

**SHAREHOLDERS AGREEMENT
&
SHARE SUBSCRIPTION AGREEMENT**

This SHAREHOLDERS AGREEMENT & SHARE SUBSCRIPTION Agreement (“**Agreement**”) is made on this day of, at Dhanbad, Jharkhand by and between:

- (1)a private limited company incorporated under the provisions of the Companies Act, 1956/2013(hereinafter referred to as the “**Incubatee**” which expression shall unless repugnant to the context be deemed to include its successors and permitted assigns”)and having its registered office atIN of the **FIRST PART**;

AND

- (2) **THE PERSONS LISTED IN ANNEXURE A**(hereinafter referred to collectively as the “**Promoters**” and individually as “**Promoter**”, which expression shall mean and include such Person’s successors, legal heirs, executors, administrators and permitted assigns) of the **SECOND PART**;

AND

- (3) **CIIE IIT (ISM) DHANBAD** represented by officer in charge Prof. Niladri Das (Associate Dean -IE & Head –CIIE (hereinafter referred to as the “**Incubator**” or “**CIIE IIT ISM**”, which expression shall mean and include such Person’s successors, legal heirs, executors, administrators and permitted assigns) having its registered office at CIIE, Indian Institute of Technology (ISM) Dhanbad, Jharkhand – 826004, (India) of the **THIRD PART**.

The Incubatee, Promoter(s) and the Incubator shall hereinafter be individually referred to as a “**Party**” and collectively as the “**Parties**”

WHEREAS:

- (A) The Incubatee is engaged in the business of technical & operational advisor consultants (“**Business**”).
- (B) The Incubator is an start up incubation program operating under the administrative approval of The Ministry of Electronics and Information Technology, Government of India, set up at CIIE IIT (ISM) Dhanbad, for the purpose of facilitating the creation of new enterprises focused on Electronics System Design and Manufacturing (ESDM)and Medical Electronics by means of providing entrepreneurs access to infrastructure that facilities prototyping and testing of electronic hardware in a cost effective and sophisticated manner, techno-business mentorship to prune and refine the idea from concept board level to an organizational set up and financial support subject to policies and guidelines of Incubator. The objective of the Incubator is to support said start ups in developing a minimum viable product from a proof of concept, improving and finalizing their product before market launch and subsequently starting commercial operations by engaging with paying customers.

- (C) The Incubatee's current authorised share capital is comprising of Equity Shares of face value of each. The Incubatee's current paid-up share capital is, comprising of Equity Shares of face value ofeach.
- (D) The current shareholding pattern of the Incubatee prior to the first Closing is as set out in **Annexure B** to this Agreement.
- (E) The Incubatee approached CIIE IIT (ISM) Dhanbad for getting admitted into CIIE IIT (ISM) Dhanbad for Incubation and the parties are desirous of entering into this Agreement in fulfilment of the terms of the Incubation Agreement entered between Incubatee and CIIE IIT (ISM) Dhanbad as well as with regard to shareholding of CIIE IIT (ISM) Dhanbad in the Incubatee and other matters in connection therewith.
- (F) The terms and conditions under which access to Incubation Amenities are provided by CIIE IIT (ISM) Dhanbad to Incubatee and other matters in connection therewith are detailed in the Incubation Agreement ("**Incubation Agreement**") and will be governed by the same.

IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

In this Agreement, the defined words and expressions (including in the recitals hereof), unless the context otherwise requires, shall have the following meanings:

- 1) "**Act**" shall mean the Companies Act, 2013 with all the rules and regulations in force and the Companies Act, 1956 to the extent it is still in force;
- 2) "**Affiliate**" shall mean any Person that, directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with a Party and shall include a subsidiary or a holding company of such Person, and, in case of a Party being a natural person, the Relative of such Party;
- 3) "**Agreement**" shall mean this Agreement and the Annexure thereof;
- 4) "**Applicable Law**" shall mean any applicable national, provincial, local or other law, regulations, administrative orders, ordinance, constitution, decree, principles of common law, binding governmental policies, statute or treaty, and shall include notifications, guidelines, policies, directions, directive and orders of any government authority;
- 5) "**Articles**" means the Articles of Association of the Incubatee as may be amended from time to time;
- 6) "**Board**" or "Board of Directors" means the Board of Directors of the Incubatee as constituted from time to time;

