

## MUTUAL ACADEMIC AND EDUCATIONAL COOPERATION AGREEMENT

This Mutual Academic and Educational Cooperation Agreement is made and entered into at Visakhapatnam on 15.11.2021 (Monday), by and between:

**TIERRA AUTOMATION** having its corporate office at Akkayyapalam, Visakhapatnam, Andhra Pradesh, India (hereinafter referred to as “**TA**”, which term shall include its successors and permitted assigns) of the FIRST PART;

**AND**

**THE BABA INSTITUTE OF TECHNOLOGY AND SCIENCES**, promoted by the Ambedkar Educational and Welfare Society, an educational Trust registered with the Registration of Societies of the Societies Registration Act 35 of 2001, bearing Registration No. – 174 of 2005 and having its principal office at Bakkannapalem, Madhurawada, Visakhapatnam, Andhra Pradesh, India (hereinafter referred to as “**BITS**”, which term shall include its successors and permitted assigns) of the OTHER PART.

TA and BITS are hereinafter each individually referred to as “**Party**” and collectively as the “**Parties**”.

### **WHEREAS:**

- A. TA is a renowned Training Centre with its Corporate office located at Akkayyapalam, Visakhapatnam, Andhra Pradesh, India having as its Company Registration Number 608 of 2020.
- B. BITS is a college established in 2008 and recognised for its courses in Technological, Scientific and Management fields;
- C. Both Parties wish to enter into this Agreement to promote relations and mutual understanding between themselves in order to develop academic and educational cooperation on the basis of equality and reciprocity between the Parties.

**NOW, THEREFORE, THE PARTIES HERETO, IN CONSIDERATION OF THE PREMISES SET FORTH HEREINABOVE AND OF THE MUTUAL COVENANTS AND UNDERTAKING SET FORTH HEREINAFTER, HEREBY AGREE AS FOLLOWS:**

### **1. DEFINITIONS AND INTERPRETATION**

1.1. For the purpose of this Agreement, the terms mentioned below, unless the context otherwise requires, shall be construed strictly as per the definitions provided below:

- a) “**Effective Date**” shall mean 15.11.2021;
- b) “**Force Majeure Event**” shall mean any incident beyond the reasonable control of either Party, which impairs it from performing as per the terms and/or providing any deliverables as agreed under the Agreement. Major Incident may include, but not be limited to, act of God, insurrection or civil disorder, religious strife, war or

military operations, terrorist act, partial or total strikes, either internal or external, lock-out, epidemic, blockage of means of transport or of supplies, national or local emergency, earthquake, fire, storm, flood, water damage, governmental, regulatory or legal restrictions, acts or omissions of persons for whom the Party is not responsible;

c) **“Term”** shall have the meaning ascribed to the term in Clause 3.

## 1.2. Interpretation:

- a) Reference to Recitals, Clauses and Annexures are to the recitals, clauses and annexures of and to this Agreement;
- b) Words importing the singular include the plural; words importing any gender include every gender; and
- c) Headings used in this Agreement are for convenience of reference only and shall not govern or affect in any manner the construction or interpretation of this Agreement including any Recital, Clause or Annexures hereof.

## 2. SCOPE OF SERVICE

### 2.1. Both Parties undertake to promote and develop academic cooperation as follows:

- a. Exchange of academic and administrative staff and students;
- b. Extension of students’ learning opportunities;
- c. Cooperation in research and the presentation of its results;
- d. Providing Job opportunities to Students
- e. Exchange of academic materials, publications and other scientific information; and
- f. Other educational and academic exchanges to which both Parties mutually agree.

2.2. The Parties shall fulfil their respective obligations as further described in each “Project Statement” executed in relation to any project undertaken by the Parties hereunder this Agreement (“**Project**”) and in accordance with the terms and conditions of this Agreement. The Parties may execute additional Project Statements (in the format attached hereto in Annexure 1) in respect of each new Project being undertaken in accordance with the procedure detailed herein below.

2.3. Each Project Statement shall be in the format attached hereto in Annexure 1.

2.4. Each Project Statement must be signed by authorised representatives of both Parties.

Each Project Statement must reference this Agreement. The terms and conditions contained in this Agreement form part of each Project Statement unless specifically stated otherwise in the Project Statement. Additional terms and conditions appropriate to a specific Project may be contained in a Project Statement. To the extent that any terms or conditions of a Project Statement are in conflict with the terms or conditions of this Agreement, the terms of the Project Statement shall prevail.

- 2.5. The Parties agree and understand that time is of the essence of this Agreement, and any failure by either Party to comply with the timelines specified in the relevant Project Statement will be deemed to be a material breach of this Agreement. Such timelines specified in the relevant Project Statement may be extended mutual agreement of both Parties and through written agreement between the Parties.

### **3. TERM AND TERMINATION**

- 3.1 This Agreement shall commence from the Effective Date and shall continue to be in force for a period of two (2) years thereafter ("**Term**"), unless renewed further or earlier terminated. The Agreement may be renewed or extended by mutual agreement (in writing) between the Parties at any time during the Term. The Parties agree that the term for any project undertaken as a result of this Agreement ("**Project**") shall be set out in the Project Statement executed for that particular project.
- 3.2 Notwithstanding anything herein contained, either Party may forthwith terminate this Agreement immediately under any one or more of the following conditions:
  - a. in the event of a remediable breach of this Agreement by the other Party that remains uncured for a period of seven (7) days after written notice of breach to the defaulting Party by the aggrieved Party; or
  - b. in the event of any irremediable material breach of this Agreement by the other Party; or
  - c. if the other Party has a receiver or similar party appointed for its property, becomes insolvent, acknowledges its insolvency in any manner, ceases to do business, makes an assignment for the benefit of its creditors, or files a petition in bankruptcy.
- 3.3 Unless otherwise agreed between the Parties (in writing), the termination of this Agreement shall result in the automatic termination of any subsisting Project Statement(s) as on the effective date of termination of the Agreement, except to the limited extent required to fulfil any promises or representations made to students of either Party.

### **4. COMMERCIAL TERMS**

- 4.1 Each Project Statement shall state the commercial arrangement between the Parties in relation to the Project contemplated in the Project Statement. Both Parties agree that

all specific arrangements and plans for activities are to be negotiated and are dependent on the availability of funds.

- 4.2 Both Parties agree to feasibly seek financial support from national and international organisations for the cooperative activities to be undertaken as stated under the terms and conditions of this Agreement.
- 4.3 All payments made hereunder shall be subject to applicable Tax Deducted at Source (“TDS”).
- 4.4 Each Party shall be solely responsible for its own taxes.

## **5. INTELLECTUAL PROPERTY RIGHTS**

- 5.1 It is the Parties’ intention that the Party creating or developing the Intellectual Property Rights during the Term and in the course of performing its obligations under this Agreement and/or a Project Statement shall own all such Intellectual Property Rights. For the purpose of this Agreement, “**Intellectual Property Rights**” shall mean and include all existing and future copyright rights, trademark rights (including, without limitation trade names, trademarks, service marks, and trade dress), patent rights, trade secrets and all other intellectual property rights, vested or registered, and all renewals and extensions thereof, regardless of whether such rights arise under the laws of any state, country or jurisdiction.
- 5.2 During the Term, each Party grants the other Party a limited, non-exclusive, royalty-free right under this Agreement to use its name and logo for the purposes of public relations and, including without limitation, promoting over social media platforms, on-premise promotions, promotional material as approved by the other Party in writing and all related collateral. Each Party shall obtain the other Party’s approval before using the other Party’s name and logo in public relations and related communications as provided herein, it being agreed by the other Party that such approval shall not be unreasonably withheld or delayed. Further, it is clarified and agreed among the Parties that any such approval granted shall sustain during the Term for repeated use of such approving Party’s name and logo in similar public relations and related communications for the limited purpose defined herein.

## **6. NON-SOLICIT**

- 6.1. Without prejudice to the provisions of this Agreement, both Parties hereby represent and warrant to the other Party that they shall not, during Term and for a period of one (1) year thereafter:
  - a. induce, advise or encourage any service provider, customer, client, employee or any other person, firm, partnership, association, trust, venture, corporation, or business organization, entity or enterprise having business dealings with the other Party or any subsidiary or affiliate of such Party, to withdraw, curtail or cancel such business dealings; or

- b. directly or indirectly, induce, attempt to induce, or aid others in inducing, any then-current employee/service provider or any prospective employee/service provider of the other Party or its affiliate to become an employee of or otherwise be associated with itself or any company or business with which such Party is or may become associated.

## **7. RELATIONSHIP**

The Parties hereby declare and confirm that the Parties are independent contractors, that the relationship between the Parties shall be on a principal-to-principal basis and that no agency, master-servant relationship, employer-employee relationship, joint venture, partnership, association of persons, trusteeship or similar relationship of any kind shall be deemed to be created between the Parties merely on entering into this Agreement. The provisions of this Clause 7 shall survive the termination of this Agreement.

## **8. INDEMNIFICATION**

- 8.1 Each Party shall, at its own expense, indemnify, defend and hold harmless the other Party and its respective officers, personnel, employees, representatives, agents, respective directors, and assigns from and against any and all liability (including but not limited to liabilities, judgments, damages, losses, claims, costs and expenses, including attorney's fees and expenses) any other loss that may occur, arising from or relating to:
  - a. a breach, non-performance or inadequate performance by such Party of any of its undertakings, obligations or warranties under the Agreement;
  - b. an infringement of such third party rights (including contractual rights and intellectual property rights) by such Party in fulfilling or complying with its obligations under the Agreement; or
  - c. the acts, errors, misrepresentations, wilful misconduct or negligence of such Party, its employees, subcontractors and agents in performance of its obligations under the Agreement.
- 8.2 Notwithstanding anything to the contrary contained herein, neither Party shall be liable under the Agreement and/or a Project Statement for any loss, damage, costs, expenses or other claims for compensation arising as a direct or indirect result of breach or non-performance of the Agreement due to a Force Majeure Event.
- 8.3 Neither Party nor any of its affiliates nor its and their respective directors, officers, employees, agents or suppliers shall be liable to the other Party or any third party for special, consequential, incidental, indirect, tort or cover damages, including, without limitation, damages resulting from or arising out of the Agreement, or loss of reputation, business or goodwill, whether or not such Party has been advised or is aware of the possibility of such damages. TA's liability for all claims of any kind under contract, tort, or otherwise (including any liability for any negligent act or omission) arising out of or

relating to this Agreement during its Term shall be limited to a sum equal to the amount actually paid by TA to BITS in accordance with this Agreement in the year immediately preceding the act giving rise to such liability.

## 9. CONFIDENTIAL INFORMATION

- 9.1 All Confidential Information of either Party shall be deemed to be confidential to such Party and shall remain the exclusive property of such Party during and after the Term of this Agreement. For the purposes of this Agreement, “**Confidential Information**” shall mean the non-public, confidential or proprietary technical or business information of a Party, including without limitation (a) proposals, concept papers or research; (b) financial statements and other financial information; (c) student, faculty and staff information of each Party; and (d) the material terms of this Agreement and the relationship between the Parties; provided, however, that save and except those that are set out hereinabove, all other information will be considered confidential only if it is conspicuously designated as “Confidential,” or if provided orally, identified at the time of disclosure as confidential, or is provided under circumstances in which the receiving Party should reasonably understand that such information is confidential.
- 9.2 Each Party shall keep in strict secrecy and confidence all Confidential Information of the other Party and shall not during the term of this Agreement or thereafter use the other Party’s Confidential Information for its own benefit or disclose or permit any of its employees or agents to disclose, through any medium the other Party’s Confidential Information to any other person.
- 9.3 For purposes of this Agreement, Confidential Information shall not include information: (a) that is now or subsequently becomes publicly available without breach of this Agreement by the other Party; (b) that is available to a Party from other sources without any obligation of confidentiality to the other Party; (c) that is already in a Party’s possession not subject to an obligation of confidentiality; (d) that is independently developed by a Party without reference to the other Party’s Confidential Information; or (e) that is required to be disclosed pursuant to any law, rule or regulation or any order of a court or governmental agency. In the event of (e), such disclosure shall be preceded by written notice from the Party receiving such notice of disclosure to the other Party about the law, rule or regulation, or order requiring the disclosure with enough time to allow such Party to seek appropriate injunctive relief, and shall be limited to the specific request made in such law, rule or regulation or any order.
- 9.4 Both Parties hereby agree that they shall not use and/or incorporate any of the other Party’s Confidential Information and/or any work created as an outcome of the provision of the services under this Agreement and/or a Project Statement (including any work-in-progress or prototype thereof) in any services performed, work and/or product created for any third party.
- 9.5 Upon termination or expiration of this Agreement or upon request, each Party shall return all of the other Party’s Confidential Information and certify in writing that it has returned all such information and has not kept copies thereof in any medium.

