

DRAFT Template

General/Tripartite Agreement between IGSTC + Institute +Industry getting grant
upto 50%

General AGREEMENT

THIS Agreement made and entered into on this _____ day of _____ two thousand _____ between Indo-German Science & Technology Centre (IGSTC), a Society registered under Societies Registration Act (XXI of 1860) supported by Government of India (DST) and Government of Germany (BMBF) having its office at ARCI Building, Plot No. 102, Sector 44, Gurgaon – 122003, hereinafter referred to as IGSTC (which expression shall wherever the context so admits include its successors and permitted assigns) of the **first part**.

AND

M/S -----, a company incorporated under the Indian Companies Act 1956 having its registered/corporate office at ‘----- hereinafter referred to as“-----”, (which expression shall wherever the context so admits include its successors, receivers, administrators permitted assigns and associated companies) of the **second part**.

AND

----- an autonomous research institute of _____ / an University / a Trust/Society registered under _____, having its registered office at ----- hereinafter referred to as -----”(which expression shall wherever the context so admits include its successors, receivers, administrators permitted assigns and associated companies) of the **third part**

WHEREAS all the parts are hereinafter referred to as “**Parties**”;

WHEREAS IGSTC operates an Indo-German R&D partnership programme of industrial relevance on PPP mode involving academic institute and industry from both the countries, hereinafter referred to as “IGSTC 2+2 R&D partnership programme” for path-breaking research and development of appropriate technologies in the field of science & technology;

AND WHEREAS “the Company and the Institute” have conceived a project entitled “-----
-----” alongwith
-----” alongwith
German partners (----- and -----)
and submitted a proposal with amendments (hereinafter called “the Project”) - for assistance under “IGSTC 2+2” as per **Annexure 1**;

The Governing Body of IGSTC has approved the Project and have agreed to provide financial support to the respective sides.

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

Scope of the Agreement

1. Duration of the project–

three years from the date of release of funding plus extended period, if any granted by IGSTC in special cases.

2. Financial Arrangements

The financial arrangements under this Agreement are as here under

- i. The second part, the Indian industrial partner of the project M/s. _____
_____ has projected their share of the project cost as Rs. -----
-----, out of which M/s _____ commits
contribution upto Rs. -----, i.e. x % of their share.
- ii. The financial assistance of IGSTC is ----- lakhs (Rupees
_____) as grant to “the company” as
Indian private industrial partner to the project. The contribution by “the Company”
as project partner is Rs. _____ lakhs (Rupees
_____)

- iii. The financial assistance of IGSTC is Rs. ----- (Rupees.....) as grant-in-aid to “the Institute” as Indian institutional partner (the third part) to the project.
- iv. the detailed year-wise and head-wise breakup of the financial assistance by IGSTC to “the institute” and to “the company as industrial partner” including agreed contribution by the Company is given in **Annexure 2**. IGSTC shall release (wherever applicable) the first instalment (Year 1 funding) after signing of the Agreement and subject to the fulfillment of the terms and conditions for such release. Further annual release of funds shall be subject to satisfactory progress against the objectives, outputs, milestones and targets specified in the Project as determined by IGSTC and on submission of statement of accounts/ audited statement of accounts and utilization certificates including progress report.
- v. The grantee/s shall ensure that the IGSTC funds of the Project are actually utilized only for the Project and as expressly provided in this Agreement. Re-appropriation of funds from one budget head to another shall not be effected without the specific written approval of IGSTC;
- vi. The grantee/s shall refund immediately any funds out of grant-in-aid disbursed to it respectively for the Project remaining unutilized with it on completion of the Project to IGSTC along with detailed accounts of funds received, utilized and unutilized balance returned;
- vii. The capital assets (such as equipments, demonstration unit, etc) acquired for the Project through IGSTC’s grant-in-aid, shall remain the property of IGSTC, till full and final settlement of all dues to the satisfaction of IGSTC and they shall not be mortgaged (or) disposed of without the specific prior written permission of IGSTC till such settlement. Adequate care to maintain such assets at its own cost should be taken; and
- viii. The provision of grant-in-aid by IGSTC does not create any liability, explicit or implicit, on IGSTC in respect of the manpower engaged in the Project by the institutional partner or industrial partner.
- ix. In case of unilateral decision by any partner to abandon the project or for breach of any of the terms and conditions, the entire amount released by IGSTC with interest to be paid back.

3. Responsibilities of the Parties

The respective responsibilities of IGSTC, institutional partners and the participating industrial partner shall be as follows:

3.1 Responsibilities of M/s. _____, the industrial partner will be to:

- I. Undertake activities as outlined in the project document and / or assigned Monitoring Committee in conformance with the deliverables/outputs, milestones & targets;
- II. Meet the expenditure for the project activities to the extent as agreed to, through its own resources, as per details in **Annexure 2**
- III. Maintain a separate bank account (of IGSTC Funds) operated by authorized persons of the company under the control of the principal investigator of the project;
- IV. Submit annual statement of accounts and utilization certificate of the IGSTC funds of the project to IGSTC for the 6 monthly period ending 31st March and 30th September by 31st May and 30th November of the year respectively;
- V. Submit annual progress report to IGSTC as per the project deliverables and participate in the review meeting organized by IGSTC to monitor the progress of the project, as and when called for
- VI. Provide periodic inputs on technical and market intelligence as well as comparative analysis of technologies to the Monitoring Committee through IGSTC;
- VII. Obtain all necessary requisite approvals, clearance certificates, permission and licenses from the Government/local authorities for conducting its activities/operations in connection with the project.
- VIII. Cooperate with the Monitoring Committee by providing it the requisite information and if requested, to the premises where the project activity is being carried out;
- IX. Assist wherever necessary, the Monitoring Committee with requisite technical inputs / facilities to help accomplish the objectives of the project;
- X. Abide by the decision of the Monitoring Committee / IGSTC on the assessment of the progress in the project and the modification in the objectives, outputs, milestones, targets, funding, as also the foreclosure of any activity or subproject;
- XI. Acknowledge the assistance of IGSTC while publishing or presenting in any manner the details of the Project, its progress or its success along with the “Disclaimer” that reference therein to any specific commercial product, process, views or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or assuming liability of any sort by the IGSTC
- XII. Notify IGSTC of any material change in its incorporation status, project coordinator, project participants or any such change that would impact on performance of its obligations under the project and this Agreement.

- xiii. In case of reorganization of industrial partner through merger, acquisition, termination, closure etc, the industrial partner undertakes to settle the IGSTC's fund, even prior to initiating such measures.

3.2 Responsibilities of participating institution -:

- i. Undertake the scientific and technological activities of the project as outlined in the project document and conform to the outputs, milestones & targets;
- ii. Maintain a separate account operated by a designated and authorized Accounts Officer of the institute under the control of the principal investigator of the project;
- iii. Submit a statement of accounts and utilization certificate of the funds of the project to IGSTC for the period ending 31st March by 31st May of the year.
- iv. Submit annual progress report to IGSTC as per the project deliverables and participate in the review meeting organized by IGSTC to monitor the progress of the project, as and when called for
- v. Permit the Monitoring Committee, appointed by IGSTC access to the premises where this part of the project activity is being carried out and provide all the information required by the Committee;
- vi. Abide by the decision of the Monitoring Committee based on assessment of the progress in the project to modify the objectives, outputs, milestones, targets, funding as also the foreclosure of any activity or subproject;
- vii. Considering that the project is made of interlinked and interdependent activities, each institution shall endeavor, as a special case wherever necessary, to simplify the system for deploying the requisite project fellows and in procuring the requisite consumables and equipment;
- viii. Accord due recognition and credit to the project staff for the work done in / for the project in their performance evaluation / assessments;
- ix. Obtain all necessary requisite approvals, clearance certificates, permission and licenses from the Government/local authorities for conducting its activities/operations in connection with the project and
- x. Acknowledge the assistance of IGSTC while publishing or presenting in any manner the details of the Project, its progress or its success along with the "Disclaimer" that reference therein to any specific commercial product, process, views or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or assuming liability of any sort by the IGSTC

3.3 Responsibilities of IGSTC:

- i. Provide financial support for the project as outlined in the Annexure-1;
- ii. Facilitate, coordinate, monitor the activities of the projects for smooth functioning of the project etc;

- iii. Facilitate and ensure the holding of Monitoring Committee meetings to monitor the project;
- iv. Take necessary steps to implement the decisions of the Monitoring Committee including extension / curtailing / modification of outputs, milestones & targets and funding; and
- v. Appraise the progress of the project to the Governing Body of IGSTC from time to time.

4. Financial Conditionalities

- 4.1 The financial support is in the form of grant to Indian industrial partner M/s_____ and as grant-in-aid to the Indian institutional partner _____ in public domain. The detailed year-wise and head-wise break up of financial support to individual institution as well as industrial partner is shown in the Annexure-1. The first year support to each of the partners shall be released by IGSTC after signing of the Agreement.
- 4.2 The participating industry shall ensure that the IGSTC funds of the project are utilized only for the project as per this Agreement. Without the approval of IGSTC, the partners will not effect re-appropriation of funds from one budget head to other.
- 4.3 The industry partner shall immediately refund to IGSTC any funds released by IGSTC remaining with it unutilized on foreclosure or completion of the project.
- 4.4 IGSTC shall retain the right to transfer the capital assets acquired (with IGSTC funds) during the tenure of the project or after completion of the project.
- 4.5 The provision of the grant to the industry does not create any liability explicit / implicit on IGSTC of the manpower engaged by the industry for the project.

5. Monitoring Committee

A Monitoring Committee shall monitor the project for achieving the defined objectives in the time and costs projected. The terms of reference to the Monitoring Committee are:

- i. To review and examine the progress of the project in conformance with the deliverables/milestones, targets and objectives set as contained in the agreement;
- ii. To assess the global developments impacting the domain of the project;
- iii. Based on the foregoing to assess and recommend for:
 - (a) foreclosing or dropping or modification in the components of the project, within the overall approved objectives, budget and timeframe;
 - (b) including additional institutional / industrial partners, in the overall interest of the project; and
 - (c) revising the funding support to any / or all implementing parties;

- iv. To advise on issues related to publications and securing of IPR individually or severally by the implementing parties; and
- v. Any other matter as referred to by Director, IGSTC

6. Results of the Project

- 6.1 The deliverables from the project are defined and included in the project document as **Annexure 1**.
- 6.2 It is the responsibility of the institutional (third part) and industrial partner (second part) to protect any intellectual property rights that may result from the project in consultation with other project partners as per the agreed terms.
- 6.3 Existing IP (background IP) of the project partners will remain with the respective owners. Ownership of the IP generated in this project would be shared amongst the project partners as per the mutually agreed terms and conditions.
- 6.4 Any publication in journals, presentation in seminars in respect of the project is permitted only in consultation and concurrence with all partners. Such publication should acknowledge the support extended by IGSTC.
- 6.5 Both parties shall have right to commercially exploit / conduct further research work on the intellectual property in the project so developed. IGSTC may be kept informed about the commercialization and IP developed.

7. Completion

The project envisaged shall be deemed to have been successfully completed, as assessed by Monitoring Committee. In case, during the tenure of the project, it is found that the project or any project component is not likely to lead to successful completion, the Monitoring Committee may decide to foreclose the project or the project component as warranted. The decision of the Monitoring Committee is fully binding on all the participants.

8. Confidentiality

- 8.1 During the tenure of the Agreement and for five years thereafter, all the parties undertake on their behalf and on behalf of their employees / representatives / associates involved in the project to maintain a strict confidentiality and refrain from disclosure thereof, of all or any part of the information and data exchanged / generated from the project under this Agreement for any purpose other than in accordance with this Agreement.
- 8.2 The parties shall not have any obligation of confidentiality with respect to any information that;

- i. is in the public domain by use and / or publication at the time of its receipt from the disclosing party; or
- ii. was already in its possession prior to receipt from the disclosing party; or
- iii. is properly obtained by the recipient from the third party with a valid right to disclose such information and such third party is not under confidentiality obligation to the disclosing party;
- iv. is required by public authority by law or decree.

Any and all information received by either party from the other upon request shall be promptly returned, however, the parties involved in the project may retain one copy of such information in their confidential files, solely for record purposes.

9. Effective date, tenure and termination of the Agreement

- 9.1 The Agreement shall be effective from the date of signing and be valid for a period of 15 years thereafter.
- 9.2 The original agreement duly signed by the all the Parties shall remain in the custody of IGSTC and a copy of the agreement duly authenticated by IGSTC shall be provided to each of the Parties.
- 9.3 During the tenure of the Agreement, Parties hereto can terminate their part of the Agreement either for breach of any of the terms and conditions of the Agreement or otherwise by giving a three months notice in writing.
- 9.4 In case the Industrial Partner decides to abandon the project or for breach of any of the terms and conditions, the entire amount of the grant disbursed shall be open to IGSTC to effect the recovery, in any manner it thinks fit, from the Party.
- 9.5 In the event of termination of the Agreement vide CL 9.3, the rights and obligations of the parties thereto shall be settled by mutual discussions.

10. Force Majeure

No Parties shall be held responsible for non-fulfillment of their respective obligations under this Agreement due to the exigency of one or more of the force majeure events such as but not limited to acts of God, War, Flood, Earthquakes, Strikes not confined to the premises of the party, Lockouts beyond the control of the party claiming force majeure, Epidemics, Riots, Civil Commotions etc. provided on the occurrence and cessation of any such event the party affected thereby shall give a notice in writing to the other party/ies within one month of such occurrence or cessation. If the force majeure conditions continue beyond six months, the Parties shall jointly decide about the future course of action.

11. Amendments to the Agreement

No Amendment or modification of this Agreement shall be valid unless the same is made in writing by all the Parties or their authorized representatives and specifically

stating the same to be an amendment of this Agreement. The modifications / changes shall be effective from the date on which they are made / executed unless otherwise agreed to.

12. Assignment of the Agreement

The rights or / and liabilities arising to any Party to this Agreement shall not be assigned except with the written consent of the other Parties and subject to such terms and conditions as may be agreed upon between the involved Parties.

13. NOTICES & JURISDICTION

All notices and other communications required to be served on the Party under the terms of this Agreement shall be considered to be duly served if the same shall have been delivered by hand or posted by registered mail to the Party at its last known address of business. Similarly, any notice to be given to IGSTC shall be considered as duly served if the same shall have been delivered to, left with or posted by registered mail to the IGSTC at its office at Gurgaon

The Courts at New Delhi shall have exclusive jurisdiction in all matters concerning this Agreement including any matter arising out of the arbitration proceedings or any award made therein.

14. Arbitration

- 14.1. The parties to this agreement hereby agree that they intend to discharge their obligation in utmost good faith. The parties therefore agree that they will at all time, act in good faith, and make all attempts to resolve all differences howsoever arising out of or in connection with this agreement by discussion and failing which, by, arbitration.
- 14.2. The parties agree that the discussion shall be held in the spirit of resolution of the issues that have arisen between them with the intention of resolving the issues amicably at the earliest. If the parties are not satisfied with the outcome of the discussion within 60 days from the receipt of the response, it shall resort to arbitration.
- 14.3. The parties shall be bound to submit all dispute and differences howsoever arising out of or in connection with this Agreement to arbitrator nominated by the Co-chairperson (Indian side) IGSTC. The Parties agree that until the arbitration proceedings are completed, they shall not take their disputes to court of law. The arbitration shall be conducted in accordance with the provision of the Indian Arbitration and Conciliation Act, 1996 and the place of arbitration shall be New Delhi. The language to be used in the arbitration proceedings shall be English

SEAL of the parties

In witness whereof the parties hereto have signed this Agreement on the day, month and year mentioned hereinbefore.

Parties

<p>For & on behalf of IGSTC (First Part)</p> <p>Signature Name Designation Seal</p> <p>Witness 1</p> <p>Witness 2</p>	<p>For & on behalf of M/s _____ (second Part) duly authorized vide Resolution No dated of the Board of Directors</p> <p>Signature Name Designation Seal</p> <p>Witness 1</p> <p>Witness 2</p>
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<p>For & on behalf of _____ (Third Part) duly authorized by the Head of Institute</p> <p>Signature Name Designation Seal</p> <p>Witness 1</p> <p>Witness 2</p>

The project Proposal

Some Deliverables

- 1.**
- 2.**
- 3.**
- 4.**
- 5.**
- 6.**
- 7.**
- 8.**
- 9.**
- 10.**

Financial Allocation

xxxxxxx- the industry partner

(Rs. in Lac)

Head of expenditure	Allocation			Total
	1 st Year	2 nd Year	3 rd Year	
Manpower				
Equipment/accessories/Computing facility				
Consumables/Materials				
Travel & Hospitality				
Networking Events(workshop/meetings)				
Outsourcing/subcontract				
Contingency/overhead				
Total				

Xxxxxxxxxxxx (the institutional partner)

(Rs. in lac)

Head of expenditure	Allocation			Total
	1 st Year	2 nd Year	3 rd Year	
Manpower				
Equipment/accessories/Computing facility				
Consumables/Materials				
Travel & Hospitality				
Networking Events(workshop/meetings)				
Outsourcing/subcontract				
Contingency Expenses				
Overhead Expenses				
Total				