- 7) **“Business Day”** shall mean a day, on which banks are generally open for normal business in Dhanbad, not being a Saturday or a Sunday or which is not a public holiday in India;
- 8) **“Claims”** shall mean all actions, suits, proceedings or arbitrations pending or threatened, at law, in equity or before any governmental authority or competent tribunal or court;
- 9) **“Closing”** shall mean payment of the relevant tranche for the subscription amount, by CIIE IIT (ISM) Dhanbad and simultaneous allotment and issue of the relevant tranche of shares to the CIIE IIT (ISM) Dhanbad by the Incubatee as per the terms of Incubation Agreement and Agreement
- 10) **“Closing Date”** means the date on which a Closing takes place;
- 11) **“Competitor”** means a Person providing solutions to the same problems serviced by Incubatee through its Business using a similar technology.
- 12) **“Confidential Information”** shall mean, with respect to each Party, information relating to the business, customers, suppliers, services, products, affairs, performance, marketing plans and finances, which for time being is confidential to it or treated by it as such and trade secrets (including technical data and know-how);
- 13) **“Control”** shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities or by contract, and includes
 - (a) Ownership directly or indirectly of more than 50% (Fifty Percent) of the shares in issue or other equity interests of such person, or
 - (b) Possession directly or indirectly of more than 50% (Fifty Percent) of the voting power of such person. The expressions ‘Controls’, ‘Controlling’ and ‘Controlled’ shall be construed accordingly;
- 14) **“Director”** shall mean each member of the Board of Directors of the Incubatee;
- 15) **“Employees”** shall mean individuals who are the permanent employees of the Incubatee;
- 16) **“Employment Agreements”** shall mean the agreements entered into between the Promoters and the Incubatee in relation to their obligation to work with the Incubatee;
- 17) **“Equity Shares”** shall mean equity shares in the issued, subscribed and paid up share capital of the Incubatee having a face value of Rs 10/- each or any other issued security of the Incubatee that is reclassified, reorganised, reconstituted or converted into Equity Shares;
- 18) **“Force Majeure Event”** shall mean, in relation to a Party, any act, event or circumstance beyond the reasonable control of that Party which affects its performance of its obligations under this Agreement including, but not limited to fire, flood, explosion, war, riots, acts of government authorities, acts of terrorism, or any events or circumstance analogous to the foregoing;

- 19) **“Fully Diluted Share Capital”** or **“Fully Diluted Basis”** shall mean the aggregate of the existing paid-up Equity Share capital of the Incubatee and shall assume for such computation that all outstanding convertible securities (whether or not by their terms then currently convertible, exercisable or exchangeable) stock options, warrants, including but not limited to any outstanding commitments to issue shares at a future date, have been so converted, exercised or exchanged;
- 20) **“Intellectual Property Rights”** shall mean all rights intangible in nature including copyright, patents, knowhow, Confidential Information, database rights, rights in trademarks and designs (whether registered or unregistered), applications for registration of any of the foregoing and the right to apply for registration, and all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world.
- 21) **“Investment”** shall mean the transaction as contemplated by this Agreement whereby the Incubator shall be allotted Incubator Shares in consideration of seed fund provided as an Investment as per the terms of Incubation Agreement;
- 22) **“Incubator Shares”** shall mean 4500 (3 % of Existing 1,50,000 Equity Shares) equity shares of face value of 10 rupees each, to be subscribed to by the Incubator in accordance with this Agreement and having the terms and conditions set forth in Annexure E. A reference to the Incubator Shares shall include a reference to the Equity Shares resulting from the conversion of the Incubator Shares, if the context so requires;
- 23) **“Incubation Agreement”** shall mean the Incubation agreement entered into between Incubatee and CIIE IIT (ISM) Dhanbad with effective date as together with its Schedules, as they may be amended, modified and/or supplemented from time to time in writing in accordance with the terms and conditions thereof;
- 24) **“MOA”** shall mean the Memorandum of Association of the Incubatee as may be amended from time to time.
- 25) **“Performance Milestone”** shall mean the completion of tasks and goals agreed by the Incubatee as part of their business plan as confirmed by the mentor assigned by CIIE IIT (ISM) Dhanbad (“Anchor Mentor”) to review and recommend the progress of Incubatee and approved by Project Evaluation Team (“PET”).
- 26) **“Person(s)”** means any natural or juridical person or any body of persons corporate or incorporate;
- 27) **“Relative”** shall have the meaning assigned to it under the Act;
- 28) **“Shareholders”** shall mean a shareholder of the Incubatee from time to time;
- 29) **“Shares”** shall mean collectively, the Equity Shares, the preference shares and such other shares of the Incubatee, or any of them as appropriate;

- 30) **“Transfer”** shall mean to directly or indirectly, sell, gift, give, assign, transfer, transfer of any interest in trust, mortgage, alienate, hypothecate, pledge, Encumber, grant a security interest in, amalgamate, merge or suffer to exist (whether by operation of law or otherwise) any Encumbrance on, any Shares or any right, title or interest therein or otherwise dispose of in any manner whatsoever voluntarily or involuntarily including, without limitation, any attachment, assignment for the benefit of creditors against the Incubatee or appointment of a custodian, liquidator or receiver of any of its properties, business or undertaking and **“Transferee”** means the Person to whom a Transfer is made.
- 31) **“Approval Notice”** shall mean a period of 20 working days during which the approving party, mostly CIIE IIT (ISM) Dhanbad, must accept or deny approval, consent or permission. If beyond these 20 working days there is no response, the Parties shall mutually agree on the date by which an approval or denial as applicable can be provided. However, the extension must not exceed more than a total of 45 working days.
- 32) **“Potential Investor”** shall mean a person, group of people or a firm/company/organization/institution like a Venture Capital firm, Angel Investment firm or Private Equity firm that would be interested in investing in the Incubatee.
- 33) **Interpretation:** In this Agreement:
- a) Headings are used for convenience only and shall not affect the interpretation of Agreement.
 - b) Unless the context specifies otherwise, reference to the singular includes a reference to the plural and vice versa, and reference to any gender includes a reference to all other gender.
 - c) Unless the context specifies otherwise, reference to an individual shall include his personal representative, successors or legal heirs, executors and administrator.
 - d) Unless specifically defined or the context specifies otherwise, words and expressions used shall have the same meaning as defined in the Act.
 - e) Unless specified otherwise, any statutes referred in this Agreement refer to relevant statutes of India.
 - f) Reference to statutory provisions shall be construed as meaning and including references also to any amendment or re-enactment (whether before or after the date of this Agreement), for the time being in force, all statutory instruments or orders made pursuant to a statutory provisions and any statutory provisions of which these statutory provisions are a consolidation, re-enactment or modification.
 - g) In addition to the terms defined under clause 1 and certain other terms are defined elsewhere in this Agreement and whenever such terms are used in this Agreement they shall have their respective defined meanings, unless the context expressly or by necessary implication otherwise requires. Provided that in the absence of a definition being provided for a term, word or phrase used in this Agreement, meaning assigned to such term, word or phrase in the Incubation Agreement shall be used and in the absence of a definition being provided for a term, word or phrase, no meaning shall be assigned to such term, word, phrase which derogates or detracts from, in any way, the intent of this Agreement.

2. SHARE ISSUANCE

- 2.1. CIIE IIT (ISM) Dhanbad agrees to subscribe to, and the Incubatee hereby agrees to allot and issue to the Incubator the Incubatee Shares, free from all third-party interests and Encumbrances, in the manner as described below.
 - 2.1.1. Incubatee shall, on first Closing Date allot and issue to the Incubator share certificates in respect of 3% equity shares and the Incubator agrees to subscribe to the same subject to the terms and conditions of the Incubation Agreement and this Agreement
 - 2.1.2. The CIIE IIT (ISM) shall pay the par value (Rs.10 Per Share) of shares to the Incubatee for the shares being transferred to them on the first Closing Date
 - 2.1.3. Incubatee shall, on the date of release of an approved tranche of fund from Incubator as Investment (“Investment Closing Date”), allot and issue to the Incubator share certificates and the Incubator agrees to subscribe to the same subject to the terms and conditions of the this Agreement and the Investment Agreement that will be entered into the Parties for such an investment.

3 CONDITIONS PRECEDENT TO CLOSING

- 3.1 The Incubator shall subscribe to first tranche of Incubator Shares only upon completion of the action items outlined in Annexure D (“Due Diligence”), to the satisfaction of the Incubator.
- 3.2 The Incubator may in its absolute discretion waive in whole or in part, any or all of the Due Diligence, upon a written request from the Incubatee, or the Promoters, as the case may be.
- 3.3 If any of the action items in Due Diligence is not satisfied, or waived by the Incubator upon a written request by the Incubatee or the Promoter as stipulated in the above Clause 3.2, within 60 (Sixty) days from the Effective Date (or such later date as may be mutually agreed between the Parties) (“Long Stop Date”), then the Incubator shall have the right to either terminate this Agreement, or extend the time period for fulfilment of Due Diligence, for such other measure as the Incubator deems fit. The Agreement shall stand terminated forthwith upon delivery of the notice of termination by the Incubator (“Termination Notice”).
- 3.4 Immediately upon satisfaction of all the Due Diligence action items, the Incubatee and the Promoters shall inform the Incubator, in writing, the completion of all the Due Diligence.
- 3.5 The Incubator shall subscribe to second and subsequent tranche of Incubator Shares only upon CIIE IIT (ISM) Dhanbad providing fund to Incubatee as Investment, from Seed Money or from other funds CIIE IIT (ISM) Dhanbad may have for such purpose, and will be as per terms of the Investment Agreement applicable to those tranches.

4 CLOSING AND CONDITIONS SUBSEQUENT TO CLOSING

- 4.1 Each Closing shall take place at the place as the Parties may agree and on the dates as per the terms of this Agreement. The first Closing Date for the purposes of this Agreement shall be as per clause 2.1.1, subject to prior completion of Due Diligence. If Due Diligence is not completed and informed to Incubator before this date, the Closing will be on a day within 5(Five) days from the date on which the Due Diligence completion is notified in writing to CIIE IIT (ISM) Dhanbad by Incubatee, or such other later date as the Parties may mutually agree to in writing.
- 4.2 On first Closing Date, the Incubator shall remit <par value of the transferred shares> to the Incubatee towards the subscription of the corresponding tranche of Shares.
- 4.3 On each Investment Closing Date, the Incubator shall remit the respective tranche of investment to the Incubatee towards the subscription of the corresponding tranche of Shares.
- 4.4 Investment Amount shall be remitted by the Incubator, in the bank account designated by the Incubatee for this purpose (“**Incubatee Bank Account**”) as stipulated in **Annexure F**. The Incubatee represents, warrants, and declares that the Incubatee Bank Account is a no-lien and non-interest-bearing account.
- 4.5 On the first Closing Date, the Incubatee shall convene a Board meeting, at which the Incubatee and the Promoters shall cause the Incubatee to: (a) allot and issue the Incubator Shares to the Incubator as per the terms of this Agreement; and (c) convene an extraordinary general meeting at short notice (“**Closing Board Resolutions**”).
- 4.6 On the first Closing Date, the Incubatee shall deliver to the Incubator:
- a) Duly stamped share certificates representing the first tranche of Shares to be allotted to CIIE IIT (ISM) Dhanbad subject to the terms of this Agreement;
 - b) A certified true copy of the extract of the ‘Register of Members’ of the Incubatee evidencing the Incubator as shareholder of the Incubatee company;
 - c) Certified true copies of the Closing Board Resolutions and Closing Shareholder Resolutions.
- 4.7 If first Closing does not occur as per the terms of this Agreement due to any act or omission of the Incubatee, or the Promoters, as the case maybe, which leads to non-fulfilment of the conditions stipulated under Clauses 3 and/or 4 then this Agreement may be terminated by the Incubator by delivering the Termination Notice, and subsequently the Incubatee shall refund the first tranche of Investment Amount to the Incubator.
- 4.8 The Incubatee shall within 5(Five) Business Days from the relevant Closing Date (as applicable) initiate the filing of the following documents and complete the same within 15 (fifteen) business days from the relevant Closing Date (as applicable), or within the period prescribed by Applicable Law, whichever is earlier:

- a) File with the jurisdictional Registrar of Companies (“**ROC**”), the relevant forms under the Act, in connection with the issuance and allotment of the relevant tranche of the Incubator Shares to the Incubator;
- b) File with the jurisdictional ROC, the relevant forms under the Act, in connection with the amendments made to the MOA and Articles of the Incubatee; and
- c) File such other requisite form(s) pursuant to increase and reclassification (if applicable) in authorized share capital of the Incubatee.
- d) Perform other relevant actions as prescribed by the Applicable Law

4.9 Within 15 (Fifteen) business days from the relevant Closing Date (as applicable), the Incubatee shall deliver to the Incubator:

- a) Certified true copies of the relevant forms duly filed with the jurisdictional ROC and the receipts in respect of issuance and allotment of the relevant tranche of the Incubator Shares;
- b) Certified true copies of the relevant forms duly filed with the jurisdictional ROC and the receipts in respect of forms pursuant to the amendments made to the MOA and Articles of the Incubatee; and
- c) Certified true copies of the relevant forms duly filed with the jurisdictional ROC and receipts in respect of forms pursuant to increase and reclassification (if applicable) in authorized share capital of the Incubatee.

4.10 Provided that, in the event of any regulatory delays which the Incubatee faces in undertaking the filing requirements as stated under Clauses 4.8 and 4.9, the timelines stated above shall be reasonably extended for the period of such regulatory delay, with respect to the specific filing concerned. Provided however, that the Incubatee shall, provide the Incubator with certified true copies of the relevant forms/filings, within 2 (Two) Business Days of the cessation of any such regulatory delay.

4.11 The Incubatee shall furnish to the Incubator, a printed copy of the amended MOA and Articles of the Incubatee, pursuant to Closing 1, within 2 (Two) Business Days of filing the same with the jurisdictional ROC.

4.12 Subsequently for each Closing, the Parties shall be required to conduct Closing in accordance with the same procedure with respect to the remittance of subsequent tranches of Investment Amount and issue of corresponding Tranches of Incubator Shares as per this Clause 4, as applicable.

4.13 The Incubatee agrees to fulfil all obligations under applicable law for Share issuance, Share subscription and related matters, irrespective of its mention in this Agreement.

5 REPRESENTATIONS AND WARRANTIES

5.1 Each Party represents to the other Parties hereto that:

- a) Such Party has the authority and capacity to enter into, execute and deliver this Agreement and to perform its obligations and the transactions contemplated hereby and, if such Party is not a natural

Person, such Party is duly incorporated or organized with limited liability and validly existing under the Applicable Laws of the jurisdiction of its incorporation or organization, having full corporate power and authority to enter into and perform its obligations under this Agreement; and

- b) The execution and delivery by such Party of this Agreement and the performance by such Party of its obligations and the transactions contemplated hereunder have been duly authorised by all necessary corporate or other action of such Party.
- c) Each Party hereby acknowledges that the other Party(ies) has entered into this Agreement in reliance of the representations and warranties made hereunder. Further, each Party hereby agrees and acknowledges that all the statements made as representations and warranties hereto are true and accurate as on the Effective Date and Closing Date.
- d) There shall be no presumption of knowledge imputed to the Incubator and the Incubator shall be entitled to completely rely on the representations and warranties, made by the Incubatee and the Promoters.

6 PRE-EMPTION RIGHTS

- 6.1 Subject to the terms and conditions of this Agreement, the Incubatee may raise funds by way of a fresh issue of Shares (“**Fresh Issue**”) to any Person (hereinafter referred to as “**Third Party Subscriber**”). The Incubator shall have the first right, but not the obligation to subscribe to the entire Fresh Issue envisaged by the Incubatee, or such portion of the Fresh Issue as per the sole discretion of the Incubator.
- 6.2 The Incubatee shall offer such Fresh Issue to the Incubator by delivery of a written notice (“**Offer Letter**”). Such offer by the Incubatee shall be on the same terms and conditions as offered in the term sheet to the Third Party Subscriber.
- 6.3 The Incubator must confirm its intention to subscribe to the whole or part of the Fresh Issue (“**Acceptance Letter**”) within Approval Notice from the date of delivery of the Offer Letter (“**Offer Period**”). In the event the Incubator wishes to subscribe to the entire Fresh Issue, the Incubatee shall issue and allot the entire Fresh Issue to the Incubator upon receiving consideration for the same.
- 6.4 In the event the Incubator does not expressly accept the offer set out in the Offer Letter or partly subscribes to the Shares offered in the Fresh Issue, then, to the extent there are unsubscribed Shares from the Fresh Issue, the Incubatee may within 30 (Thirty) working days of the expiry of the Offer Period, proceed with the Fresh Issue to the Third Party Subscriber in its entirety; or proceed with the Fresh Issue to the Third Party Subscriber to the extent of the unsubscribed portion along with the issue of the accepted Shares to the Incubator in the manner set out in Clause 6.3 hereinabove.
- 6.5 The Third Party Subscriber shall sign a deed of adherence to this Agreement in a format acceptable to all Parties. This deed of adherence shall specify the rights and obligations to which such Third Party Subscriber shall be entitled to.

7 PROMOTER LOCK-IN

7.1 The Promoter(s) acknowledge and agree that none of the Promoter(s) shall, without the prior written consent of the Incubator, which the Incubator must provide or deny within Approval Notice, Transfer any of the Shares held by them in the Incubatee for the entire period of validity of this agreement (such period being hereinafter referred to as the “**Promoter Lock In**”).

8 RIGHT OF FIRST REFUSAL

8.1 Subject to the lock-in provisions in Clause 7 above, in the event any of the Promoters or Incubator intends to Transfer their Shares held in the Incubatee (“**Transferring Party**”) to any third party transferee (“**Prospective Transferee**”), the Transferring Party shall send a written notice (“**Transfer Notice**”) to the non-selling Shareholders (“**Non-Transferring Parties**”), containing details of:

- a) the total number of shares to be transferred (“**Transfer Shares**”);
- b) the price per share and form of the proposed consideration for the Transfer (“**Transfer Price**”); and
- c) other terms and conditions of the proposed Transfer including the identity and details of the Prospective Transferee.

