure of NRDC to exercise any rights or remedies to which it is entitled upon the happening any of the events hereof, shall not be deemed to be a waiver of or otherwise affect, impair or prevent NRDC from exercising any rights or remedies to which it may be entitled, arising either from the happening of any such event, or as a result of the subsequent happening of the same or any other event or events provided for above. The acceptance by NRDC of any amount payable by or for the account of the FRANCHISEE under this Franchise Agreement after the happening of any event provided for above, shall not be deemed to be a waiver by NRDC of any rights and remedies to which it may be entitled, regardless of NRDC'S knowledge of the happening of such preceding event at the time of acceptance of such payment. No waiver of the happening of any event shall be deemed to be waived unless such waiver shall be in writing.

13. NOTICE

Any notice required to be served upon the FRANCHISEE shall be sufficiently served and given if delivered by Registered / Speed Post or delivered/left with personally, at the last known address, duly acknowledged by the FRANCHISEE. Any notice that may be required to be served upon NRDC shall be sufficiently served and given if delivered by Registered /Speed Post or delivered by hand at the registered office address and duly acknowledged by NRDC.

14. FORCE MAJEURE

In the event that any party hereto is delayed or hindered in the performance of any act required herein by reason of strike, lock-outs, labour troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reasons of a like nature not the fault of such party, then performance of such act shall be excused for the period of the delay and the period for performance of such act shall be extended for the period equivalent to the period of such delay, up to a maximum of three(3) months.

15. ARBITRATION AND JURISDICTION

- A. (i) If any dispute or difference arises between the parties hereto as to the construction, interpretation, effect and implication of any provision of this Agreement including the rights or liabilities or any claim or demand of any party against other or in regard to any other matter under these presents but excluding any matters, decisions or determination of which is expressly provided for in this Agreement, such disputes or differences shall be settled under the Rules of Delhi International Arbitration Center, New Delhi by Sole Arbitrator to be appointed out of the panel of arbitrators of Delhi International Arbitration Centre (DAC) with the consent of all the parties failing which the aggrieved party shall approach to the court of competent jurisdiction for the appointment of the sole Arbitrator in accordance with the Arbitration & Conciliation Act, 1996 (As amended/modified from time to time) and Rules framed there under for the time being in force (the Act) and the reference to arbitration shall be deemed to be submission within the meaning of the Act.
- (ii) If however, 'FRANCHISEE' or 'NRDC' does not make any claim or demand or raise any dispute or difference in terms of sub clause (i) of this Clause 16 within one year from the date on which such demand or claim arises, 'FRANCHISEE' 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) (a) The venue of the Arbitration shall be at Delhi International Arbitration Centre at New Delhi
- (b) Each party shall bear and pay its own cost of the arbitration proceedings unless the Arbitrator otherwise decides in the Award.
- (c) The provisions of this Clause shall not be frustrated, abrogated or become inoperative, notwithstanding this License Agreement expires or ceases to exist or is terminated or revoked or declared unlawful.

B. 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 Proceedings or any Award made therein.

IN WITNESS WHEREOF, the parties have 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

For and on behalf of

National Research Development
Corporation, New Delhi, India

(-----)

(Dr. Hanumanthu Purushotham)
Chairman and Managing Director

Witnesses

Witnesses

1. Signature

1. Signature

Name

Name

Address

Address

2. Signature

2. Signature

Name

Name

Address

Address

