

## **NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT**

This Non-Disclosure and Confidentiality Agreement (this “**Agreement**”) is entered into as of \_\_\_\_\_, 20\_\_\_\_ (the “**Effective Date**”) by and between:

**ACCELY CONSULTING INDIA PRIVATE LIMITED**, a Company incorporated under the provisions of the Companies Act, having its Registered Office **E-702, Lotus Corporate Park, Off Western Express Highway, Goregoan East, Mumbai – 400 063, Maharashtra, India.** (hereinafter referred to as “**ACCELY**”) being the First party

And

\_\_\_\_\_ a Company incorporated under the Companies Act, having its Registered Office at \_\_\_\_\_ (the “\_\_\_\_\_”) being the Second Party.

**WHEREAS** the First Party and the Second Party (together referred to as the “Parties”) have express an interest in participating in discussions relating to \_\_\_\_\_ (the “**Purpose**” or “**Transaction**”)

**AND WHEREAS** in connection with the Transaction, each party, their respective affiliates and their respective directors, officers, employees, agents or advisors (collectively, “Representatives”) may provide or gain access to certain confidential and proprietary information. A Party disclosing its Confidential Information to the other party is hereafter referred to as a “**Disclosing Party.**” A party receiving the Confidential Information of a Disclosing Party is hereafter referred to as a “**Receiving Party.**”

**NOW THEREFORE THE PARTIES AGREES AS FOLLOWS;** in consideration for being furnished confidential information, disclosing party and receiving party agree as follows:

### **1. Confidential Information.**

- 1.1. Confidential Information of a Party might include, but not be limited to, that Party’s:
  - (i) business strategies, plans, methods, and practices;
  - (ii) personnel, customers, and suppliers;
  - (iii) inventions, processes, methods, products, patent applications,

and other proprietary rights; or (iv) requirements, technical specifications, drawings, sketches, models, samples, tools, architectural renderings, application software, user interfaces, wireframes, middleware components (including adaptors, connectors and APIs), technical information, which may be owned by the group/associated company of the parties, in written, oral and/or physical /sample form that is non-public, or other related information which is marked as private and confidential;

- 1.2. Either Party may disclose Confidential Information to the other Party in confidence provided that the disclosing Party identifies such information as proprietary and confidential either by marking it, in the case of written materials, or, in the case of information that is disclosed orally or written materials that are not marked, by notifying the other Party of the proprietary and confidential nature of the information, such notification to be done orally, by e-mail or written correspondence, or via other means of communication as might be appropriate. The receiving Party ("Recipient") shall have no liability with respect to any disclosure of Confidential Information that occurs before such information has been designated proprietary or confidential by the disclosing Party.
- 1.3. When informed of the proprietary and confidential nature of Confidential Information that has been disclosed by the other Party, Recipient shall, for a period of **three (3) years** from the date of disclosure, refrain from disclosing such Confidential Information to any contractor or other third party without prior, written approval from the disclosing Party and shall protect such Confidential Information from inadvertent disclosure to a third party using the same concern and diligence that the Recipient uses to protect its own proprietary and confidential information, but in no case less than reasonable care. The Recipient shall ensure that each of its employees, officers, directors, or agents who has access to Confidential Information disclosed under this Agreement is informed of its proprietary and confidential nature and is required to abide by the terms of this Agreement. The Recipient of Confidential Information disclosed under this Agreement shall promptly notify the disclosing Party of any disclosure of such Confidential Information in violation of this Agreement or of any subpoena or other legal process requiring production or disclosure of said Confidential Information.
- 1.4. All Confidential Information disclosed under this Agreement shall be and remain the property of the disclosing Party and nothing contained in this Agreement shall be construed as granting or conferring any rights to such Confidential Information on the other Party. The Recipient shall honor any request from the disclosing Party

to promptly return or destroy all copies of Confidential Information disclosed under this Agreement and all notes related to such Confidential Information. The Parties agree that the disclosing Party will suffer irreparable injury if its Confidential Information is made public, released to a third party, or otherwise disclosed in breach of this Agreement and that the disclosing Party shall be entitled to seek injunctive relief against a threatened breach or continuation of any such breach and, in the event of such breach, an award of actual and exemplary damages from any court of competent jurisdiction.

1.5. The obligation of confidentiality with respect to Confidential Information will not apply to any information:

- a) If the information is or becomes publicly known and available other than as a result of prior unauthorized disclosure by Receiving Party or any of its Representatives;
- b) If the information is or was received by Receiving Party from a third party source which, to the best knowledge of Receiving Party or its Representatives, is or was not under a confidentiality obligation to Disclosing Party with regard to such information;
- c) If the information is disclosed by Receiving Party with the Disclosing Party's prior written permission and approval;
- d) If the information is independently developed by Receiving Party prior to disclosure by Disclosing Party and without the use and benefit of any of the Disclosing Party's Confidential Information; or
- e) If Receiving Party or any of its Representatives is legally compelled by applicable law, by any court, governmental agency or regulatory authority or by subpoena or discovery request in pending litigation but only if, to the extent lawful, Receiving Party or its Representatives give prompt written notice of that fact to Disclosing Party prior to disclosure so that Disclosing Party may request a protective order or other remedy to prevent or limit such disclosure and in the absence of such protective order or other remedy, Receiving Party or its Representatives may disclose only such portion of the Confidential Information which it is legally obligated to disclose.