8.2 The Non-Transferring Parties shall have the right of first refusal to purchase the Transfer Shares at the Transfer Price within a period of 30 (Thirty) days from the receipt of the Transfer Notice (“**First Refusal Period**”).

8.3 If the Non-Transferring Parties wish to exercise their right of first refusal, the Non-Transferring Parties shall issue an acceptance notice to the Transferring Party within the First Refusal Period or within a period of 30 (Thirty) days from the date of receipt of all applicable regulatory approvals in accordance with Applicable Law, whichever is later.

8.4 If all the Non-Transferring Parties are desirous of purchasing the Transfer Shares, the Transfer Shares shall be sold to the Non-Transferring Parties in proportion to their shareholding percentage in the Incubatee at the time of the Transfer. If any of the Non-Transferring Parties are not desirous of purchasing the Transfer Shares, the other Non-Transferring Parties shall be entitled to purchase all of the Transfer Shares not taken up by such Non-Transferring Parties.

8.5 In the event the Non-Transferring Parties fail to or decline to exercise their right of first refusal within the First Refusal Period, the Transferring Party may Transfer the Transfer Shares to the Prospective Transferee within a period of 30 (Thirty) days, from the expiry of the First Refusal Period, on the same terms and conditions as set forth in the Transfer Notice, provided that the Prospective Transferee agrees to abide by the terms and conditions contained in this Agreement, the Articles of the Incubatee and executes a deed of adherence in a form and manner acceptable to the Incubator. If the Transferring Party does not complete its Transfer as aforesaid, the process set out in this Clause shall be followed for any future Transfers.

8.6 Every such action shall be recorded and registered/ informed to the competent authorities/ Government body as competent in the eye of law time being in force.

9 TAG-ALONG RIGHT

- 9.1 Subject to the lock-in provisions in Clause 7 above, if at any time during the subsistence of this Agreement, the Promoter(s) or any other Shareholder (other than the Incubator) propose to sell a part of or their entire shareholding in the Incubatee (“**Offer Shares**”), through one or several transactions to a Prospective Transferee, and the Incubator has not exercised its right of first refusal as set out in Clause 8 above, the Incubator shall have the right, for the same consideration per Share and upon the same terms and conditions to be paid to the Promoter(s) and/or other Shareholders in a 1:1 proportion with respect to the number of percentage of Shareholding offered by the Transferring Party.
- 9.2 Within 30 (Thirty) days following the receipt of a Transfer Notice as specified in Clause 8.1 above, if CIIE IIT (ISM) Dhanbad elect to exercise their Tag-Along Right, they shall deliver a written notice of such election to the Promoter(s) (“**Tag Along Notice**”). For the sake of avoidance of doubt, it is hereby clarified that the Tag-Along Right can only be exercised by CIIE IIT (ISM) Dhanbad if it has declined in writing to purchase the Transfer Shares pursuant to Clause 8.1 above.
- 9.3 Such Tag-Along Notice shall specify the number of Shares CIIE IIT (ISM) Dhanbad is desirous of selling in exercise of its Tag-Along Right (“**Tag Shares**”).
- 9.4 The terms and conditions on which the Transferring Party shall be required to sell the Tag Shares to the Prospective Transferee shall not be less favourable than the terms and conditions under which the Transferring Party sells its Offer Shares to such Prospective Transferee.
- 9.5 Where CIIE IIT (ISM) Dhanbad has elected to exercise its Tag-Along Right and the Prospective Transferee fails to purchase the Tag Shares, the Transferring Party shall not Transfer any of the Offer Shares to the Prospective Transferee.
- 9.6 In the event CIIE IIT (ISM) Dhanbad does not issue a Tag Along Notice within the stipulated time, Transferring Party shall obtain a written consent from CIIE IIT (ISM) Dhanbad to proceed with the Transfer and the Transferring Party shall be entitled to sell all or part of the Offer Shares to the Prospective Transferee mentioned in the Transfer Notice on the same terms and conditions set out in the Transfer Notice. If completion of the sale and Transfer to the Prospective Transferee does not take place within 30 (Thirty) days from the date of the Transfer Notice, the Transferring Party’s right to sell the Offer Shares to the Prospective Transferee shall lapse and the provisions of this clause shall once again apply to the Offer Shares.
- 9.7 In the event of exercise of the Tag-Along Right by CIIE IIT (ISM) Dhanbad under this clause, the Transferring Party shall ensure that the Prospective Transferee purchases all the Tag Shares in priority to the Offer Shares.
- 9.8 For the sake of avoidance of doubt, it is hereby clarified that any Transfer of Shares by the CIIE IIT (ISM) Dhanbad shall not be subject to any Tag-Along Right.