## 10. REPRESENTATIONS & WARRANTIES

- 10.1 Each Party has full power, financial capability and lawful authority to execute and deliver the Agreement and consummate and perform or cause to be performed all of its obligations under the Agreement. The Agreement constitutes a legal, valid and binding obligation and is enforceable in accordance with its terms.
- 10.2 Each Party represents and warrants that none of the execution and delivery of the Agreement, the consummation of the transactions contemplated hereby, or the fulfilment of or compliance with the terms and conditions of the Agreement, conflict with or result in a breach of or a default under any of the terms, conditions or provisions of any legal restriction (including, without limitation, any judgment, order, injunction, decree or ruling of any court or governmental authority, or any state, local or other law, statute, rule or regulation), or any covenant or agreement or instrument to which it is a Party, and further represents and warrants that such execution, delivery, consummation or compliance does not violate or result in the violation of its constitutional documents or result in a breach of any intellectual property rights or other rights of any third party.
- 10.3 Each Party shall abide by all relevant rules and regulations whether imposed by all applicable laws or any competent authority.

## 11. MISCELLANEOUS

- 11.1 **Amendment and Waiver:** Any provision of the Agreement may be amended or waived if, and only if such amendment or waiver is in writing and signed, in the case of an amendment, by each Party, or in the case of a waiver, by the Party against whom the waiver is to be effective.
- 11.2 **Effect of Failure to Exercise of Rights:** No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.
- 11.3 **Binding Nature:** The provisions of the Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.
- 11.4 **Entire Agreement:** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior written agreements, understandings and negotiations, both written and oral, between the Parties with respect to the subject matter of the Agreement.
- 11.5 **No Third-Party Beneficiaries:** Neither the Agreement nor any provision hereof is intended to confer upon any Person other than the Parties to the Agreement any rights or remedies hereunder.

- 11.6 **Severability:** The invalidity or unenforceability of any provisions of the Agreement in any jurisdiction shall not affect the validity, legality or enforceability of the remainder of the Agreement in such jurisdiction or the validity, legality or enforceability of the Agreement, including any such provision, in any other jurisdiction, it being intended that all rights and obligations of the Parties hereunder shall be enforceable to the fullest extent permitted by law.
- 11.7 **Legal Fees:** Each Party is to pay its own legal costs and disbursements incidental to the preparation, completion and signing of the Agreement.
- 11.8 **Stamp Duty:** Each Party shall equally pay the stamp duty or other levy or charge (including any penalties or fines) which is payable on this document or in respect of any transaction referred to in this document and any documents which are executed in accordance with the provisions of this document to effect those transactions.
- 11.9 **Assignment:** Neither Party may assign, in whole or in part, the benefits or obligations of the Agreement to any person other than an affiliate without the prior written consent of the other Party.
- 11.10 **Counterparts:** The Agreement may be executed in counterparts, each of which when executed shall constitute an original, but all of which when taken together shall constitute one and the same Agreement.
- 11.11 **Dispute Resolution:** Any dispute arising between the Parties in relation to this Agreement and/or any Project Statement shall be resolved by a sole arbitrator through arbitration under the terms of the Arbitration and Conciliation Act, 1996 at Visakhapatnam, India.
- 11.12 **Governing Law and Jurisdiction:** The Agreement shall be governed and construed in accordance with the laws of the Republic of India. Subject to Clause 11.11, the exclusive jurisdiction and venue for all disputes hereunder will be the courts of Visakhapatnam, and the Parties hereby consent to exclusive jurisdiction of those courts.
- 11.13 **Notices:** Unless otherwise indicated, for the purposes of the Agreement, notices and all other communications provided for in the Agreement shall be in writing and shall be deemed to have been duly given when delivered or mailed by registered mail, return receipt requested, postage prepaid, addressed to the respective addresses set forth on the cover page of the Agreement. Either Party may change the addresses for giving notice from time to time by issuing written instructions to the other Party of such change of address by certified mail, return receipt requested, postage prepaid, by courier, or email and shall be effective upon delivery. Notices may also be delivered to the either Party by hand delivery and shall be effective on such delivery to that Party.

*[The remainder of this page is intentionally left blank]*



**IN WITNESS WHEREOF**, the Parties hereto have executed the Agreement by their duly authorised representatives, on the dates set forth below:

Signed for and on behalf of ***Tierra Automation***

Signed for and on behalf of ***THE BABA INSTITUTE OF TECHNOLOGY AND SCIENCES***

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Signature

Name:

Title:

Date:

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Signature

Name: Dr. N. Victor Babu

Title: Principal

Date: