

APPENDIX -20
LEGAL AGREEMENT/UNDERTAKING FORMAT

To

The President of India

(acting through the Director General of Foreign Trade (which expression shall be deemed to include the Joint Director General of Foreign Trade/Deputy Director General of Foreign Trade) Ministry of Commerce, Udyog Bhavan, New Delhi - 110 011.

This DEED of Agreement made on _____ day of _____ month _____ year

BETWEEN _____ (full expanded name of the Importer/Exporter with complete address) hereinafter referred to as the party which expression shall be deemed to include his/her heirs, successors, administrators and assignee, if the firm is Sole Proprietary firm/jointly and severally all the Partners through their legal heirs, successors, administrators, and assignee as well as the portions where body corporate or not having the control of the affairs of the said firm, if it is Partnership firm/successors in business and assignee if firm is limited company.

AND

The President of India (hereinafter referred to as the Government which expression shall include his successors in office and assigns).

WHEREAS the party has made an application bearing Reference No. _____ dated _____ for a Authorisation for a value of Rs. _____ for import under the _____ Scheme (fill up the actual Scheme) (hereinafter referred to as 'Scheme') notified by the Government under the Foreign Trade Policy, 2015-20 as amended from time to time with an Export Obligation of Rs. _____ .

AND WHEREAS the Government may grant a Authorisation to the party for the full value applied for or for a lesser value as it may be deemed fit and as per the terms and conditions of the Scheme.

AND WHEREAS one of the terms of the Authorisation, which may be issued as above, is that the party is to enter into an agreement/undertaking with the Government on the terms and conditions appearing hereinafter.

AND WHEREAS the party has furnished a Legal Agreement in anticipation of the Government issuing Authorisation as above for an amount of the export obligation imposable as per the Scheme.

AND WHEREAS the party has agreed to perform the export obligation for the quantity and or to the extent of FOB value shown in the aforesaid application or as may be fixed by the Government in the Authorisation/ Sanction/ Approval within the stipulated period by exporting the goods as required under the Authorisation which may be issued.

AND WHEREAS the party has agreed:

a) to perform the export obligations for the quantity and or FOB value within the period specified in the aforesaid Scheme/Authorisation/Sanction/Approval;

b) to fulfill all the conditions of _____ Scheme under which the Authorisation/Sanction/ Approval may be issued;

c) to fulfill all the terms and conditions of the Authorisation/ sanction /approval which may be issued;

d) to fulfill the conditions subject to which the goods may be cleared by the Customs authorities including conditions imposed under the relevant Customs notification pertaining to the Scheme;

e) to send a 'Statement of Exports' to the Regional Authority in original, on a monthly/quarterly/half-yearly basis, within 15 days from the end of the period;

f) to furnish from a Nationalised / Scheduled bank, in original, a Bank certificate of exports evidencing the exports/ deemed exports of goods made in fulfillment of the export obligation(s) and such other documents as may be demanded by the Regional authorities as evidence for the exports/ deemed exports made;

g) that in the event of his default in meeting the aforesaid obligations / conditions, he shall pay an amount

equal to 15% interest per annum on the amount of duty saved from the date of import of the first consignment till the date of payment.

h) that the Government may modify the Scheme from time to time.

NOW, THEREFORE THE CONDITIONS OF THE AGREEMENT ARE AS FOLLOWS:

In anticipation of granting the said Authorisation by the Government as aforesaid, the party hereby declare(s) and agree(s):

(i) That the party shall comply with all the obligations under the aforesaid Scheme specified by the Government and the conditions specified in the Authorisation/Sanction/Approval to be issued for import/

export and other conditions specified herein above.

(ii) That if the party fails to fulfil the whole or part of the obligations under the Scheme, including the terms and conditions stipulated in the Authorisation / Sanction/ Approval/ Scheme or fails to furnish any information required under the Foreign Trade (Development & Regulation) Act, 1992, or the Orders made thereunder or the Rules framed thereunder, on the written demand made by the Government of the

amount, in whole or part, the party shall forthwith without any demur or protest, pay to the Government the sum demanded.

(iii) That notwithstanding any right Government may have against the party in any form and notwithstanding any dispute raised by the party in any form, the Government's written demand to the party shall be final and binding.

(iv) That this Agreement shall continue and shall not be discharged by any change in the constitution of the party.

(v) That in the event of the non-fulfillment of export obligations mentioned in the Authorisation as aforesaid, the party shall on the instructions of the Government hand over the unutilised imported goods to any agency as the Government may nominate, for disposal in any manner. The amount so recovered by sale shall be deposited with the Government towards the fulfillment of export obligations/conditions, after deducting the normal commissions and other expenses incurred by the said agency. The decision of the agency as to the said amount shall be final and binding on the party. The Bank Guarantee/ Bond executed with the Customs authorities, in such an event, shall also be forfeited.

(vi) The party undertakes to pay simultaneously a sum equivalent to the value of the Authorisation / Sanction/ Approval or to the extent of the value of the imported goods against the said Authorisation / Sanction/ Approval, whichever is higher, by way of liquidated damages to the Government. The decision

of the Government shall be final and binding on the party.

(vii) That this Agreement is executed by the party in public interest.

(viii) That the payment of the amount demanded by the government under this Agreement shall not affect

the liability of the party to any other action, including the initiation of legal proceedings for confiscation of the imported material and refusal of further Authorisations, and all other liabilities, penalties and consequences under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, and the Orders and Rules made thereunder, that may be decided by the Government.

(ix) That this Agreement shall remain in full force until all the obligations of the party are fulfilled to the full and final satisfaction of the Government as specified above and till such satisfaction is communicated to the party.

(x) That the party irrevocably undertakes that in the event of his default in meeting the aforesaid export obligations / conditions, they shall pay the applicable Customs Duties, 15% interest per annum on the amount of customs duties saved from the date of import of the first consignment till the date of payment to meet the shortfall in the export obligations as may be imposed on the Authorisation/ sanction/ approval /scheme. In addition to the aforesaid the party shall also abide by the conditions imposed by the relevant Customs notification for the Scheme.

(xi) That the party irrevocably undertakes that in the event of his default in meeting the aforesaid export obligation / conditions, they shall execute a Bank Guarantee for an amount as required by the Government.

(xii) Nothing in this Agreement shall debar the Government from modifying the said Scheme from time to time and/or from implementing any such modified Scheme as if it is in force at the date of this Agreement.

IN WITNESS WHEREOF the party hereto has duly executed this Agreement on this _____ day of _____year _____ signed, sealed and delivered by the party in the presence of:

** (Signature) _____

(full and expanded description of the party with residential address)

Witness: _____

(Signature)

1. Name _____

Residential _____

Address _____

(Signature)

2. Name _____

Residential _____

Address _____

(To be authenticated/affirmed by 1st Class Magistrate/Notary Public)

Accepted by me on behalf of the President of India.

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Asstt. DGFT/ Foreign Trade Development Officer

** in the light of guidelines for execution of Legal Undertaking

**NOTE FOR GUIDANCE IN THE MATTER OF EXECUTING BANK GUARANTEE (BG) / LEGAL AGREEMENT
(LUT)**

1. The Bank Guarantee / Legal Agreement is to be executed by the surety Bank (Guarantor)/ importer/exporter (party) on a non-judicial stamp paper for an amount as may be prescribed by the concerned State Government under the Indian Stamp Act, 1899 or State Act, as the case may be.

2. Any stamp duty payable on the B.G./LUT or any document executed thereunder shall be borne by the party.

3. If the party is a sole proprietary firm, the Bond/Legal Agreement shall be executed by the Sole Proprietor of the firm, along with his permanent and complete residential address. "In such a case the expression "Importer/Exporter" or "Party" used in the opening paragraph of the Legal Agreement should include his/her heirs, successors, administrators and assignee".

4. If the party is a partnership firm, the LUT shall be executed in the name of the partnership firm, through the partners to be specified, or the Managing partner, if so specified in the Partnership Deed, along with the address of the partner/Managing Partner, and the place where the Registered Office of the partnership firm is situated.

"In that case, the expression "Importer/Exporter" or "Party" used in the opening paragraph of the Legal Agreement should include jointly and severally all the partners, through respective legal heirs, successors, administrators and assignee as well as the portions where body corporate or not having the control of the affairs of the said Firm".

5. If the party is a Limited Company, the LUT shall be executed by the Managing Director or two Directors of the Company, along with the seal of the Company and also specifying the address of the Registered Office of the Company. Alternatively the LUT shall be executed by a senior executive of the Company of the rank of General Manager and one of the Directors of the Company who have been authorised by the board of Directors for this purpose, along with the seal of the Company and also specifying the address of the Company. In such cases LUT shall be countersigned by the Company Secretary.

"In that case, the expression "Importer/Exporter" or "Party" used in opening paragraph of the Legal Agreement should include its successors in business and assignee".

6. Each page of the Bond/Legal Agreement is to be signed.

7. The importer/ exporter shall also give a separate declaration alongwith BG/LUT to the effect that in the event of any change in the Customs Duty based on which the BG/LUT is executed for clearance of the imported goods, he shall execute supplementary BG/LUT for the remaining value at the time of clearance of last consignment, failing which he shall be liable to such action as is considered proper by the Regional/ customs authority.