9.9 That every transfer of share shall follow the fundamental principles of Contract act as well as of Share transfer law as mentioned under Company act, 2013 and amendment time to time.

10 INFORMATION AND INSPECTION RIGHTS

10.1 The Incubatee and the Promoter(s) agree that the Incubator shall be entitled to reasonable inspection and visitation rights which shall be applicable as long as the Incubator holds any Shares in the Incubatee.

10.2 The Promoter(s) shall cause the Incubatee to, and the Incubatee shall, deliver the following to the Incubator, for so long as such Incubator hold any Shares in the Incubatee:

- a) Unaudited quarterly financial statements within 30 (Thirty)calendar days from the end of the preceding quarter;
- b) Audited annual financial statements within 60 (Sixty) calendar days following the closure of the preceding financial year;
- c) Operating/business plan within 30 (Thirty) calendar days prior to the commencement of the following financial year; and
- d) Any such information as the Incubator may from time to time request, with regard to any material developments affecting the Incubatee's business.

10.3 So long as the Incubator holds Shares in the Incubatee, it shall have full access to, and right to make copies of all books of account and records of the Incubatee. Any information obtained by the Incubator through exercise of this right of access shall be used only for purposes, which are consistent with its status as a holder of such Shares and not for the pursuit of business interests outside that of the Incubatee.

11 NON-COMPETE AND NON-SOLICITATION

11.1 The Promoter(s) agree and undertake that so long as the Incubator are Shareholders in the Incubatee and the Promoter(s) are Employees of the Incubatee, and for a period of 2 (Two) years after the termination of their Employment Agreement with the Incubatee, ("**Non-Compete Period**"):

- a) The Promoter(s) shall not without the prior written consent of the Incubator, directly or indirectly, own, manage, operate, join, have an interest in, control or participate in the ownership, management, operation or control of, or be otherwise connected in any manner in such capacity as director, employee, consultant or agent of any corporation, partnership, proprietorship, trust, estate, association or other business entity which directly or indirectly engages anywhere in the world in a commercial activity identical or similar to, or one that competes with the Business of the Incubatee; and
- b) The Promoter(s) shall not in any manner provide or divulge any information of the Incubatee, including without limitation, any Intellectual Property, trade secrets, Confidential Information, or any information in any manner and form whatsoever for the purpose of and/or relating to the

rendering, selling, supplying, marketing or distributing of products or services constituting part of the Business including rendering any assistance for the purpose of improving, modifying, upgrading or making any betterment to any existing process, know-how, software methodology or technology whatsoever for the purpose of and/or relating to the manufacturing, selling, supplying, marketing or distributing of the same whether or not the same is patented or proprietary or otherwise.

11.2 The Promoter(s) agree that during the Non-Compete Period, they will not directly or indirectly:

- a) attempt in any manner to solicit from any client/customer, except on behalf of the Incubatee, business of the type carried on by the Incubatee or to persuade any Person, firm or entity which is a client/customer of the Incubatee to cease doing business or to reduce the amount of business which any such client/customer has customarily done or might propose doing with the Incubatee whether or not the relationship between the Incubatee and such client/customer was originally established in whole or in part through his or its efforts; and
- b) employ or attempt to employ or assist anyone else to employ any Person who is in the employment of the Incubatee, Incubator or other companies incubated at the Incubator at the time of the alleged prohibited conduct, or was in the employment of the Incubatee at any time during the preceding 12 (Twelve) months;

11.3 CIIE IIT (ISM) Dhanbad agree that it will not affiliate itself with any Competitor to the Incubatee for two years from the date of termination of Incubation Agreement

12 EXIT

12.1 The Parties agree that they will work together in good faith to ensure an exit for the Incubator before completion of 96 (Ninety Six) months from(date). The Incubatee and the Promoter(s) would work towards facilitating an exit for the Incubator through:

- a) Buy-back of the Incubator Shares at 2.5x (Two and a half) times of the book value (“**BV**”); or minimum 18% Internal Rate of Return (IRR) or at a fixed valuation of Rs 5 Lac, whichever is higher (“**Minimum Exit Price**”), by the Incubatee and/or the Promoter(s); or
- b) Finding a buyer for the Incubator Shares, at a price not less than Minimum Exit Price; or
- c) Provide exit to Incubator *via* a listing on the public market or through a trade sale, whichever is higher.

