



## **CONSULTANT AGREEMENT**

This Consultant Agreement (hereinafter “**Agreement**”) is hereby entered into as of this the [.] day of [.] 201[.] (“**Effective Date**”)

### **BY AND BETWEEN**

[.], a private limited company incorporated under the Companies Act, 1956/2013 having its office at [.] (the “**Client**” which term shall include parent and subsidiary companies and permitted assigns) (hereinafter referred to as ‘the Company’) of the ONE PART.

### **AND**

Mr. [.] son of Mr. [.] currently resides at [.] (the “**Consultant**”, which term shall include successors and permitted assigns) (hereinafter referred to as ‘the Consultant’) of the OTHER PART.

The Company and Consultant are hereinafter collectively referred to as the “**Parties**” and individually referred to as the “**Party**”.

**WHEREAS**, the Company is engaged in the business of.....(description of business) and is carrying on its activities in India; AND WHEREAS the Company, as part of its business, has decided to.....(reason for consultancy);

AND WHEREAS the Company requires the expert services of a person having the experience and specialised knowledge in the.....field in assisting and advising the Company to.....;

**WHEREAS**, the Consultant is [.]

AND WHEREAS the Consultant has the requisite expertise, specialized knowledge and experience in the .....field and has offered his/its services to the Company on a principal to principal basis;

**WHEREAS**, the Client desires to engage the Consultant to provide certain services in the area of Consultant’s expertise and the Consultant is willing to provide such services to the Company.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth below, it is hereby covenanted and agreed by the Company and the Consultant as follows:



## **1. SERVICES/PROJECT.**

- Subject to the terms and conditions set forth herein, Client hereby engages the Consultant to perform, and Consultant agrees to perform, professional services in relation to [.] (“Work”) as described more in detail in Annexure A.
- The services will be rendered by the Consultant to the Company in .....(area of consultancy) in accordance with the directions and requirements of the Company.
- The Consultant shall devote his attention and energy to rendering the services under this Agreement in accordance with the directions of the Company.

## **2. DELIVERABLES.**

Upon completion, Consultant shall submit the completed Project in the format reasonably acceptable to Client. Subject to the terms set forth herein, including section 3 below, the manner and method of producing the Work is monitored by the Client and the Consultant shall carry on such Work as long as they comply with Client requirements, which shall be described in Annexure A or may be communicated in writing to Consultant (e-mail is acceptable). Consultant is obliged to only deliver the Work and the Client is not entitled to demand Consultant's engagement in another project unless or until Client and Consultant enter into a separate agreement to cover such project on mutually agreed-upon terms.

## **3. OBLIGATIONS AND WARRANTIES OF CONSULTANT. (“SERVICES” )**

- “Services” shall mean the obligations, duties and services to be provided by Consultant under this Agreement as described in an attached Statement of work in Annexure A which is attached hereto and made part of this Agreement.
- The Consultant will perform the “Services” in accordance with the procedures described in the statement of work, in a timely and professional manner, consistent with industry standards, at a location, place and time that the Consultant deems appropriate, and all in accordance with the statement of work, and this Agreement. The manner and means the consultant chooses to perform the services are in the consultant’s sole discretion and control. In providing the services, the consultant agrees to provide its own equipment, tools and other materials at its own expense.
- The Consultant, in consultation with the Company, will determine the method, details and means of performing the work to be carried out for Company. In addition, company shall be entitled to exercise a broad general power of supervision and control over the results of the work performed by the Consultant



to ensure satisfactory performance. This power of supervision shall include the right to inspect, stop work, make suggestions or recommendations as to the details of the work, and request modifications to the statement of work. Modifications to the scope of the statement of work by the company resulting in additional services by the Consultant shall be compensated accordingly.

- a) Upon submitting the Project to the Client, Consultant represents and warrants that the Project (or any part of it):
  - is plagiarism-free and original (is not owned by any third party fully or partially and does not contain any previously produced text, “copy-pasting”);
  - complies with all requirements provided by the Client (formatting style is considered a requirement) in Annexure A;
  - has not been obtained by unlawful means;
- b) The Consultant acknowledges and agrees that if they fail to adequately complete the Work by the agreed due date, the Client has the sole right to cancel this Agreement; provided that Client must pay Consultant a reasonable prorated amount of the Fees proportionate to that portion of the Project completed to date. If the Consultant fails to meet the Work deadline, they must contact the Client to request deadline extension at least 24 hours prior to the due date. Extension may be granted at the Client’s sole discretion.
- c) The Project must conform to general standards as determined by the Client. Consultant acknowledges and represents that if the Project fails to conform to the general standards, the Client has the sole right to request immediate revision of the Work, deny payment, and/or cancel this Agreement. If the Work is deemed inappropriate by the Client at the time of submission either for content or other reasons, the Client has the sole right to request immediate revision of Work, deny payment, and/or refuse to use any portion of the Work related to the business of Client or otherwise.
- d) The Consultant shall also be responsible for the following specific obligations:
  - I.)
  - II.)
  - III.)
  - IV.)



#### **4. COMPENSATION.**

- a) The Consultant shall be compensated for the Services with an amount of Rs. [.]/- (Rupees [.]), and no other fee or expenses shall be paid to the Consultant, unless the Client has approved such fee or expenses in writing.
- b) The completeness of the Services and work product shall be determined by the Client in its sole discretion, and the Consultant agrees to make all revisions, additions, deletions or alterations as requested by the Client.
- c) The Compensation shall be charged monthly.
- d) The Consultant shall be solely responsible for any and all taxes, social security contributions or payments, disability insurance, unemployment taxes, and other payroll type taxes or other legal requirements applicable to such compensation or to the Consultant.
- e) The Consultant hereby indemnifies and holds the Client harmless from any claims, penalties, losses, costs, liabilities, injuries or damages suffered by the Client arising out of the Consultant's failure with respect to its obligations under this clause.
- f) The Company will also reimburse the Consultant reasonable out of pocket expenses for travel, communication etc. incurred for carrying on the services specified in this Agreement, upon submission of claims in accordance with the Company's standard policies.
- g) All payments shall be subject to deduction of tax at source and any other taxes as in accordance with Indian law. Consultant must submit details of PAN (Permanent Account Number)
- h) The Company shall make payments to the Consultant within ..... days from the end of each month by cheque or direct debit to Consultant's bank account.

#### **5. MATERIALS.**

The Client agrees to furnish the Consultant with all necessary materials needed to complete the Work described herein. Such materials may include, but are not limited to, podcast [.] on what the Client's objectives are, and other materials.

#### **6. OWNERSHIP AND ASSIGNMENT**

##### **a) Ownership:**

- i.) The Parties agree that the Client shall have complete and sole ownership over the work product or Services performed by the Consultant under this Agreement.



- ii.) The Consultant shall promptly disclose in writing to the Client all works, products, discoveries, developments, designs, innovations, improvements, inventions, and data (whether or not at a commercial stage, or registrable under any intellectual property laws) which are authored, made, reduced to practice or learned by the Consultant (either alone or jointly with others) during the period that Consultant provides the Services to the Client, as a result of performing the Services including any concepts, ideas, suggestions and approaches related thereto or contained therein.
- iii.) All materials, including without limitation any ideas, concepts or notes including all alterations thereof, which are developed in the process of performing the Services, or relate to the Services and Confidential Information (defined below) or any of the above are the property of Client, and shall be returned by Consultant to the Client promptly at the Client's request together with any copies thereof.

**b) Assignment:**

- i.) The Consultant hereby assigns and agrees to assign to the Client, without royalty or any other consideration except as expressly set forth herein, all worldwide right, title and interest that the Consultant may have or acquire in and to the Client, its successors, assignees, or nominees, the Receiving Party's right, title and interest, if any, in any patents, trade secrets, trademarks, copyrights, or other intellectual property rights or proprietary information embodied in or relating to Consultant's work under this Agreement.
- ii.) At the Client's request, the Consultant hereby agrees to cooperate with the Client and do all such actions and execute any documents necessary to give effect to the provisions of this section.

**7. RELATIONSHIP OF THE PARTIES**

- a) The Consultant and Consultant Personnel, if any, shall, at all times, remain independent contractors and nothing in this Agreement shall be construed to create the relationship of employer and employee, principal and agent, partnership or joint venture, or any other fiduciary relationship.
- b) The Consultant may not act as agent for, or on behalf of, the Client, or to represent the Client, or bind the Client in any manner. While the company is entitled to provide the consultant with general guidance to assist the Consultant in competing the services to the company's satisfaction, nevertheless the Consultant is ultimately responsible for directing and controlling the performance of the task comprising the statement of work, in accordance with the terms and conditions of this Agreement.



- c) Neither the Consultant, nor any of the Consultant Personnel, shall be entitled to any benefits accorded to any employees of the Client or other benefits generally granted to employees including but not limited to insurance, vacation, retirement benefits and sick pay.

## 8. **CONFIDENTIALITY**

a) **Confidential Information:** The Consultant shall keep confidential all confidential information provided to him by the Company excepting only such information as is already generally known to the public and that he shall not release use or disclose of the same except with the prior written permission of the company or if required by law or an order from court. However, the consultant will be entitled to divulge the information to those who are directly concerned or as may be necessary in order to obtain certain information necessary for the performance of his obligations.

- i. The Client owns and may develop, compile and own certain proprietary techniques, trade secrets, and confidential information, which are very valuable to the Client (collectively, “**Confidential Information**”). The Client may disclose Client Information to Consultant during the Consultant's performance of the Services.
- ii. Confidential Information is any information relating to the Client that is not accessible by the general public and includes not only information disclosed by Client, but also information developed or learned by Consultant during Consultant's performance of the Services. Client Information is to be broadly defined and includes all information, which has or could have commercial value or other utility in the business that the Client is or may be engaged in and the unauthorized disclosure of which could be detrimental to the interests of Client, whether or not such information is identified by Client.
- iii. Confidential Information includes, but is not limited to, details of customers and business contacts, developments, designs, inventions, software, techniques, know-how, data, marketing, sales or other business information, scripts, costs and resources, tools used; and all derivatives or improvements to any of the above.

b) **Non- disclosure and Protection:**

The Consultant agrees that at all times during or subsequent to the performance of the Services, the Consultant will keep confidential and not disclose or cause to be disclosed, publish, disseminate or otherwise make available or use Confidential Information, except for the Consultant's own use during the Term of this Agreement and only to the extent necessary to perform the Services. The Consultant shall not remove or cause to be removed tangible embodiments of, or electronic files containing, Confidential Information from the Client, without prior written approval of the Client.



## 9. TERM AND TERMINATION

- a) **Term:** This Agreement shall take effect immediately from the Effective Date and continue to remain in full force and effect for a period of 3 (three) months and the Parties have the option of renewing the same (hereinafter, the “**Term**”), unless terminated earlier in accordance with this Agreement.
- b) **Termination:** Either Party may terminate this Agreement for cause by providing the other Party written notice if the other Party: (i) is in material breach of this Agreement and has failed to cure such breach within five (5) days after its receipt of written notice of such breach provided by the non-breaching Party; (ii) engages in any unlawful business practice related to that Party's performance under the Agreement; or (iii) files a petition for bankruptcy, becomes insolvent, acknowledges its insolvency in any manner, makes an assignment for the benefit of its creditors, or has a receiver, trustee or similar party appointed for its property. The Parties shall give a notice of 1 (one) month prior to termination.

The Consultant shall return all documents including papers ,memoranda, notes, programmes, data and all copies thereof including any electronic record containing any business and technical information disclosed to the Consultant by the Company or in any manner procured, received by the Consultant during his term of appointment with the Company.

Upon termination of this Agreement for any reason whatsoever all amounts due and payable to the Consultant shall be paid within.....days from the date of termination of this Agreement.

## 10. INDEMNIFICATION.

Client agrees to hold Consultant harmless for any such damages that may arise from Consultant’s work product. In no event shall Consultant be liable for any direct, indirect, punitive, incidental, special consequential damages whatsoever arising out of or connected with the use or misuse of her work product. Consultant assumes no responsibility for any special, incidental, indirect, or consequential damages of any kind, or any damages whatsoever (including without limitation, those resulting from her work product or from: (a) user or Client reliance on the materials or documents produced (b) costs of replacement writings, training, or documents (c) loss of use, data, or profits (d) delays or business interruptions, (e) and any theory of liability, arising out of or in connection with the use or performance of Consultant’s work whether or not Consultant has been advised of the possibility of such damages.



## **11. LIABILITY.**

Except with respect to the parties' indemnification obligations, neither party shall be liable to the other for any special, indirect, incidental, punitive, or consequential damages arising from or related to this agreement, including bodily injury, death, loss of revenue, or profits or other benefits, and claims by any third party, even if the parties have been advised of the possibility of such damages. The foregoing limitation applies to all causes of action in the aggregate, including without limitation to breach of contract, breach of warranty, negligence, strict liability, and other torts.

## **12. MISCELLANEOUS.**

- a) **Entire Agreement:** This Agreement, and any annexures, duplicates, or copies, constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements, representations, and understandings of any kind, whether written or oral, between the Parties, preceding the date of this Agreement.
- b) **Amendments and Assignment:** This Agreement may be amended only by written agreement duly executed by an authorized representative of each party (email is acceptable). This Agreement shall not be assigned by either party without the express, written consent of the other party
- c) **Severability:** If any provision or provisions of this Agreement shall be held unenforceable for any reason, then such provision shall be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect for the duration of this Agreement.
- d) **No Waiver:** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.
- e) **Dispute Resolution, Governing Law and Jurisdiction:** i) The Parties agree to first mediate any disputes or claims between them in good faith and resolve the disputes amicably and share the cost of mediation equally. In the event that mediation fails, any claim arising out of or relating to this Agreement shall be settled by Arbitration in accordance with the Indian Arbitration and Conciliation Act, 1996. All hearings will be held in [.] and shall be conducted in English. The parties shall each appoint an arbitrator who shall then appoint a sole arbitrator to preside over the Arbitration proceedings. ii) This Agreement shall be governed by and construed in accordance with the laws of India. The adjudication of any dispute will be the exclusive jurisdiction of the courts of [.]





- f) **Time:** The Contactor agrees that time is of the essence in this Agreement.
- g) **Notice:** Any notice, demand, or request with respect to this Agreement shall be in writing and shall be effective only if it is delivered by personal service, by air courier or emailed to the address set forth above. Such communications shall be effective when the addressee receives them.
- h) **Headings:** The numbering and captions of the various sections are solely for convenience and reference only and shall not affect the scope, meaning, intent or interpretation of the provisions of this Agreement, nor shall such headings otherwise be given any legal effect.

**The Parties have read and understood all the terms herein and are voluntarily, free of any coercion, signing this Agreement on the date stated in the introductory clause.**

\_\_\_\_\_  
(Client)  
Name:  
Designation:

\_\_\_\_\_  
(Consultant)  
Name:



**ANNEXURE - A**  
**Details of Services**

**1. Services to be provided by Consultant:**

<to be added>

Additional Services may be added by parties by mutual agreement in writing.

**2. Work product to be delivered by Consultant** (Check boxes as applicable, and set forth details as desired in space provided):

- Oral recommendations/reports
  
- Written reports
  - Daily
  - Weekly
  - Monthly
  - Upon Completion
  - Other:
  
- Notes, Drafts, Working Papers, etc.

**3. Schedule for Completion of Work:**

S.No.	Task to be completed	Deadline (Date)