1.6. The terms of this Agreement shall not be construed to limit either Party's right to develop independently or acquire products without use of the other Party's

Confidential Information. The disclosing party acknowledges that the Recipient may currently or in the future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information. Nothing in this Agreement will prohibit the Recipient from developing or having developed for it products, concepts, systems or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in the Confidential Information provided that the Recipient does not violate any of its obligations under this Agreement in connection with such development.

1.7. This Agreement contains the entire agreement between the Parties and in no way creates an obligation for either Party to disclose information to the other Party or to enter into any other agreement.

## **2. Non-Disclosure of Transaction.**

2.1. Without Disclosing Party's prior written consent, neither Receiving Party nor its Representatives shall disclose to any other person, except to the extent, the provisions of Paragraph 2 apply: (a) the fact that Confidential Information has been made available to it or that it has inspected any portion of the Confidential Information; (b) the fact that Disclosing Party and Receiving Party are having discussions or negotiation concerning the Transaction; or (c) any of the terms, conditions or other facts with respect to the Transaction.

2.2. Neither Party will, without prior approval of the other Party, make any public announcement of or otherwise disclose the existence or the terms of this Agreement.

2.3. Nothing in this Agreement shall be construed to constitute an agency, partnership, joint venture, or other similar relationship between the Parties.

## **3. Non-Compete**

3.1. Receiving Party agrees that at no time will Receiving Party engage in any business activity which is competitive with Disclosing Party, nor work for any company which competes with Disclosing party during the term of Receiving Party's relationship with Disclosing Party and 24 months thereafter termination of Agreement.

#### **4. Non-Solicitation**

4.1. Both the Parties agrees not to solicit any employee or independent contractor of other Party on behalf of any other business enterprise, nor shall either Party induce any employee or independent contractor associated with other Party to terminate or breach an employment, contractual or other relationship with such Party during the term of this Agreement and 24 months thereafter termination of Agreement.

#### **5. No Assignment**

5.1. Neither Party shall assign or transfer any rights or obligations under this Agreement, including by operation of law, without the prior written consent of the other party.

#### **6. Indemnity**

6.1. Each Party hereby indemnifies and agrees to indemnify and hold harmless the other Party against any losses, costs, claims, damages, expenses, liabilities, proceedings or demands, including all legal costs, which such Party may incur or suffer as a result of any unauthorized use or disclosure by other Party of the Confidential Information or any breach of terms and conditions of this Agreement on Party's s part, or on the part of any of the employees, advisors or consultants of the such Party.

#### **7. Injunctive Relief**

7.1. A breach by Party of any of the promises or agreements contained herein will result in irreparable and continuing damage to suffered Party for which there will be no adequate remedy at law, and suffered Party shall be entitled to injunctive relief and/or a decree for specific performance, and such other relief as may be proper (including monetary damages). Such remedies shall not be deemed to be exclusive remedies for a breach of this Agreement but shall be in addition to all other remedies available at law or equity.

#### **8. Tenure and Termination**

8.1. This Agreement shall remain in effect for a period of 2 years from the Effective Date.

8.2. This Agreement may be terminated by either Party giving notice to the other of its desire to terminate this Agreement. The requirement to protect Confidential

Information disclosed under this Agreement shall survive termination of this Agreement.

**9. Notice**

9.1. All notices given under this Agreement must be in writing. A notice is effective upon receipt and shall be sent one of the following methods: delivery in person, overnight courier service, certified or registered mail, postage prepaid, return receipt requested, addressed to the party to be notified at the below address;

**Disclosing Party**

Name: \_\_\_\_\_

Representative name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

**Receiving Party**

Name: Mr. Nilesh Shah

Representative name: Accely Consulting India Private Limited

Title: CEO

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

**10. Amendment.**

10.1. This Agreement may be amended or modified only by a written agreement signed by both of the parties.

**11. Jurisdiction.**

11.1. This Agreement will be governed by and construed in accordance with the laws of the Mumbai, without regard to the principles of conflict of laws. This Agreement shall be governed by and construed in accordance with the laws of India and the parties hereby submit to the non-exclusive jurisdiction of the courts of Mumbai.

## 12. Miscellaneous

12.1. This Agreement will inure to the benefit of and be binding on the respective successors and permitted assigns of the parties. Neither party may assign its rights or delegate its duties under this Agreement without the other party's prior written consent. In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable in whole or in part, the remaining provisions shall not be affected and shall continue to be valid, legal and enforceable as though the invalid, illegal or unenforceable parts had not been included in this Agreement. Neither party will be charged with any waiver of any provision of this Agreement, unless such waiver is evidenced by a writing signed by the party and any such waiver will be limited to the terms of such writing.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective date.

Company Name: Accely Consulting  
India Private Limited

Company Name: - \_\_\_\_\_

Name:

Name: Nilesh Shah

Title:

Title: CEO

Date:

Date: