

Format**Master Service Agreement(MSA) for Setting up of BPO/ITES operation at “XYZ
city/town” under NEBPS**

This **MASTER SERVICE AGREEMENT (MSA)** is made on this day _____ between **Software Technology Parks of India (STPI)**, an autonomous society of Dept. of Electronics and IT, Govt of India, located 9th Floor, NDCC-II Building, Jai Singh Road (Opp. Jantar Mantar), New Delhi-110 001 hereinafter called “FIRST PARTY” which expression shall include its successors-in-interest, legal representatives and permitted assigns, if any;

AND

....., India hereinafter called “SECOND PARTY” which expression shall include its successors-in-interest, legal representatives and permitted assigns, if any.

WITNESSETH

NOW THEREFORE THE PARTIES HERETO HEREBY AGREE AND THIS AGREEMENT WITNESSETH AS FOLLOWS

Definitions

First Party: STPI, 9th Floor, NDCC-II Building, Jai Singh Road (Opp. Jantar Mantar), New Delhi-110 001, Implementation Agency of the North East BPO Promotion Scheme (NEBPS).

Second Party: M/s _____ ABC Company _____ .. Represented by its authorized signatory.

Bid Response: The bid submitted by the SECOND PARTY accepting the terms of the RFP & Corrigendum if any published by the FIRST PARTY.

Scheme: The North East BPO Promotion Scheme proposes to provide the following capital support in the form of Viability Gap Funding (VGF) to eligible Companies, to encourage the growth of the IT Industry in the North Eastern Region (NER) through BPO operations.

Capital Support: Upto 50% of one time expenditure incurred on admissible items (*Annexure-II*) or Rs. _____ per seat as per IPA, whichever is lower.

RFP: The Request for Proposal (RFP) published by the FIRST PARTY for the selection of the companies willing to setup BPO operations and to meet the obligations of the RFP. The RFP document refers to the RFP document _____ . dated _____ ..

BPO: The facility setup and operated by the selected bidders in the North East Region.

1. The terms and conditions contained in RFP issued vide STPI’s No. dated and IPA issued vide no. dated, which may not have been exclusively mentioned in this Agreement, shall however form part of this Agreement.

2 Agreement Period

This Agreement shall be effective from the date of signing MSA and shall remain valid till the expiry of a period of 3 (three) years from the date of commencement of BPO Operations.

3.Capital Support

- 3.1 Upto 50% of one time expenditure incurred on admissible items (***Annexure-II***) or Rs. 10000/- per seat as per IPA, whichever is lower.
- 3.2 A Company, seeking to avail financial support under this scheme, shall be under obligation not to claim the similar financial support under any other Scheme of the Central/State Government concerned.

4.Commitment of the Second Party

- 4.1 Must commit itself to employ at least 1.5 times the number of seats quoted i.e. employment target.
- 4.2 The Second Party shall:
- (i) Commit to set-up BPO/ITES operations for ~~N.....ø~~ number of seats and operate it for a minimum period of Three Years from the date of commencement of the BPO operations.
 - (ii) Start operations within 6 months from the date of issue of In-Principle Approval (IPA).

5.General Terms and Conditions

- 5.1 The Second Party (BPO Unit) shall be under obligation to commence its BPO/ITES operations within 6 months, from the date of issue of In-Principle Approval (IPA) referred above. If the BPO Unit not able to commence its BPO/ITES operations within the 6 months from issuance of IPA, it can request to give extension not more than 3 months with penalty of 2% per month (for each completed month) of eligible capital support (on pro-rata basis for both installments) after expiry of 6 months duration. Failure to do so shall automatically result in cancellation/termination of IPA/Agreement and Bid Security Deposit (BSD)/Earnest Money Deposit (EMD) will be forfeited.
- 5.2 Soon after the commencement of BPO/ITES Operations, the BPO Unit shall report the fact of commencement of its operations to STPI within a period of two weeks. BPO Unit has to request for release of capital support as per the agreed amount within 6 months from commencement of operation. This capital support shall be released in 2 installments, subject to fulfillment of all formalities and compliance with various conditions laid down in this scheme and submission of following documents:
 - (a) AADHAAR number of all the regular employees recruited/joined the unit after the issuance of In Principle Approval (IPA).
 - (b) Provident fund account number for the regular employees recruited/joined the unit after the issuance of In Principle Approval (IPA).
 - (c) Proof of Employee State Insurance (ESI) contribution for the regular employees eligible under this scheme and recruited/joined the unit after the issuance of IPA.
 - (d) Proof of State Professional Tax, as applicable.
 - (e) Certificate of disability issued by a medical authority (Notified by State Govt), if applicable.
 - (f) Any other relevant documents.
- 5.3 **Disbursement of Capital Support:** The approved capital support will be disbursed in two installments as under:

First Installment shall be upto 50% of the total capital support, to be calculated on pro-rata basis, subject to meeting at least 50% of employment target from commencement of operation and further subject to verification of required proofs/documents and site inspection by STPI. This installment shall be claimed anytime after three months from commencement of operation but not later than six months from commencement of operation.

Release of second installment of capital support: Second installment will be calculated on pro-rata basis for the remaining amount of capital support, subject to meeting at least 50% of employment target from commencement of operation and further subject to verification of required proofs/documents and site inspection by STPI. This installment shall be claimed anytime

after the expiry of three months period (but not later than six months) from the date of claim of first installment.

Procedure to calculate employment target for disbursement of capital support: Average monthly employment for the duration from commencement of operation till the time of request for release of capital support will be considered to calculate the eligible capital support for each installment.

e.g. If the unit wins the bid for 100 seats BPO/ITES operation @ 80,000/seat then the disbursement of capital support in different scenarios will be as under:

S. No.	Achieved average monthly Employment Target (E.T.) at the time of claiming 1 st installment from commencement of operation	Disbursed amount of capital support in 1 st installment (Max. 40 Lakh)	Achieved average monthly Employment Target (E.T.) at the time of claiming 2 nd installment from commencement of operation	Disbursed amount of capital support in 2 nd installment (remarks) [(X% of E.T. * Total capital support) – disbursed amount in 1 st installment]
I	90% (135 persons against E.T. of 150)	36 Lakh	70% (105 persons against E.T. of 150)	20Lakh [28Lakh ó 8 Lakh] (8 Lakh is deducted against 1 st installment due to shortfall in E.T.)
II	90% (135 persons against E.T. of 150)	36 Lakh	90% (135 persons against E.T. of 150)	36 Lakh (same as 1 st installment by maintaining the E.T.)
III	60% (90 persons against E.T. of 150)	24 Lakh	90% (135 persons against E.T. of 150)	48Lakh [36 lakh + 12 Lakh](12Lakh is provided against 1 st installment because of increase in employment generation)
IV	90% (135 persons against E.T. of 150)	36 Lakh	100% (150 persons against E.T. of 150)	44 Lakh [40 Lakh + 4 Lakh] (4Lakh is provided against 1 st installment hence unit is able to get full capital support on achieving the 100% E.T.)

5.4 Disbursement of Special Incentives:

a) Training Incentive.

The special incentive (a) is to be provided with/after the disbursement of 2nd installment without Bank Guarantee on production of documentary proofs of employment as per Para 8(ii) above subject to fulfillment of other terms and conditions.

b) Incentive for diversity & inclusion: This incentive will be provided on subject to fulfillment of at least 50% of employment target.

c) Incentive for providing employment beyond target: This incentive will be provided to the units providing employment beyond employment target i.e. 1.5 times the number of seats as stated above.

d) Incentive for promoting local entrepreneur: As per para 2.3(iv)

These special incentives (b), (c) and (d) are to be provided after 1 year from commencement of operation without Bank Guarantee on production of documentary proofs of employment as per Para 8(ii) above subject to fulfillment of other terms and conditions.

- 5.5 The BPO Unit would be required to furnish a Performance Bank Guarantee of 5% of the total approved capital support amount from a Nationalized Bank, valid for a period of 3 years before the release of first installment under Capital Support (excluding period of claim).
- 5.6 No support towards Operational Expenditure (OPEX) would be provided to the BPO Unit.

6 Stakeholder and their responsibilities

6.1 Role of First Party

- To monitor the implementation of the Project, review its performance and provide regular feedback to NMC.
- To release appropriate capital support to the eligible companies after verification of the documents and other checks & balances.
- To maintain separate accounts for this scheme and the same be covered under the internal audit of STPI.

6.2 Role of Second Party: The Second Party shall:

- Setup BPO/ITES operations in North Eastern Region, at the approved location.
- Generate business from the Open Market.
- Operate & Maintain the facility at least during the entire contract period.
- Absorb all the risk and costs associated with setting up and O&M phases of the BPO operations.
- Encourage employment of local youth of NER for the BPO operations.
- Employ at least 1.5 times the number of seats (employment target), of the total quoted seats.
- Make efforts to employ 3 times the number of seats to fulfill the vision of the scheme.

6.3 Responsibility Matrix

Sl. No	Activity	STPI	Successful Bidder
1.	Procurement and installation of Capital Equipment (Hardware, Software etc) that are required for setting up of BPO operations.		ç
2.	Recruitment of manpower and Training		ç
3.	Confirmation of commencement of BPO/ITES Operations	ç	ç
4.	Operations and Maintenance of BPO for the entire agreement period.		ç
5.	Payment towards capital support (1 st & 2 nd Installments) subject to fulfillment of all conditions by the successful bidder	ç	
6.	Absorb all the risks and costs associated with O & M, Marketing, Sales and Providing Service to the customer		ç

Sl. No	Activity	STPI	Successful Bidder
	for the entire agreement period.		
7.	Performance Review	ç	

7. Second Party's Employees (Implementation and Operations Team)

- 7.1 SECOND PARTY at its own expenses shall deploy skilled & experienced professionals in the area of BPO, operations, maintenance etc both during implementation and operations of the BPO. Such skilled resources are necessary for the proper and timely execution and commencement operations of BPO. The overall project works shall be monitored by the experienced project manager designated by the SECOND PARTY.
- 7.2 SECOND PARTY is expected to have adequate resources working in tandem with the professionals during implementation of the project for timely completion & commencement of the BPO project.
- 7.3 During O&M Period, SECOND PARTY is expected to deploy adequate O&M Team to take care of both Technical and Business operations.
- 7.4 The Second Party shall meet all the Operational Expenses.

8. Second Party's Co-ordination

The SECOND PARTY shall work in overall interest of the Project / Work in consultation with FIRST PARTY or its representatives to meet the set objectives of NEBPS).

9. Statutory and Other Obligations regarding workmen

The SECOND PARTY shall comply with all applicable Government Regulations and Enactments pertaining to its employees, workmen and labor and FIRST PARTY shall be indemnified from and against any and all loss arising from SECOND PARTY's non-compliance with such laws and regulations.

10 Safety Regulations

The SECOND PARTY shall be responsible to take all precautions to ensure the safety of the person or property of the User while performing its obligations hereunder.

The SECOND PARTY undertakes to comply with all sorts of safety measures under the applicable law in regards to men and material deployed for the project.

11 Confirmation of Commencement of BPO Operations

SECOND PARTY must demonstrate to the FIRST PARTY the BPO unit Setup and its operations.

The FIRST PARTY reserves the right to randomly inspect the setup and its operations at any time during the Agreement period.

The Second Party should provide necessary documents regarding recruitment of the manpower for BPO.

Submission of documents such as Client list, Client Purchase/Work Orders, Agreement, Business Plan etc as and when required by the First Party.

12 Performance and Exit Management

12.1 Upon completion of the contract period or upon termination of the agreement for any reasons, the Second

Party shall comply with the following:

- a. In the event of second party not being able to claim Capital Support within 6 months from the date of commencement of its operations, the BPO Unit will not be eligible for any support whatsoever and the IPA/Agreement shall be deemed to have been cancelled/ terminated.
- b. In the event of the second party not being able to achieve minimum employment target of 50%, within 6 months from the date of commencement of its operations, the Unit shall not be eligible for any support whatsoever and the IPA/Agreement shall be deemed to have been cancelled/ terminated.
- c. The second party will be obligated to furnish quarterly performance report, inter-alia, indicating the average monthly employment in the Unit. At the stage of release of Bank Guarantee, average employment of last three years will be calculated. In the event of the BPO Unit not meeting the employment target (based on which the capital support was released), the STPI would be at liberty to invoke the Bank Guarantee.
- d. *In case the Second Party claims full amount of bid, based on achieving the employment target, the Unit needs to insure the employment target in the next 3 years. In case of short fall, **Performance** Bank Guarantee would be invoked & amount would be refunded on pro-rata basis and the balance would be retained by STPI for NEBPS.*
- e. *In case the Second Party avails pro-rata incentives in first/second installments (due to not meeting the employment target), at the time of exit the amount would be released as under:*
 - (i) Full amount of **Performance** Bank Guarantee released if the Unit maintains the average pro-rata employment target.
 - (ii) If there is a short fall in the average pro-rata employment, corresponding to the incentives then the **Performance** Bank Guarantee would be invoked by STPI and amount would be refunded on pro-rata basis to BPO Unit & balance would be retained by STPI for NEBPS.
- f. *In case the average employment is less than 50% of the employment target, **Performance** Bank Guarantee would be invoked by STPI & the Second Party will not be eligible for any refund.*

12.2 The Second Party shall be under obligation to furnish any information sought by an authorized representative of DeitY/ STPI, within a reasonable time frame and failure to do so may amount to forfeiture of Bid Security/ Encashment of **Performance** Bank Guarantee, as the case may be.

12.3 The DeitY shall be at liberty to relax any condition, for reasons to be recorded in writing, for achieving the larger objective of this Scheme and removal of difficulties.

12.4 Time under Force Majeure will not be considered in the 3 years period of operations, subject to the *Second Party produce* evidence of the date of occurrence and the duration of the Force Majeure in an adequate manner by means of documents drawn up by responsible authorities.

13. SCOPE OF WORKS

13.1 SETTING UP BPO OPERATIONS

Second Party shall set up a BPO/ITES operations as per IPA.

The Second Party shall provision the following requirements to meet their business requirements:

- Creation of Interiors

- Technical infrastructure such as Servers, Storage, Printers, Fax, EPABX etc.
- Network Connectivity: Internet, LAN, etc.
- Call Center/BPO Hardware/Software as required
- Support infrastructure: Air-conditioned, UPS as required

13.2 DEVELOPMENT OF REQUIRED FACILITY/SUPPORT INFRASTRUCTURE

Second Party shall provision a fully-functional BPO set up with the following indicative infrastructure in order to perform its activities effectively in the acquired/leased /rented space. **List of admissible items for capital support (Annexure-II) should have been purchased in the name of the *Second Party*.**

- Air-conditioning (AC), UPS, DG
- Interiors: Portioning, Cabins, Meeting Rooms, Cafeteria, Furniture, etc.
- Electrical Wiring & fittings
- Power back-up facility
- Workstations, Headphones, CRM, IVRS, Dialer etc
- Servers, Networking & Storage equipment as required
- Network Cabling, CCTV
- Any other item i.e. tools, kits and spares as required

13.3 RECRUITMENT OF MANPOWER AND TRAINING

The *Second Party* shall also create, train, manage, motivate and retain the manpower with adequate training as per the business requirements.

13.4 OPERATION & MAINTENANCE OF THE FACILITY

The *Second Party* shall be responsible for Operation & Maintenance of the BPO but not limited to the following:

- Remuneration/Salary: The *Second Party* shall have sufficient funds to meet the remuneration/salary requirements of the manpower.
- Support Infrastructure: The *Second Party* shall renew the AMC regularly for AC, UPS, DG, Building Management System etc. uninterrupted operations of the business.
- Technical Infrastructure: The *Second Party* shall form O&M team consists of Project Manager, Call Center/BPO Expert, System Administrator, Network Administrator, etc.
- The Second Party shall ensure the safety and security for the BPO equipment and the building facilities.

13.5 MARKETING OF BPO SERVICES

The Second Party shall be required to Market their Services for generation of revenues.

13.6 OPTIMAL USAGE OF THE CAPACITY

The Second Party shall make all the efforts to employ at least 1.5 times the number of seats to achieve the employment Target.

13.7 REVIEW AND AUDIT OF OPERATIONS

- To support and facilitate STPI during its periodical review of the operation.
- To conduct the system audit periodically as per the advice of STPI.
- To extend support and provide all the documentation during statutory audit and the auditors would be

appointed by STPI.

13.8 MANAGE RISKS

- The Second Party shall identify and bear all the risk associated with Implementation and Operations & Maintenance of the BPO for the entire Agreement period at his own expense.
- The Second Party shall identify and bear all the risks involved with Sales, Service Quality and Standards, Revenue collections and sustainability of the operations at his own expense.
- STPI shall not compensate for any losses if any incurred by the Second Party during entire contract period.

14 PROJECT TIMELINES

The estimated timeline shall be as laid down in **Annexure-I**. The start date of the project shall be from the date of issue of IPA.

15 DELAY AND NON-CONFORMANCE

The Second Party (BPO Unit) shall be under obligation to commence its BPO operations within 6 months, from the date of issue of In-Principle Approval (IPA) referred above. Failure to do so shall automatically result in forfeiture of the Bid Security and cancellation/termination of this MSA/IPA.

16 LIQUIDATED DAMAGES (PENALTY)

If the Second Party fails to meet the Employment Target i.e. average employment of the last **three** years (Based on which the capital support were released), the First Party shall invoke the **Performance** Bank Guarantee.

17 FORCE MAJEURE

STPI may grant an extension of time limit set for the completion of the work, in case the timely completion of the work is delayed by Force Majeure conditions beyond the Second Party's control, subject to what is stated in the following sub paragraphs and the procedures detailed there is being followed. Force Majeure is defined as an event of effect that cannot reasonably be anticipated such as Acts of God (like earthquakes, floods, storms etc.), acts of States, the direct and indirect consequences of wars (declared or undeclared), hostilities, national emergencies, civil commotion and strikes (only those which exceed a duration of ten continuous days) at Second Party's premises. The *Second Party's* right to an extension of the time limit for completion of the work in above mentioned cases is subject to the below mentioned procedures:

That within 15 days after the occurrence of a case of Force Majeure but before the expiry of the stipulated date of completion, the Second Party informs the STPI in writing that the *Second Party* considers himself entitled to an extension of the time limit.

That the Second Party produces evidence of the date of occurrence and the duration of the Force Majeure in an adequate manner by means of documents drawn up by the responsible authorities.

That the Second Party proves that the said conditions have actually interfered with the performance of the Agreement.

18 ARBITRATION

All disputes, differences, claims and demands arising under this MSA shall be referred to arbitration of a sole arbitrator to be appointed by the DG, STPI.

The provisions of the Arbitration and Conciliation Act, 1996 and all its amendments till date shall be applicable and the award made there under shall be final and binding upon the parties hereto, subject to legal remedies available under the law.

19 Jurisdiction

The Courts at New Delhi shall have the jurisdiction in case of litigation between the parties.

20 THIRD PARTY CLAIMS

The Second Party (the "Indemnifying Party") undertakes to indemnify DeitY/ STPI (the "Indemnified Party") from all losses, claims for damages on account of bodily injury, death and damage to real property, tangible/ intangible personal property.

21 LIMITATIONS OF LIABILITY

The Second Party shall ensure no limitation of liability in case of any damages for bodily injury (including death) and damage to real property and tangible personal property as also intangible personal property and intellectual property rights.

22 NON WAIVER

Waiver of any breach of the provision of, or any default under the contract must be in writing and signed by the Party granting the waiver. No failure or delay on the part of either Party in exercising or any omission to exercise any right or remedy accusing to either Party under the contract shall be a waiver thereof, nor will any partial exercise of any right or remedy particular be a waiver of further exercise of that right or remedy.

EXECUTED under hand in three originals the day and year first before written

SIGNED for and on behalf of THE SECOND PARTY

BY _____

Signature _____

Title _____

Company Stamp/Seal

Witness _____

SIGNED for and on behalf of THE FIRST PARTY

BY _____

Signature _____

Title _____

Company Stamp/ Seal

IMPLEMENTATION TIMELINES

Sl. No	Activity	Time Periods
1.	Award of In-Principle Approval (IPA) to the successful bidder	T0
2.	Signing of Master Service Agreement (MSA)	T1 : T0 to T0+02 weeks
3.	Commencement of BPO/ITES operations	T2 : T0 to T0+06 months T2: T0 to T0 + 09 months (with penalty as per Para 8(i))
4.	Report to STPI about commencement of operation	T3 : T2 to T2+02 weeks
5.	Request for release of financial support (First Installment) as per the agreed amount and submission of Performance Bank Guarantee (PBG)	T4 : T2 + 03 months to T2+06 month
6.	Release of Bid Security Deposit (BSD)/Earnest Money Deposit (EMD)	T5 = T4
7.	Request for release of financial support (Second Installment) along with Training Support as per the agreed amount	T6 : T4+03months to T4 + 06 months
8.	Request for release of Special Incentives other than Training Support	T7 : T2 +12 months to T2 + 36 months
9.	Request for release of Performance Bank Guarantee	T8 : After T4 + 36 months

Note:

- The Time line shown above is the maximum allowable time frames for each activity.
- The timelines are as per English calendar days.

ANNEXURE-II

List of admissible items for Capital Support

<i>S. No.</i>	<i>Item Description</i>
1	Servers with OS
2	Software and Hardware per license cost for BPO/ITES operations
3	Networking Equipment (Switches, Routers, Firewalls, Voice/Video Conferencing Gateways)
4	Workstations (Desktop, Laptop, Tablets, IP phones, Headsets)
5	Data Storage
6	Structured Cabling
7	UPS
8	Printer, Copier, Scanner & Projector
9	Refrigerator & Water Purifier
10	Fire & Security Items
11	Computer Furniture
12	Electrical wiring & fittings
13	Central Air-conditioning equipment, air-conditioning System
14	Captive Diesel Generating Set and transformer of capacity commensurate with the actual requirement of the unit , solar power / Non-conventional Energy Generation Set (OPTIONAL)*
15	Fax Machine
16	Private automatic branch exchange
17	Data Communication Equipment, Modem & VSA
18	Other misc. goods not exceeding 5 % of the total cost of above items including Tools, kits and Spares

* The Second Party may avail incentive on Generating Set from the State Govt., if needed.

Note: Any item not covered above shall be decided by and permitted by NEBPS Management Committee (NMC).