**Freelancer Contract**

This Service Agreement (“**Agreement**”) is made on this the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ (“**Effective Date**”) at \_\_\_\_\_\_\_\_\_.

# BETWEEN

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,** a company incorporated under the Companies Act 1956, having its registered office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, India hereinafter called “**\_\_\_\_\_\_\_\_\_\_\_**” (which expression shall unless repugnant to the context or meaning thereof be deemed to include its successors in business and assigns) of the FIRST PART;

# AND

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, an individual residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter called the “**Service Provider**” (which expression shall unless repugnant to the context or meaning thereof be deemed to include its successors in business and assigns) of the SECOND PART.

\_\_\_\_\_\_\_\_\_\_\_ and the Service Provider shall hereby individually be referred to as a “Party” and collectively as “Parties”.

**WHEREAS**, Service Provider is engaged in business of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ etc.

**WHEREAS**, \_\_\_\_\_\_\_\_\_\_\_ requires certain services: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **(Collectively the “Services”).**

**WHEREAS**, in consideration of the payments and mutual covenants and premises herein set-forth, the Service Provider has agreed to provide the services on the terms and conditions provided below.

#### **NOW THIS AGREEMENT WITNESSETH AS UNDER:**

1. **Scope of Service**
	1. The Service Provider shall provide the services as per requirement given by \_\_\_\_\_\_\_\_\_\_\_\_\_ with regards to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. \_\_\_\_\_\_\_\_\_\_\_\_\_ reserves the right to add, delete, substitute and amend the scope of Services during the Term (defined hereunder) of this Agreement by prior written intimation.

* 1. Service Provider shall be responsible for taking the required and necessary actions to perform its obligations under this Agreement.
	2. Service Provider will maintain complete and accurate records relating to the Services performed hereunder for a period of five (5) years beyond the expiration or termination of this Agreement. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ will have the right to inspect and audit Service Provider’s records including but not limited to the books of accounts and other documents at Service Provider’s place of business during normal business hours for the Term of the Agreement and for a period of one year thereafter at Service Provider’s cost. If such audit or audits reveal any error or discrepancy of any nature whatsoever, such error or discrepancy will be promptly corrected and any amount payable to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as a result of such audit shall promptly paid to the Service Provider.
1. **Invoicing and Payments**
	1. The fee payable to Service Provider for providing the Services shall be **calculated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**. Such fee shall be net of applicable taxes, if any which shall be all inclusive including but not limited to all statutory payments, taxes, duties etc. present or future. Income tax, if applicable, will be deducted at source at the prevailing rate as per applicable law.
	2. \_\_\_\_\_\_\_\_\_\_ will pay undisputed invoices within **\_\_\_\_\_\_\_\_\_\_** from the date of receipt of invoice, except for those portions of any invoice that \_\_\_\_\_\_\_\_\_\_\_\_\_\_ disputes in good faith and in writing.
	3. Parties agree that they shall endeavor to settle any dispute relating to the invoice within a period of \_\_\_\_ (\_\_\_\_words) calendar days from the date of receipt of the notice of dispute. If Parties fail to settle the disputed amount within the aforesaid period, the disputed amount shall be settled between the Parties in accordance with the dispute resolution procedure provided in this Agreement. It is hereby agreed by the Service Provider that pending the settlement of any dispute, Service Provider shall continue to provide the Services as per the terms and conditions of this Agreement.
	4. Further, it is hereby agreed that in case of any error in the invoice raised by the Service Provider, the same shall be rectified immediately upon same being notified to Service Provider.
	5. As a material term of this Agreement, the Service Provider agrees that the payment arrangement established under this Agreement represents \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_’s entire payment obligation for the Services hereunder.
2. **Term and Termination**

Term:

4.1 This Agreement shall remain in force for a period of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ commencing from date , \_\_\_\_\_\_\_\_\_\_\_\_and ending on date, \_\_\_\_\_\_\_\_\_\_ (“**Term**”). The Term shall be renewed by mutual consent not later than 1 month before the expiry of the aforementioned term for such period and on such terms and conditions as may be agreed by the Parties.

Termination:

4.2 \_\_\_\_\_\_\_\_\_\_\_ may terminate this Agreement without cause at any time by providing the Service Provider prior written notice of \_\_\_\_\_\_\_\_\_ days.

4.3 Either Party may terminate this Agreement upon written notice to the other Party in the event that: (a) the other Party commits a material breach of the Agreement and fails to cure such default to the non-defaulting Party’s reasonable satisfaction within \_\_\_\_\_\_\_\_\_\_\_\_\_\_ days after receipt of notice; or (b) the other Party becomes insolvent or bankrupt, assigns all or a substantial part of its business or assets for the benefit of creditors, permits the appointment of a receiver for its business or assets, becomes subject to any legal proceeding relating to insolvency or the protection of creditors’ rights or otherwise ceases to conduct business in the normal course.

Consequences of Termination:

 4.4 Upon the expiration or earlier termination of this Agreement, the Service Provider shall forthwith cease the use of all Confidential Information and all intellectual property which belongs or may belong to \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and/or one or more of its affiliated companies under this Agreement or otherwise, including but not limited to copyright in any written material, plans, patents, designs or other works, know how, technical or other information or expertise, and shall, at the request of \_\_\_\_\_\_\_\_\_\_\_, forthwith return to \_\_\_\_\_\_\_\_\_\_, or otherwise dispose off as \_\_\_\_\_\_\_\_\_\_\_ may instruct, all Confidential Information and other documents, papers and materials whatsoever provided to the Service Provider and/or its employees and agents. Service Provider shall provide a declaration/undertaking in writing and signed by the authorised signatory of Service Provider to \_\_\_\_\_\_\_\_\_\_\_\_, stating that all Confidential Information have been returned or otherwise disposed off as instructed by \_\_\_\_\_\_\_\_\_\_\_\_\_.

4.5 The Service Provider, will promptly deliver to \_\_\_\_\_\_\_\_\_\_\_ all documents, document drafts, work papers, notes, drawings and charts of any description produced by the Service Provider in the course of providing the Services hereunder.

4.6 The termination of this Agreement shall not affect the respective rights and liabilities of the Parties hereto accrued prior to such termination.

4.7 The Service Provider, will promptly deliver or return to \_\_\_\_\_\_\_\_\_\_\_\_ all the assets provided by the Service Provider during providing the Services hereunder.

4.8 All clauses of this Agreement including this clause which are express, or which by implication are intended to survive the termination of this Agreement shall so survive and continue in full force and effect notwithstanding the termination of this Agreement.

1. **Obligations of Service Provider**

5.1 Service Provider shall carry out its duties and obligations under this Agreement in a timely and diligent manner with expertise, with the highest professional standards and ethical business practices and shall execute and discharge the Services to the entire satisfaction of \_\_\_\_\_\_\_\_\_\_\_ in accordance with the direction and specific instructions as may be issued by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ from time to time.

5.2 Service Provider is responsible and liable for compliance and implementation of all statutory provisions applicable to it and to its employees from time to time.

5.3 Service Provider shall obtain and maintain all licenses, registrations, approvals, permissions, sanctions, etc. under applicable laws necessary to perform the Services. Service Provider will promptly notify \_\_\_\_\_\_\_\_\_\_\_\_\_ in writing in the event any permit or license is revoked or has expired.

5.4 Service Provider shall comply with all applicable laws and regulations in rendering the Services hereunder. \_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall in the event of any violation of this clause, have the option at its sole discretion to terminate this Agreement with immediate effect without notice or payment in lieu thereof.

5.5 Service Provider agrees that any Services which are not performed to the satisfaction of \_\_\_\_\_\_\_\_\_\_\_\_\_ or fail to meet the requirements of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall be re-performed or rectified by the Service Provider at its own cost and expense to the satisfaction of \_\_\_\_\_\_\_\_\_\_\_\_\_.

1. **Representations and Warranties**

Each Party hereby warrants and represents that:

* 1. it has full power and capacity to enter into and perform its obligations under this Agreement and has taken all necessary actions to authorise the execution and performance thereof and this Agreement when executed will constitute valid and binding obligations on and against it, in accordance with its terms;
	2. it holds, at all times, all licenses and/or permits necessary under all applicable statutes and regulations for it to perform the Services hereunder and will register this Agreement with any appropriate body if required;
	3. it will not, in performing its duties and obligations under this Agreement, put itself or the other Party in breach of any applicable laws, rules or regulations;
	4. it is not, at the time of entering into this Agreement, insolvent and knows of no circumstance which would entitle any creditor to appoint a receiver or petition for winding up or bankruptcy (as the case may be) or to exercise any other rights over or against its assets or any event analogous to any of the foregoing under the laws of any applicable jurisdiction;
1. **Confidentiality/Use of Trademarks**

7.1 The Service Provider shall not use the name or trademarks of \_\_\_\_\_\_\_\_\_\_\_\_\_ in its advertising or other publications or in any other manner without the prior written consent of \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

7.2 The Service Provider shall keep in strict confidence and shall not, without the prior written consent of \_\_\_\_\_\_\_\_\_\_\_\_, use for a purpose other than for the purpose of this Agreement or disclose to any third party any information relating to this Agreement and its terms including but not limited to any information related to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_’s business howsoever acquired, directly or indirectly, trade secrets, the information or data received from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or any other data pertaining to \_\_\_\_\_\_\_\_\_\_\_\_\_ that may come into Service Provider’s possession in any form during the course of performance of the Services including information having commercial value, any intellectual property of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ including but not limited to the use of any name, trademarks of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and other information of a confidential nature acquired in the course of dealings between the Parties under this Agreement (“Confidential Information”). Service Provider shall disclose Confidential Information only to such employees/sub-contractors who have a need to know the Confidential Information for undertaking the performance of the Services. Service Provider shall procure from such employees/sub-contractors a written undertaking to protect the Confidential Information and, upon request, promptly furnish such undertakings to \_\_\_\_\_\_\_\_\_\_\_\_\_. Service Provider shall be responsible for any breach of any such undertaking by any of its employees/sub-contractors, and any such breach shall be deemed to constitute a breach of Service Provider’s obligations under this Agreement.

7.3 The above provisions of confidentiality shall not apply to Confidential Information that is at the date hereof, or hereafter becomes, public knowledge through no fault of the Service Provider.

7.4 Confidential Information may be disclosed by the Service Provider to any governmental or other statutory or regulatory body pursuant to any applicable or relevant law or regulations only to the extent necessary for the purposes contemplated by this Agreement, or as is required by law, and subject in each case to the Service Provider using its best endeavors to ensure that the person in question keeps the same confidential and does not use the same except for the purposes for which the disclosure is made.

1. **Indemnity & Limitation of Liability**
	1. Service Provider shall indemnify and hold harmless \_\_\_\_\_\_\_\_\_\_\_\_, its promoters, officers, directors, employees, affiliates, agents, sub-contractors and other representatives from any claims, demands, liabilities, suits, proceedings, penalties, costs or expenses of any kind (including, attorneys’ fees and expenses) arising out of or in connection with (i) infringement of intellectual property rights of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by the Service Provider or its personnel; (ii) infringement of third party intellectual property rights by the Service Provider or its personnel; (iii) violation of any applicable laws and statutory obligations by the Service Provider or its personnel; (iv) gross negligence and/or misconduct by the Service Provider or its personnel; (v) breach of any obligation, terms, representation, warranties and covenants under this Agreement; (vi) breach of confidentiality obligations under this Agreement and/or (vii) any damage to property and/or bodily injury or death caused due to the negligence of the Service Provider’s employees/personnel in performing their duty under this Agreement.
	2. This provision shall survive the expiration or termination of this Agreement for any reason.
	3. Notwithstanding anything to the contrary elsewhere contained in this agreement, \_\_\_\_\_\_\_\_\_\_\_\_, in any event, regardless of the form of claim, shall not be liable for any indirect, special, punitive, exemplary, speculative or consequential damages, including, but not limited to, any loss of use, loss of data, business interruption, and loss of income or profits, irrespective of whether it had an advance notice of the possibility of any such damages.
2. **Intellectual Property Rights**

9.1 All intellectual property rights (“IPR”) existing prior to the Effective Date of this Agreement will belong to the Party that owned such rights immediately prior to the Effective Date (“Background IP”). Neither Party shall not gain by virtue of this Agreement, any rights of ownership of copyrights, patents, design, trade secrets, trademarks or any other IPR owned by the other Party.

9.2 The Parties acknowledge that if performance of this Agreement thereof results into creation of any IPR, the same shall be called as “Foreground IPR” and the Service Provider acknowledges and agrees that all such Foreground IPR shall be deemed to have been unequivocally assigned to \_\_\_\_\_\_\_\_\_\_\_ notwithstanding the fact that \_\_\_\_\_\_\_\_\_\_\_\_\_ is not aware of or the Service Provider has omitted to inform \_\_\_\_\_\_\_\_\_\_\_ about creation of such Foreground IPR. The Service Provider hereby waives all claims, rights, interests with respect to such Foreground IPR. The Service Provider shall execute all necessary and appropriate documents and deeds as \_\_\_\_\_\_\_\_\_\_\_\_\_\_ may require in perfecting the title of \_\_\_\_\_\_\_\_to the Foreground IPR.

9.3 Except for the rights expressly granted to the Service Provider under this Agreement, \_\_\_\_\_\_\_\_\_\_\_\_\_ will retain all right, title and interest in its IPR and Foreground IPR under this Agreement.

1. **Independent Relationship**
	1. The Service Provider is an independent contractor as against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and shall be solely responsible for any and all obligations or liabilities arising out of its performance under this Agreement. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall not be concerned with the terms and conditions of employment that the employees/workers of the Service Provider may have with the Service Provider.
	2. This Agreement has been entered into on a principal-to-principal basis and nothing contained in this Agreement shall be deemed to constitute a joint venture, partnership or agency relationship between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and the Service Provider. Service Provider shall not, and shall procure that its agents, subsidiaries, sub-contractors, affiliates and employees do not, in any way whatsoever hold itself or themselves (as the case may be) out nor permit itself or themselves (as the case may be) to be held out as the legal representative, agent or employee of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for any purpose whatsoever nor assume or create in writing or otherwise, any obligation of any kind, express or implied, in the name of or on behalf of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in relation to the Services to be provided hereunder.
2. **Dispute Resolution; Governing Law; Jurisdiction**

10.1 Dispute Resolution

If any dispute or difference of any kind whatsoever shall arise between the Parties in connection with or arising out of this Agreement (whether before or after the termination or breach of this Agreement) the concerned representatives of the Parties shall promptly and in good faith negotiate with a view to an amicable resolution and settlement of the dispute.

In the event no amicable resolution or settlement is reached within a period of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ days, such dispute or difference shall be referred to a sole arbitrator mutually appointed by the Parties or, upon the failure of the Parties to agree upon a sole arbitrator, within a period of \_\_\_\_\_ days, each Party shall appoint one arbitrator each and the two appointed arbitrators shall appoint the third arbitrator who shall act as the presiding arbitrator. Arbitration shall be conducted in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 and any amendments thereof. The arbitration proceedings shall be held at Bangalore*.*

The existence of any dispute or difference or the initiation or continuance of the arbitration proceedings shall not postpone or delay the performance by the Parties of their respective obligations pursuant to this Agreement. It is agreed that the arbitrators shall also determine and make an award as to the costs of the arbitration proceedings. Notwithstanding anything contained herein, the Parties shall have a right to institute legal proceedings to prevent any continuing breach of the provisions of this Agreement to seek an injunctive or any other specific relief.

10.2 Jurisdiction

Subject to the above clause, the Courts of \_\_\_\_\_\_\_\_(city), \_\_\_\_\_\_\_\_\_\_ (state), shall have the exclusive jurisdiction to adjudicate upon any or all disputes arising out of or in connection with this Agreement.

10.3 **Governing Law**

This Agreement and the rights and obligations thereunder shall be governed by and construed in accordance with the laws of the Republic of India, without regard to its conflict of law principles.

1. **Assignment**

This Agreement may not be assigned, delegated, sold or transferred, whether by operation of law or otherwise, by the Service Provider without prior written consent of \_\_\_\_\_\_\_\_\_\_\_. Any assignment made in contravention of this clause shall be void and of no effect. It is hereby clarified that \_\_\_\_\_\_\_\_\_\_\_\_ may assign this Agreement or any part thereof without the prior written consent of Service Provider.

1. **Notice**

Any notice, approval, consent or other communication required or permitted under this Agreement shall be in writing, in English language, and shall be deemed to be validly given and effectively served upon when (1) delivered personally, (2) mailed by registered or certified mail, or (3) transmitted by facsimile with a confirming copy sent by overnight mail or courier service to the Parties at the addresses and facsimile numbers provided by each Party under this Agreement. Any such notice, approval, consent or other communication shall be deemed to have been duly served (if delivered personally or given or transmitted by facsimile) immediately or (if given or made by local mail) 48 hours after posting or (if made or given by overseas mail) seven days after posting and in proving the same it shall be sufficient to show that the envelope containing the same was duly addressed, stamped and posted. Either Party may change its address by giving written notice thereof to the other Party. Notice given by a Party’s counsel shall be considered notice given by that Party.

1. **Severability**

In the event that any provision of this Agreement shall be deemed by any court having jurisdiction thereon to be illegal, invalid or unenforceable, it shall in no way affect or prejudice the legality, validity or enforceability of any other term or condition of this Agreement. If any provision of this Agreement shall be deemed by such court to be unenforceable because such provision is too broad in scope, such provision shall be construed to be limited in scope to the extent such shall deem necessary to make it enforceable, and if any provision shall be deemed inapplicable by any such court to any person or circumstances, it shall nevertheless be construed to apply to all other persons and circumstances.

1. **Entire** **Agreement**

Save as provided herein, this Agreement and its Annexures constitutes the entire agreement between the Parties pertaining to the subject matter contained herein and embodies all the terms and conditions agreed upon between the Parties, and supersedes and cancels in all respects all other agreements and understandings of the Parties, whether oral or written, pertaining to the subject matter under this Agreement. The terms of this Agreement may not be modified, amended, varied or waived except in writing and signed by the Parties.

1. **Force Majeure**

If and to the extent that a Party’s performance of any of its obligations pursuant to this Agreement is prevented, hindered or delayed by reason of fire, flood, earthquake, explosion or other casualty or accident or act of God, war or other violence, or any applicable law, order proclamation, regulation, ordinance, demand or requirement of any governmental or regulatory authority and such non-performance, hindrance or delay could not have been prevented by reasonable foresight or precautions (including proper planning and execution of the disaster recovery or business continuity plan) or circumvented through the use of alternate sources, work-around plans or other means, (in each case, a “Force Majeure Event”), then the non-performing, hindered or delayed Party will be excused for such non-performance, hindrance or delay, as applicable, of those obligations to the extent that they are affected by the Force Majeure Event for as long as such Force Majeure Event continues and such Party continues to use its commercially reasonable efforts to re-commence performance whenever and to whatever extent possible without delay, including through the use of alternate sources, workaround plans or other means. If the period of nonperformance exceeds \_\_\_\_\_\_\_\_\_\_\_\_ days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may give written notice to terminate this Agreement.

1. **Waiver**

The failure of any Party to enforce any term or provision hereof shall not be construed to be waiver of such term or provision and shall in no way affect the right of such Party thereafter to enforce such term or provision or any term or provision hereof.

1. **Amendments**

No modification, amendment or waiver of the terms and conditions of this Agreement shall be valid or binding unless made in writing and duly executed by the Parties.

IN WITNESS WHEREOF the Parties have executed this Agreement through their Authorized Signatories.

### **For \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Company Name) For \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Authorized Signatory Authorized Signatory