

Licensing Agreement for Transfer of Technology (LAToT)
Between
Defence Research & Development Establishment (DRDE), Gwalior
Defence Research & Development Organisation (DRDO)
Ministry of Defence, Government of India
&
Company XYZ, New Delhi, India
For
Transfer of Technology (TOT) of
“Bio-Digester”

This Licensing Agreement for Transfer of Technology is entered into on the _____ of October in the year 2012 (Two Thousand Twelve)

BETWEEN

The President of India, acting through and represented by the **Director, Defence Research & Development Establishment (DRDE), Jhansi Road, Gwalior, a constituent laboratory under the Defence Research and Development Organisation, Ministry of Defence, Government of India** and the **Director, Industry Interface and Technology Management (DI²TM) at DRDO HQ, DRDO**

Bhawan, New Delhi - 110101 (Hereinafter referred to as DRDO, which expression shall whenever the context so requires or admits, mean and include their respective executors, administrators, legal representatives, and/or assigns) on the first part

AND

Company XYZ, New Delhi is a company formed according to Indian laws and having their Registered Office at ABC, New Delhi-110066, India **(Hereinafter referred to as "Company XYZ", which expression shall whenever the context so requires or admits, mean and include their respective executors, administrators, legal representatives, and/or assigns) represented by Mr. ABC, Head –Company XYZ on the second part.**

"DRDO" and **"XYZ"** separately called as **"Party"** and jointly called as **"Parties"**.

1. Preamble:

- 1.1 WHEREAS DRDO, during the course of its research activities has developed a unique technology called "Bio-Digester" (Hereinafter, referred to as the "Technology" and more fully described in Technical Know-How) which has been developed for resolving the problems of un-decomposed human waste. The present technology degrades and converts the human waste into usable water and gasses in an eco-friendly manner. The generated gas can be utilized for energy/ cooking and water for irrigation purposes. The process involves the bacteria which feed upon the faecal matter inside the tank, through anaerobic process which finally degrades the matter and releases methane gas that can be used for cooking, along with the treated water. (Hereinafter referred to as the "Products" and more fully described in Products Description).
- 1.2 WHEREAS **XYZ**, are desirous of utilizing the developed "Technology" to manufacture in "India" to sell in India and abroad (Hereinafter referred to as Licensing Regions and more fully described in "Licensing Regions"), the "Products", there from.

2. Technical Know-How:

2.1 DRDO shall transfer the complete details of the technical know-how and testing method for quality assurance to **XYZ** with protocols and data on the functioning of the product.

3. Product Description:

3.1 The product is a "Bio-Digester".

3.2 The Bio-digester tank can be manufactured and customized as per the requirement and currently this technology is having following salient features:

- ◆ No bad smell in toilets from the tanks
- ◆ Faecal matter in the tank not visible
- ◆ No infestation of cockroaches & flies
- ◆ No clogging of digester
- ◆ Effluent is free from off odour and solid waste
- ◆ Reduction in pathogens by 99%
- ◆ Reduction in organic matter by 90%
- ◆ No maintenance required
- ◆ No requirement of adding bacteria/ enzyme
- ◆ No need of removal of solid waste
- ◆ Use of phenyl is permitted upto 84 ppm

4. Licensing Regions:

4.1 By this Licensing Agreement for Transfer of Technology, DRDO grants a **nonexclusive** Licence to utilize the "Bio-Digester" by "**XYZ**" for the manufacture in India & sale in India and export to foreign countries subject to the prior approval of DRDO, Ministry of Defence, Ministry of External affairs, Government of India (referred as "**Licensing Region**") **under the provisions contained in succeeding clauses of this Agreement.**

4.2 The license of the "Technology" is being granted to **XYZ** in the following segments:

- I. Bacteria Manufacturing,(if somehow XYZ requires to procure bacteria from DRDO more than one time, then XYZ shall have to pay for the required bacteria as per the prevalent cost)
- II. For High Altitude Regions
- III. For Plain regions
- IV. For Mobile Systems such as Buses, Railways etc.

In pursuance of above, **NOW IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:**

5. Grant of License:

5.1 By this Licensing Agreement for Transfer of Technology DRDO grants a **Non-Exclusive License** to **XYZ** to utilize the "Technology" developed by DRDO for manufacture in India and sell in "Licensing Regions" on **permanent basis** (as described at Clause 14) from the date of this Agreement becoming effective.

5.2 The license of the "Technology" is being granted to **XYZ** in the following segments:

- I. Bacteria Manufacturing,(if somehow XYZ requires to procure bacteria from DRDO more than one time, then XYZ shall have to pay for the required bacteria as per the prevalent cost)
- II. For High Altitude Regions
- III. For Plain Regions
- IV. For Mobile Systems such as Buses, Railways etc.

6. Responsibilities of Parties:

6.1 DRDO agrees to supply the "Technology" in the form of documents like drawings specifications, known sources of materials, samples for guidance and visualization, testing details and specifications (which

- hereinafter will be collectively referred to as "Technology Transfer Documents (TTD)".
- 6.2 **"XYZ"** undertakes to create the infrastructure for inoculums generation (Seed material of the bio-digester essential for human waste degradation) within six months from the date of transfer of Technology Transfer Documents (TTD).
 - 6.3 During the Technology Transfer period (i.e the time period required for transferring the technology as per TTD from "DRDO" to **"XYZ"**), DRDO shall depute free of cost to **"XYZ"** experts/ personnel for a period not exceeding 15 man days to provide technical assistance for manufacturing products for the first order.
 - 6.4 For any technical assistance given beyond this period, if required, **XYZ** shall pay to DRDO per man-day charges for the scientist as well staff at the rates approved by DRDO HQrs. Currently the per man day charges for scientist is Rs 10000/- (Rupees ten thousand only) and per man day charge for staff is Rs 5000/- (Rupees five thousand only). For deputation abroad the current consultation charges is US \$ 500 (Five Hundred US Dollars only) per man day. **"XYZ"** shall also bear the transport and lodging costs of the scientists and staffs, as per Government rules.
 - 6.5 **XYZ** undertakes to manufacture the "Product" in accordance with the specifications contained in the TTD supplied by DRDO. Any changes/deviations shall be mutually agreed upon in writing.
 - 6.6 During the Period of Validity of License, DRDO reserves the right to stage inspect all materials and processes in the manufacture, at such intervals and under such conditions as may be felt necessary by DRDO. During such inspection should the materials and/or stage-products fail to meet the specification(s) as per the TTD, the rejects will be to the account of **XYZ**. After a reasonable period having been allowed for rectification, if the product still does not meet the specifications, DRDO may revoke the license conferred on **XYZ** in such an event, the fee paid by **XYZ** to DRDO towards Transfer of Technology shall not be refundable. To be more explicit, **XYZ** has to forfeit the amount of upfront ToT fees, Annual ToT fees and Royalty Fees to DRDO in case of Revocation.
 - 6.7 It shall be the sole responsibilities of **XYZ** to ensure maintaining the quality of the "Technology" and "Products" and in case of any complaint/claim in

the quality of the "Technology" and "Product" produced by **XYZ** is received, DRDO shall in no way be held responsible in any manner, whatsoever, for such rejection/claims etc. DRDO's responsibility shall be limited to providing technical assistance to **XYZ** on the above terms and conditions.

- 6.8 **Mutual Indemnification**: Subject to the above provisions DRDO agrees, to indemnify and hold harmless the "**XYZ**" against any liabilities, damages and cost, to the extent of money received by DRDO as ToT Fees. **XYZ** agrees to the fullest extent permitted by law, to indemnify and hold harmless DRDO from any liabilities, damages and costs (including reasonable attorneys fees and cost of defense) to the extent caused by the negligent acts, errors or omissions of XYZ or anyone for whom **XYZ** is legally responsible
- 6.9 **XYZ** undertakes and assures that they will always follow Best Corporate Practices

7 Sale:

- 7.1 **XYZ** undertakes to launch the "**Bio-Digester**" within a period of six months from the date of Transfer of Technology Documents (TTD), failing which the license will be revoked and the "**XYZ**" will have no claim whatsoever on upfront ToT Fees given to DRDO and shall be forfeited.
- 7.2 If there is any delay in the launch of the product then "**XYZ**" will seek prior written approval for extension of period from DRDO HQrs, through Director, DI²TM
- 7.3 **XYZ** shall inform DRDE of the sale of the product on a yearly basis (financial year). A copy of this information will also be sent to DI²TM
- 7.4 For enquiries received from abroad for the product, **XYZ** shall always inform DI²TM.
- 7.5 **XYZ** undertakes to spend sufficient fund for promoting / branding / marketing the said "Products"

8 Financial Arrangements :

- 8.1 To acquire the present Technology to manufacture "**Bio-Digester**" through Transfer of Technology from DRDO, **XYZ** shall pay a Total

- Technology Transfer Fee (ToT) of **Rs. 15,00,000/- (Rupees Fifteen Lacs Only)** to DRDO towards entering into the Transfer of Agreement in respect of the Technology.
- 8.2 **XYZ** shall also pay **Service Tax** (as and when applicable) over and above ToT Fee. ToT Fee and service tax shall be payable by two different bank drafts.
- 8.3 **The Annual Royalty Fees will be payable by XYZ to DRDO shall be as follows:**
- ❖ 2%-Of the net sales to GoI departments (including MoD Tenders)
 - ❖ 4%-Of the domestic net sales
 - ❖ 6%-Of the net sales effected to Exports
- 8.4 Sales figure shall be determined based on the selling price declared for the purpose of payment of Excise duty. Further sales figures for the purpose of royalty payment shall be based on a certificate derived from audited financial statements, duly certified by Chartered Accountant.
- 8.5 The royalty payment will be effected on pro-rata basis within 30 days of publishing of the Annual Audited Financial Statements by Chartered accountants. **XYZ** may quote the price to customers by including the royalty/ departmental charges payable to DRDO. However, Royalty payable to DRDO shall be calculated on the Net Sale Price as described in clause 8.2 and 8.3.
- 8.6 In the course of its normal research and development if DRDO come across facts, which lead to incremental improvement, the same will be shared with **XYZ**. However, should the nature of the product be changed to bring about a new product, the same shall be offered to **XYZ** by DRDO and the commercial aspects will be renegotiated to mutual acceptance.
- 8.7 Payment in respect of Technology Transfer Fee will be made through a Crossed Bank Draft drawn in favour of the "**The Controller of Defence Accounts (R&D), New Delhi**" payable at New Delhi and forwarded to the Director, Directorate of Industry Interface and Technology Management (DI²TM), DRDO Hqrs, Room No. 447, 'B' Block, "DRDO Bhawan", Rajaji Marg, New Delhi – 110101, under intimation to the Director, DRDE, Jhansi Road, Gwalior – 474 002. This procedure will be followed for remittance of Royalty as also in respect of export orders. Payment in respect of Service Tax shall be made as per the provisions of Service Tax, Finance Act

1994(as amended from time to time) as applicable for the Services provided by Govt. of India Departments.

- 8.8 For all commercial/financial aspects, DI²TM, DRDO HQ, New Delhi will be consulted by **XYZ**.
- 8.9 In the event or default in payment of royalty by due date, **XYZ** shall pay interest on amount due, in default, at the bank lending rate charge prevailing at the time in India.
- 8.10 **XYZ** will provide a certificate of Chartered Accountant based on sales figures derived from audited financial statements, every year (Financial year) to Director, DRDE, Gwalior with a copy to Director, DI²TM, DRDO HQ New Delhi.

9. Marking:

- 9.1 A product/ technology developed by DRDO and manufactured and marketed by **XYZ** shall have following marking "**Product Developed by DRDO**", or words to this effect. DRDO logo shall be used.
- 9.2 **XYZ** shall indicate in all the technical documents / brochures including copies thereof furnished by DRDO and in a manner approved by DRDO that the design and technology contained in the documents are the properties of DRDO.

10. Security:

- 10.1 **XYZ** shall have no right to transfer, by resale or otherwise, the know how/technology obtained from DRDO under this Agreement to any other party, in any manner, whatsoever, without the prior written approvals of DRDO/ DI²TM irrespective of whether this Agreement is in force or not. **XYZ** undertakes that it will take prior permissions from DRDO in case of sub-licensing the "Technology" and "Products" in the "Licensing Regions".
- 10.2 **XYZ** shall take all necessary measures and indulge in good corporate governance to ensure that the technology including intellectual property rights is not passed on, disclosed, or given access to, except to such of their Directors, Officers and employees and their subcontractors to whom it is necessary to pass on disclose or give access to in the natural course of

business, for the purpose of execution or manufacture of the product under this Agreement. **XYZ** hereby accepts full responsibility for any of their Directors, Officers and Employees and their subcontractors and undertakes to fully compensate DRDO in that regards.

- 10.3 Any product improvements carried out by **XYZ** shall be approved from DRDO before the product is offered for sale and the same shall be the property of DRDO and will not be passed on by **XYZ** to any other parties irrespective of whether this Agreement is in force or not.
- 10.4 **XYZ**, during the course of productionization and/or commercialization of the "Products" based on "DRDO Technology", may want to effect improvements thereby causing a different "Product" to be formulated. All such differentials and 'variants' will be deemed as based on the "DRDO Technology" and all clauses in this Agreement will be fully applicable to such 'variants'. Patent right on such new (improved) products/ variants shall be that of DRDO.
- 10.5 **XYZ** will keep Royalty Amounts and Technology Transfer Fees confidential.

11. Title and Ownership of Design:

The title to and ownership of the "Technology" including the improved technology and the "Products" including new variants and copyrights and intellectual property rights will rest exclusively with DRDO.

12. Dispute Resolution:

In event of any dispute or difference between the Parties hereto, such disputes and differences shall be resolved amicably by mutual consultation. If such resolution is not possible, then, the unresolved dispute and difference shall be referred to arbitration of the Sole Arbitrator to be appointed by the Secretary, Department of Defence Research & Development on the recommendation of the Secretary, Department of Legal Affairs ("Law Secretary"), Government of India. The provisions of Arbitration and Conciliation Act, 1996 (No. 26 of 1996) shall be applicable to the arbitration under this clause. The venue of such arbitration shall be at Delhi or any other place decided by the arbitrator and the language of arbitration proceedings shall be English. The arbitrator shall

make a reasoned award (the "Award"), which shall be final and binding on the Parties.

13. Effective Date:

This Agreement shall be effective on and from the date it is signed by both the parties.

14. Period of Validity of License:

14.1 Though validity of the granted license is of permanent basis, DRDO shall be at liberty to revoke the license in the following circumstances, without any liability of whatsoever nature, to either **XYZ** or to the new company/owner/management and/or to any other claimant, incase:

- (i) If the company (**XYZ**) is Black-Listed by any India Government Agency and/or Government Organization.
- (ii) If it is found that **XYZ** is involved in any unlawful acts.
- (iii) In the event of change of Management, ownership and/or merger of **XYZ** into some other company or sale/transfer of the company to some other person by any mode; like purchase of shares, taking over of the company by any other means, without prior knowledge and consent of DRDO.
- (iv) If the company (**XYZ**) becomes insolvent by the competent court/authority
- (v) Of non-payment of due Technology Transfer Fees or Royalty within the prescribed period
- (vi) If the company (**XYZ**) fails to abide by the terms & conditions of this Agreement.

14.2 However, **XYZ** will have no claim whatsoever on upfront ToT Fees, Annual ToT Fees or Royalty Fees given to DRDO before the Revocation. To be more explicit, **XYZ** have to forfeit the amount of upfront ToT fees, Annual ToT fees and Royalty Fees to DRDO in case of Revocation.

15 Force Majeure:

15.1 Neither party shall be liable for any failure of performance under this Agreement, due to causes beyond such party's reasonable control,

including but limited to acts of God, fire, flood or other natural catastrophes; any law, order, regulation, direction, action of any civil or military authority, national emergencies, insurrections, riots, wars, strikes, lock-outs, work stoppages or other labour difficulties, provided however the party to which the force majeure has happened shall use commercially reasonable efforts to eliminate such an event.

- 15.2 Force Majeure shall also be deemed in the event of any regulatory decision or government order requiring the either party to suspend its service(s) or operation for any reason whatsoever.
- 15.3 If either party is unable to act(s) for a period of 90 (ninety) consecutive days as a result of continuing Force Majeure event, the other party may cancel / terminate the Agreement.
- 15.4 However, **XYZ** will have no claim whatsoever on upfront ToT Fees, Annual ToT Fees or Royalty Fees given to DRDO before the enforcement of Force Majeure event. To be more explicit, **XYZ** has to forfeit the amount of upfront ToT fees, Annual ToT fees and Royalty Fees to DRDO in case of Force Majeure Event.

16. Entire Agreement:

This Agreement constitutes the final agreement between the Parties and it supersedes all prior agreements, understandings and other correspondence/communications between the Parties with respect to the subject matter hereof.

17. Amendments:

No amendment/modification/alternation of any of the terms of this Agreement shall be valid till it is reduced to writing and duly signed by both the Parties. Any amendment of financial/commercial nature shall be subject to final approval by the Director, DI²TM, DRDO Hqrs.

IN WITNESS HEREOF, the parties have set their hands to it on the Day,..... Month and Year 2012 (Two Thousand Twelve)

Signed For And On behalf of the President of India	Signed by on and behalf of XYZ, New Delhi
By :	By : _____
Name :	Name:
Title : Director, DRDE, Gwalior	Title :
Date : _____	Date : _____
By : _____	
Name : Mr. S. Radhakrishnan	
Title : Director, DI ² TM , DRDO HQ, New Delhi	
Date : _____	

In the presence of:

Witness
 By: -----
 Name: -----
 Title:
 Organisation:
 Date: -----

Witness
 By: -----
 Name: Mr. Nirankar Saxena
 Title: Director
 Organisation: FICCI
 Date: -----

Witness
 By: -----
 Name: -----
 Date: -----