

Stamp duty paid vide Certificate No. \_\_\_\_\_ dated \_\_\_\_\_ in Delhi for execution of this Contract.

## CONTRACT

This Contract (hereinafter referred to as “**Contract**”) is entered into at New Delhi on this \_\_\_\_\_ (“**Execution Date**”)

## BY AND BETWEEN

**National Skill Development Corporation** (CIN: U85300DL2008NPL181612), a company registered under Companies Act, 1956 having its registered office at 301, West Wing, Worldmark 1, Aerocity, New Delhi – 110037 (hereinafter referred to as “**NSDC**”, which expression shall, unless repugnant to the context or meaning thereof, shall include its successors and assigns) of the FIRST PART;

## AND

\_\_\_\_\_, (\_\_\_\_\_), a \_\_\_\_\_ registered under the \_\_\_\_\_, having its registered office at \_\_\_\_\_ (hereinafter collectively referred to as “**Second Party**”, which expression shall, unless repugnant to the context or meaning thereof, shall include their respective successors and permitted assigns) of the SECOND PART.

NSDC and Second Party are hereinafter, wherever the context so requires, referred to individually as “**Party**” and jointly as “**Parties**”.

## WHEREAS:

- A. The Ministry of Skill Development and Entrepreneurship, Government of India (hereinafter referred to as “**MSDE**”) and the Ministry of Justice, the Ministry of Foreign Affairs and the Ministry of Health, Labour and Welfare, Government of Japan (hereinafter referred to collectively as “**the Ministry of Japan**”) had signed a Memorandum of Cooperation (“**MoC**”) on 17<sup>th</sup> October, 2017 with a view to inter alia transfer technical skills, techniques and knowledge from Japan to India appropriately and smoothly under the Technical Intern Training Program (“**TITP**”). Further, the MoC also set out the commitments of the MSDE and Ministry of Japan to send and accept technical intern trainees and thereby strengthen international cooperation between the two countries.
- B. To scale up India’s participation in TITP, MSDE intends to identify and empanel suitable applicants as sending organizations, who can perform their role as set out in inter alia the RFP (as defined herein below) or any other role as and when required by MSDE/NSDC, as the case may be, for TITP, this Contract and ancillary documents (“**Sending Organization/s**”). Further, MSDE has appointed NSDC as the ‘Implementing and Monitoring Agency’ in India for overseeing the execution of TITP.
- C. In pursuance of the above, NSDC had issued a Request for Proposal No. \_\_\_\_\_ dated \_\_\_\_\_ inviting proposals for Empanelment of Sending Organizations in India for Japan’s Technical Intern Training Program (hereinafter referred to as “**RFP**”).

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- D. On evaluation of the proposal submitted in response to the RFP and relying on the various representations and warranties made therein by Second Party, NSDC accepted the proposal of Second Party.
- E. Now, in terms of the RFP, the Parties intend to execute this Contract to inter alia record the final empanelment of Second Party as a Sending Organization and to record the terms and conditions for such empanelment.

**NOW, THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

**1. EMPANELMENT AS SENDING ORGANISATION**

- 1.1. Subject to and in accordance with the terms and conditions set forth in this Contract, including but not limited to compliance with Clause 4, and based on the various representations, warranties and submissions made by the Second Party in its proposal submitted in response to the RFP, NSDC hereby empanels Second Party, and Second Party hereby agrees to its empanelment as a Sending Organization to inter alia identify technical intern trainees in India and send them to Japan as per the rules and regulations applicable under TITP.
- 1.2. Second Party hereby agrees and undertakes to perform all roles and obligations in compliance with all applicable laws and as envisaged in inter alia the RFP, this Contract, the agreement to be entered into between Second Party and the Japanese supervising organization (as may be referred through RFP), the Technical Intern Training Act (as may be referred through RFP), and as may be made applicable to Second Party by the Ministry of Japan and all ancillary documents.
- 1.3. Second Party hereby agrees and confirms that it shall always abide by and be governed by the Guidelines for Technical Intern Training Program (“**TITP Guidelines**”) issued by NSDC and uploaded on NSDC’s web-site. Second Party agrees that NSDC may update TITP Guidelines from time to time and Second Party shall keep itself updated regarding the same. In case of any inconsistency between the terms of TITP Guidelines and any other document (including this Contract), the terms of TITP Guidelines shall prevail.
- 1.4. Subject to Clause 9, the term of this Contract and the empanelment of Second Party shall be valid for a period of 5 (**five**) **years** commencing from date of this Agreement (“**Term**”).
- 1.5. Upon execution of this Contract, Second Party hereby agrees and undertakes to execute all necessary agreements and documentation with the Supervising Organizations / Implementing Organizations / Technical Intern Trainees, or other associated stakeholders in India and Japan as the case may be, throughout the execution of TITP.
- 1.6. The standards to be met by Second Party as a Sending Organization, as set out in the MoC, are annexed hereto as **Annexure A**, and Second Party shall ensure at all times that it maintains compliance with all the standards, as modified and amended from time to time, throughout the Term of this Contract.

**2. <Intentionally Left blank>**

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### **3. ROLES, RESPONSIBILITIES AND COVENANTS OF SECOND PARTY**

Second Party agrees to abide by the roles and responsibilities of Sending Organization as detailed in the TITP Guidelines. In addition to the aforesaid roles and responsibilities, Second Party undertakes to comply with and perform the following:

- 3.1. Upon execution of this Contract, Second Party hereby agrees and undertakes to execute all necessary agreements and documentation with the Supervising Organizations / Implementing Organizations in Japan and the technical interns in India, and other relevant stakeholders in India and Japan as the case may be, throughout the execution of TITP.
- 3.2. Second Party hereby unconditionally agrees and undertakes to pay NSDC fee as mentioned in Clause 4 of this Contract.
- 3.3. Second Party agrees and undertakes that, upon execution of this Contract, NSDC shall have the right to use Second Party's name and information available publicly, in such manner as NSDC may deem fit, with regard to the TITP and also provide such information to the Ministry of Japan or MSDE or any other body as per the sole discretion of NSDC.
- 3.4. Second Party shall assist and coordinate with NSDC in all matters related to this Contract and to the TITP and to promptly provide any and all information sought by NSDC during the course of this Contract.
- 3.5. Second Party shall ensure that it remains compliant with all TITP related documentation released by the concerned authorities in India and Japan notified to it and/or available on the public domain.
- 3.6. Second Party shall not use NSDC's tradename or intellectual property in any manner, whatsoever, without the prior written consent of NSDC.
- 3.7. Second Party shall promptly inform NSDC of any change with regard to the particulars and information submitted in the Proposal to the RFP submitted by Second Party. Second Party shall nominate and maintain the availability of its authorized representatives for liaising with NSDC during the course of this Contract.
- 3.8. Second Party shall perform such other roles and responsibilities that may be framed from time to time by NSDC for the purpose of monitoring TITP. In addition to the roles and responsibilities stated in this Contract, TITP Guidelines and the RFP, Second Party shall ensure compliance with rules / regulations that may be released from time to time by NSDC and/or by the concerned authorities in India and Japan, which by their very nature, would apply to Second Party as a Sending Organization."

### **4. FEES**

- 4.1. Second Party shall pay Annual License Fee of INR 2,00,000/- (Indian Rupees Two Lacs Only) starting from date of this Agreement, and other fee/amount if any and as mentioned in the TITP Guidelines in accordance with the provisions stated therein.
- 4.2. Any change in the details of the fee (including any incentive/waiver of the fee) as mentioned under this Clause 4, shall be as per the circulars / TITP Guideline released / amended by NSDC from time to time. Second Party hereby unconditionally agrees and undertakes to abide by the same.

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NSDC may change the above fee structure any time during the Term of this Contract at its sole discretion, without any notice to Second Party.

- 4.3 Second Party agrees and undertakes that it shall have no claims against NSDC at any time and that NSDC shall in no event be liable to make any payment of any kind, whatsoever, to Second Party during the Term of this Contract or thereafter.

## **5. COMPLIANCE WITH LAWS**

- 5.1 Second Party undertakes to observe, adhere to, comply with and notify NSDC about all laws in force or as are made applicable in future, pertaining to or applicable to Second Party, its business, employees or its obligations towards employees and all purposes of this Contract and shall indemnify, keep indemnified, hold harmless, defend and protect NSDC and its directors/ employees/ officers/ staff/ personnel/ representatives/ agents from any failure or omission on its part to do so and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising there from.
- 5.2 Second Party shall promptly and timely obtain all such consents, permissions, approvals, licenses, etc. as may be necessary or required for any of the purposes of functioning as a Sending Organization or for the conduct of its own business under any applicable law, government regulation/guidelines and shall keep the same valid and in force during the term of the empanelment, and in the event of any failure or omission to do so, shall indemnify, keep indemnified, hold harmless, defend, protect and fully compensate NSDC and its directors/employees/ officers/ staff/ personnel/ representatives/agents from and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising there from.
- 5.3 Second Party represents and warrants that it will comply with all applicable local, national and international laws and regulations pertaining to its performance of its obligations under this Contract, including the 'Technical Intern Training Act' enforced w.e.f. November 1<sup>st</sup>, 2017. Further, in particular and without limitation, Second Party shall not act in any fashion or take any action that will render itself/its representatives and/or NSDC liable for a violation of any applicable anti-bribery legislation (including without limitation, Prevention of Corruption Act, 1988 ("PCA"), Indian Penal Code, 1860 ("IPC") and any other anti-corruption laws), which prohibits the offering, giving or promising to offer or give, or receiving, directly or indirectly, money or anything of value to any party / third party to assist it or NSDC in retaining or obtaining business or in rendering its obligations as a Sending Organization.
- 5.4 Second Party shall comply with NSDC'S TITP guidelines that may be issued from time to time specifically for the TITP program.

## **6. REPRESENTATIONS AND WARRANTIES**

Second Party hereby represents and warrants as under:

- 6.1 It is duly incorporated, validly exists under the applicable laws.

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- 6.2 It has the right and authority to enter into this Contract and perform its obligations here under. The execution, delivery and performance of terms and conditions under this Contract by Second Party and the performance of its obligations there under are duly authorized and approved by all necessary action and no other action on the part of Second Party is necessary to authorize the execution, delivery and performance under this Contract.
- 6.3 It is under no obligation or restriction, nor shall it assume any such obligation or restriction, that would in any way interfere or conflict with, or that would present a conflict of interest concerning, any obligations under Contract.
- 6.4 Its performance under this Contract:
- 6.4.1 shall not violate or contravene any provision of its documents of incorporation;
  - 6.4.2 shall not violate or contravene any law, statute, rule, regulation, licensing requirement, order, injunction or decree of any court, governmental instrumentality or other regulatory, governmental or public body, entity or authority by which it is bound or by which any of its properties or assets are bound;
  - 6.4.3 to the best of its knowledge, after reasonable investigation, no representation or warranty by Second Party, and no document furnished or to be furnished by Second Party to NSDC, or in connection herewith or with the transactions contemplated hereby, contains or shall contain any untrue or misleading statement or omits or shall omit any fact necessary to make the statements contained herein or therein, in light of the circumstances under which it is made. There have been no events or transactions, or facts or information which has come to, or upon reasonable diligence, should have come to Second Party and which have not been disclosed, having a direct impact on the transactions contemplated hereunder.

## **7. CONFIDENTIAL INFORMATION**

- 7.1 The Parties acknowledge and agree that during the Term of this Contract, Second Party is likely to come into contact and gain knowledge and access to confidential information pertaining to NSDC. Second Party shall not use the confidential information for any purpose other than for the purpose of this Contract and shall protect the confidential information using the reasonable or higher standards as it uses to protect its own confidential information. Any Confidential Information shall be considered confidential regardless of whether or not it is expressly marked as being confidential or proprietary and regardless of the form in which such information is communicated to Second Party, whether it be oral, in writing or by any other form or mode of communication including electronic or magnetic recordings and e-mail communications.
- 7.1 (a) For the purposes of this Contract, the term "Confidential Information" shall mean any information disclosed by NSDC to Second Party whether in writing, orally, visually, in the form of samples, models or otherwise. Confidential Information shall also include any information which can be obtained by examination, testing or analysis of any hardware or any component part thereof provided by NSDC. In the event of the Second Party visiting any of the facilities of NSDC, the Second Party undertakes that any further Confidential Information which may come to its knowledge as a result of any such visit shall be kept strictly confidential and that any such Information will not be divulged to any third party and will not be made use of in any way, (whether for its benefit or that of any third party) except for the purpose of this Contract."

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- 7.2 Further, during the course of this Contract, Second Party shall also gain access to personal information relating to the trainees. Second Party shall use the personal information only in connection with the performance of this Contract and take all reasonable steps to prevent the misuse or loss of and unauthorized use, modification, access and disclosure of personal information by it. Further, the personal information shall be shared by Second Party only, on a need to know basis, with such third parties who need access to such information under the TITP, such as the Supervising organizations/ Implementing organizations. Second Party shall take all reasonable steps to ensure that the trainee's personal information is protected by such third parties and shall be solely liable for any misuse caused by them.
- 7.3 For the purposes of this clause 7, "personal information" has the same meaning as that which is given to this term under the Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011 as applicable in India and as may be amended from time to time and shall include any information related to the trainees as may be provided to Second Party.
- 7.4 Second Party shall promptly notify NSDC of any unauthorized possession, use or knowledge, or attempt thereof, of the confidential information of NSDC or trainee's personal information by any person or entity and promptly furnish full details of such unauthorized possession, use or knowledge, or attempt thereof to NSDC. Further, Second Party shall assist NSDC in investigating or preventing the recurrence of any unauthorized possession, use or knowledge, or attempt thereof, of the trainee's information.
- 7.5 Second Party shall indemnify and keep and hold NSDC indemnified against all and any claims, penalties, losses, damages suffered by NSDC or any legal proceedings imitated against NSDC due to any unauthorized use of the confidential information of NSDC or personal information of the trainees, either by itself or by any third party with whom such personal information may be shared in furtherance of this Contract.
- 7.6 The provisions of this Clause shall survive the expiry or termination of this Contract.

## **8. INTELLECTUAL PROPERTY RIGHTS**

- 8.1 Notwithstanding any provision to the contrary contained in this Contract, Second Party shall not use any intellectual property rights, including name and/or trademarks and any other distinctive sign or symbol of NSDC in whole or in part, or in combination with any other names, words, or signs, for any purpose other than in connection with this Contract and solely in accordance with the terms hereof and with any instructions which NSDC may give from time to time. At all times, Second Party shall properly identify itself as a Sending Organization.
- 8.2 It is further understood that the intellectual property rights, including names, copyright/s and trademark/s of NSDC are and will remain the exclusive property of NSDC. Further, Second Party shall not acquire any rights in respect of said intellectual property rights, including names or copyright/s or trademarks and that Second Party is authorized to use them only in compliance herewith.
- 8.3 Second Party agrees to inform NSDC promptly of any act or event of infringement of or unauthorized use of the names, copyright/s, trademarks, distinctive signs or logos or any other intellectual property rights of NSDC as well as any claim and/or action of third parties, as soon as it becomes aware of said act, event or claim. Second Party shall not commence any proceedings against any third party regarding the actual or potential infringement or unauthorized use of any of said names, copyrights, trademarks, distinctive signs, logos, other intellectual property rights or other rights of NSDC without a prior written consent of NSDC.

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NSDC reserves the right to act in its sole discretion in this regard and should it decide to defend its intellectual property rights, in and/or out of court, Second Party shall cooperate with and assist NSDC in connection therewith, in accordance with the instructions of NSDC. Any such cooperation or assistance by Second Party shall not give rise to any payment obligations or obligations to contribute to payment of the expenses for the defense which NSDC decides, independently, to conduct, nor shall it confer upon Second Party any right with respect to NSDC.

8.4 The provisions of this Clause shall survive the expiry or termination of this Contract.

## **9. TERMINATION AND CONSEQUENCES THEREOF**

### **9.1. Termination for cause:**

9.1.1. Without prejudice to the other rights and claims available with NSDC under this Contract, in case of any of following defaults/breaches/non-compliances/event by the Second Party, NSDC may terminate the Contract with immediate effect if such default/breach/non-compliance/event is not remedied by the Second Party within 30 calendar days of the receipt of notice from NSDC in this regard:

- (i) Second Party is found to be non-compliant to the TITP Guidelines or to the Contract in any manner;
- (ii) Second Party fails to pay the fee as mentioned in the TITP Guidelines;
- (iii) Second Party is found to be non-performing as per the performance measure given in the TITP Guidelines;
- (iv) Second Party fails to adhere to the monitoring data submission timelines, as and when specified by NSDC;
- (v) Second Party is found to be having deliverable issues or not performing;
- (vi) a receiver is appointed for Second Party or its property;
- (vii) Second Party makes a general assignment for the benefit of its creditors;
- (viii) Second Party commences, or there has commenced against it, proceedings under any bankruptcy or insolvency law;
- (ix) Second Party is liquidating, dissolving, or ceasing to do business in the ordinary course;
- (x) if there is a change in ownership in any manner of Second Party, without the prior approval of NSDC;
- (xi) any other reason(s) as deemed fit by NSDC.

Notwithstanding anything provided in this Contract or any other document, NSDC shall have the right to terminate this Contract forthwith, any time during the Term of this Contract without any prior notice if Second Party or any of its promoter, in the judgment of NSDC has, at any time, engaged in the corrupt or fraudulent practices, as defined hereinbelow, in competing for or in executing this Contract, without prejudice to the other rights and claims available with NSDC under this Contract or the TITP Guidelines. Further, in such cases, NSDC can blacklist Second Party from all future projects related to Japan or any other project managed/monitored by NSDC, as per the discretion of NSDC.

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**“Corrupt practice”** means behavior on the part of officials of the Second Party in the public or private sectors by which they improperly and unlawfully enrich themselves and/or those close to them, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process, or in the procurement or execution of the Contract; and **“Fraudulent practice”** means a misrepresentation of facts at any stage during the execution of TITP as per this Contract or the TITP Guidelines, in order to influence the process of evaluation or in the procurement or the execution and performance of the Contract.

- 9.2. Upon termination of this Contract, Second Party shall cease to be a Sending Organization approved by NSDC, shall immediately cease to represent itself as such and further shall not seek and/or register any further trainee applicants by representing itself as a Sending Organization. Second Party shall further, take the necessary steps to terminate its agreements with the Japanese supervising organizations and also remove all references to NSDC/MSDE or any other person/firm associated with TITP from its websites or any other publication. Further, Second Party shall provide NSDC with all documents relating to the trainees sent to Japan or enrolled / getting trained in India as on the date of such termination and assist and coordinate with NSDC in transferring such trainees to such other Sending Organization as NSDC may deem fit.”

## **10 INDEMNITY**

- 10.1 Without limiting any other rights which NSDC may have under this Contract and under law, Second Party shall defend, indemnify and hold NSDC harmless from and against any and all claims, demand, loss, damage, liability, cost or expense (including professional fees and costs) as incurred, arising out of or in connection with any (a) act or omission of Second Party (including its subcontractors, if any, consented to in writing by NSDC) and/or its representatives/ employees in the performance of its obligations as a Sending Organization under this Contract; (b) any infringement of a third party’s intellectual property rights or any other rights; (c) any negligent or willful acts or omissions of Second Party which results in personal injury (including death) or damage to tangible property (not including lost or damaged data); (d) breach of any of the terms of this Contract and/or Second Party’s representations, warranties, obligations and covenants; (e) any third party claim or action against NSDC due to any mistreatment of the trainees in Japan or poor work conditions; (f) any non-compliance with applicable laws. Nothing herein shall limit any other right or remedy of NSDC available elsewhere in this Contract or under any applicable law. The provisions of this Clause shall survive the expiry or termination of this Contract.

## **11 ARBITRATION, JURISDICTION AND GOVERNING LAW**

### **11.1 Arbitration**

Any disputes or claim arising out of or relating to this Contract, the interpretation hereof, shall, if not resolved by mutual discussions between the Parties within 30 days of reference thereof by one Party to the other in writing, be settled by binding arbitration in accordance with the Arbitration and Conciliation Act, 1996. Arbitration shall be conducted by a sole arbitrator to



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be appointed mutually by the Parties and shall be held in New Delhi. The arbitration proceedings shall be conducted in English language.

## 11.2 Jurisdiction

Subject to sub-clause 11.1 above, all disputes and controversies between NSDC and Second Party shall be subject to the exclusive jurisdiction of the Courts at New Delhi. The Parties agree to submit themselves to the jurisdiction of such courts. This Contract shall be governed by the laws of India.

## 12 OTHER STANDARD TERMS OF CONTRACT

Please see Annexure B.

**The Parties have hereto executed this Contract on the date, month and year first above mentioned.**

Signed for and on behalf of <b>National Skill Development Corporation</b>	Signed for and on behalf of <b>Second Party</b>
<b>Ved Mani Tiwari</b> <b>Chief Executive Officer</b>	<b>Name</b> <b>Designation</b>

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**Annexure A – Approved Standards for Sending Organization**

(Second Party is referred to as a 'Sending Organization for the purposes of Annexure A and Annexure B)

The approved standards for the Sending Organization include the following (but not limited to) :

1. To appropriately select and send to Japan only those who are motivated to engage in technical intern training with the understanding of the objectives of the Technical Intern Training Program and to contribute to the economic development of the Republic of India (hereinafter referred to as "India") by making use of the achievement through the technical intern training after returning to India.
2. To clearly specify the calculating criteria of commissions and any other fees to be collected from 'technical intern trainees and/or technical intern trainee candidates (hereinafter referred to as "trainees and candidates") and make the criteria publicly available, and to explain the detail of such commissions and other fees to trainees and candidates in order to obtain their understanding sufficiently.
3. To provide the technical intern trainees who returned to India after completing the technical intern training with necessary support, such as finding occupations in order for them to appropriately utilize the acquired technical skills, etc.
4. With respect to the appropriate implementation of the Technical Intern Training Program as well as the protection of technical intern trainees, to respond the requests from the Minister of Justice of Japan, the Minister of Health, Labour and Welfare of Japan or the Organization for Technical Intern Training. Such requests include cooperation on follow-up surveys on the technical intern trainees who returned to India after completing the technical intern training.
5. As for Sending Organization and its board members, if they had been sentenced to imprisonment or more severe penalty in Japan, India or any other countries, at least five years have elapsed after the penalty had been completed or the penalty had been exempted from the execution.
6. To carry out any projects in accordance with the laws and regulations of India.
7. As for Sending Organization and its board members, to have never conducted any of the following acts within the preceding five years:
  - a. In connection with technical intern training, managing money or other properties of trainees and candidates, their relatives or other persons concerned, regardless of any reasons such as collecting deposits or any other purposes;
  - b. Concluding any contracts that impose monetary penalties or that expect undue transfer of money or other properties, for the violation of the contracts in relation to technical intern training;
  - c. Human rights infringements against trainees and candidates such as assaults, intimidations, and restrictions of freedom; and

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- d. With regard to the procedures of the Technical Intern Training Program as well as the immigration program in Japan, to use or provide forged, altered or false documents, pictures or drawings with the intention of obtaining permissions fraudulently.
- 8. In coordinating applications for technical intern training to Japanese supervising organizations, to confirm that trainees and candidates, their relatives or other persons concerned have never been involved in the acts set out in (a) and (b) of (7).
- 9. Acknowledging the importance of addressing disappearance of technical intern trainees, to cooperate with Japanese supervising organizations and to make efforts in order to prevent technical intern trainees from disappearing.
- 10. To have the necessary capacities to appropriately coordinate applications for the technical intern training to Japanese Supervising Organizations.

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**Annexure B – Other Standard Terms of Contract**

**A. REPRESENTATIONS AND WARRANTIES:**

Second Party represents and warrants that:

- (i) it has the full power to enter into this Contract and to perform its obligations under the Contract;
- (ii) Second Party's services / work to be provided / performed under the Contract conforms to RFP, NSDC's specifications and Second Party's proposal;
- (iii) it is familiar with and is in full compliance with the anti-corruption laws in India including but not limited to the Prevention of Corruption Act, 1988 ("PCA"), Indian Penal Code, 1860 ("IPC") and any other anti-corruption laws and their respective purposes, including its prohibition against bribery, corrupt payment, offer, promise, or authorization of any payment or transfer of anything of value, directly or indirectly, to any government official or employee (including employees of government-owned or controlled companies or public international organizations) or to any political party, party official, or candidate for public office.;
- (iv) it will not use or disclose any information that may identify an individual ("Personal Data") that is processed for or on behalf of NSDC;
- (v) only to the extent that Second Party actually processes Personal Data it will:
  - (A) implement and maintain appropriate technical and organizational measures and other protections for Personal Data (including, without limitation, not loading Personal Data provided to Second Party on (a) any laptop computers or (b) any portable storage media that can be removed from Second Party's premises unless in each case such data has been encrypted and such data is loaded onto portable storage media solely for the purpose of moving such data to off-site storage,
  - (B) report to NSDC any breaches of security of Personal Data immediately after discovery ("Security Incident"),
  - (C) cooperate fully with NSDC in investigating any Security Incidents,
  - (D) cooperate fully with NSDC's requests for access to, correction of, and destruction of Personal Data in Second Party's possession,
  - (E) comply with all instructions or other requirements provided or issued by NSDC from time to time relating to Personal Data, and
  - (F) permit NSDC and/or its duly authorized representatives, on reasonable prior notice, to inspect and audit Second Party's business premises and computer systems to enable NSDC to verify that Second Party is in full compliance with its processing obligations under the Contract;
- (vi) it will not transfer Personal Data across any country border unless it is (a) strictly unavoidable for the proper performance under the Contract, and (b) notified to NSDC in writing prior to any such transfer. Upon NSDC's request, Second Party shall enter into such other arrangements with NSDC as NSDC considers appropriate in order to ensure that Second Party's transfers are lawful; and
- (vii) it will not provide NSDC with Personal Data of any third party or its own employees. Notwithstanding the foregoing, if Second Party does provide NSDC with any Personal Data, Second Party represents and warrants that it has obtained the necessary consent to provide that Personal Data to NSDC and to allow NSDC to use, disclose, and transmit such Personal Data on a worldwide basis among NSDC and its affiliates in connection with the Contract.

**B. NO PARTNERSHIP OR EMPLOYEE RELATIONSHIP:**

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- (i) Independent Contractors: Nothing in the Contract is intended, or shall be construed, to create a partnership, joint venture, principal-agent or employer-employee relationship between the Parties. Except as otherwise expressly stated in the Contract, Second Party has no authority to act on behalf of or to enter into any contract, incur any liability, or make any representation on behalf of NSDC.
- (ii) Performance of Work: Except as otherwise expressly stated in the Contract, Second Party will secure all licenses and permits, and supply all tools and equipment, necessary to perform the Services.
- (iii) No Employee Relationship: Second Party will not be entitled to any of the benefits that NSDC may make available to its employees including, but not limited to group health or life insurance, or retirement benefits.
- (iv) Second Party's obligations flowing from payments it makes: Second Party is solely responsible for all taxes and withholdings, severance and redundancy pay, benefits (including, without limitation, vacation, sick leave, holidays, pension or profit sharing contributions, stock options, etc.), and other similar obligations, whether statutory or otherwise, with respect to payments made by Second Party relating to the performance of all its obligations and its receipt of fees from any source.
- (v) Indemnification: In addition to any other indemnity obligations, Second Party will defend, indemnify, and hold NSDC harmless from any and all claims made by any person or any entity on account of an alleged failure to satisfy any obligation specified at (iii) and (iv) above.

**C. ASSIGNMENT AND SUB-CONTRACTING:**

- (i) Second Party shall not assign any of its rights or delegate any of its obligations under the Contract, without NSDC's prior written consent which NSDC may give at its discretion after evaluating the situation/case. NSDC may, at its option, void any attempted assignment or delegation undertaken without NSDC's prior written consent.
- (ii) Second Party may subcontract and engage service provider(s) for one or more of the activity required to be performed under the Contract. However, Second Party shall (a) promptly provide the details of all such subcontracts and service providers to NSDC for record purposes; (b) remain liable for the performance of all subcontracted activities/obligations; (c) indemnify NSDC for all damages and costs of any kind incurred by NSDC or any third party and caused by the acts and omissions of Second Party's subcontractors, and (d) make all payments to its subcontractors. Second Party will defend, indemnify and hold NSDC harmless for all damages and costs of any kind, without limitation, incurred by NSDC and caused by Second Party's failure to pay a subcontractor.

**D. INSURANCE:**

Second Party will secure and maintain insurance providing coverage for liabilities to third parties for bodily injury (personal injury) and damage to property in amounts sufficient to protect NSDC in the event of such injury or damage, and will be in compliance with any and all laws, regulations or orders addressing the liabilities of an employer to its employees for injuries and disease suffered in connection with employment. Second Party further will maintain such additional types and limits of insurance as is customary for an entity of similar size and similar operations to Second Party in the jurisdiction or jurisdictions in which Second Party's operations take place.

**E. NOTICE**

Stamp duty paid vide Certificate No. \_\_\_\_\_ dated \_\_\_\_\_ in Delhi for execution of this Contract.

- (i) The Notice under this Contract must be in writing addressed to the address of the recipient on the address as set out hereunder:

To

**NSDC:**

CEO

National Skill Development Corporation

301, West Wing, Worldmark 1, Aerocity, New Delhi – 110037

To Second Party:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (ii) No Notice or communication shall be effective until it is duly received by the addressee.  
(iii) A communication shall be deemed to be received:
- a. In case of a letter, on the second business day after posting (with all postage paid);
  - b. In case of an email, on the business day on which it arrives in the recipients information system (provided that if it is received in the system after 5.00 P.M on the business day, then it will be deemed to be received on the next business day).
  - c. In case of personal delivery, when delivered and acknowledged by the Party receiving it.

**F. WAIVER AND AMENDMENT**

- (i) A Party's election not to insist on strict performance of any requirement of the Contract will not operate or be construed to waive any future omission or breach, or any other provision of Contract.
- (ii) No amendment to this Contract shall be valid unless signed by both the Parties.

**G. SEVERABILITY**

If any provision of this Contract becomes unenforceable, illegal or invalid for any reason, the relevant provision shall be deemed to be modified to the extent necessary to remedy such unenforceability, illegality or invalidity. If such modification is not possible, then such provision shall be severed from this Contract without affecting the enforceability, legality or validity of any other provision of this Contract.

**H. COUNTERPARTS**

This Contract may be signed in counterparts all of which, when taken together, constitute one and the same instrument. A Party may enter into this Contract by executing any counterpart.

**I. ENTIRE CONTRACT**

Except as may be provided herein, this Contract and the other counterparts constitute the entire agreement between the Parties and together supersede and extinguish all prior agreements and understandings between the Parties about their respective subject matters.