12.2 It is hereby clarified that the Incubator shall be provided an exit in accordance with this Clause 12, at the option of the Incubator, at any time prior to completion of 96 (Ninety Six) months from the 17th June, 2020. Further the Promoters hereby agree and undertake to negotiate all future rounds of financing for the Incubatee in such a manner which provides an early exit for CIIE IIT (ISM) Dhanbad, subject always to the requirement of the Minimum Exit Price.

13 TERMINATION

- 13.1 This Agreement may be terminated by the Incubator, if any action has been taken, any order has come into effect, or any law has been enacted, promulgated or issued or deemed applicable to the transactions contemplated by this Agreement, which would restrain, enjoin or otherwise prohibit or make illegal the consummation of the transactions contemplated hereby.
- 13.2 The Agreement may be forthwith terminated if any of the following events of default occurs or becomes attributable to a Party (“**Defaulting Party**”), by the remaining Parties (“**Non Defaulting Party**”), by sending a notice (which notice may be sent after expiry of the period specified below) to such effect in writing to the Defaulting Party:
- a) If the Defaulting Party commits any material breach or failure to observe or comply in material respect with any material term, covenant or obligation contained in this Agreement and which breach or failure has not been cured or remedied within 30 (Thirty) days of the receipt of written notice of such breach or failure from the Non Defaulting Party;
 - b) If the Defaulting Party, other than for the reason provided hereunder in below mentioned sub-clause (c) to this Clause, or its Affiliates (who/which holds Shares in the Incubatee) effects or permits or attempts to effect or permit Transfer of Shares or any part thereof held by it in the Incubatee, otherwise than permitted in this Agreement; or
 - c) If (i) a winding up or insolvency order is passed by a competent court against the Defaulting Party; or (ii) the creditors of the Defaulting Party have taken over all or substantial part of its assets, business or management, or (iii) any material or significant part of Defaulting Party’s undertaking, property or assets shall be expropriated or confiscated by action of a governmental agency, or (iv) the Shares held by the Defaulting Party are attached by a third party (whether creditor or not) as security for a debt of the Defaulting Party or otherwise.
- 13.3 Termination of the Agreement shall be without prejudice to all the rights and remedies under Applicable Law available to the Parties, including the right to seek, as an alternative to termination, specific performance of obligations under the Agreement or terminate the Agreement and seek Losses for the breach committed from any Party during the period prior to such termination.
- 13.4 The termination of this Agreement shall not relieve any Party of any obligation or liability accrued prior to the date of termination.

14 **Confidentiality**

- 14.1 Neither Party shall disclose any documentation, information or materials obtained from the other Party, whether marked (by way of example as, “confidential” or “proprietary information”) or unmarked (“Confidential Information”), to any Third Party whatsoever without the prior written consent of the other Party in which case the other Party may require the recipient to sign a non-disclosure agreement. Each Party may disclose Confidential Information on a strictly “need to know” basis to its employees. However, CIIE IIT (ISM) Dhanbad shall have the rights to provide the information related to Incubatee to Government departments/agencies or to other statutory bodies from time to time as part of its reporting or as requested by such department or agency.

15 MISCELLANEOUS

- 15.1 Force Majeure: No Party shall be liable to the other Parties for delay or failure to perform caused by a Force Majeure Event. The Party whose performance is affected by a Force Majeure Event shall promptly notify the other Parties of the existence and cessation of such Force Majeure Event. The Parties shall take all reasonable steps within their power to recommence performance of the Agreement following a Force Majeure Event after it expires or is no longer in effect.
- 15.2 Assignment: The Incubator shall be entitled to freely assign its rights and benefits (in full or in part) under this Agreement, to an Affiliate of the Incubator, the fund manager or a fund promoted, managed or advised by the Incubator.
- 15.3 Entire Agreement: This Agreement, the Schedules and recitals hereto and the Incubation Agreement (which are hereby expressly incorporated herein by reference) constitutes the entire understanding between the Parties with regard to the subjects hereof and shall supersede and extinguish any previous drafts, agreements or understandings between all or any of the Parties (whether oral or in written) relating to the subject matter herein.
- Governing Law and Jurisdiction: This Agreement shall be governed in all respects by the laws of India with amendment time to time. All dispute shall be exclusively subject to jurisdiction of Patna Civil Court or Registrar of Companies, Patna only But prior to preferring any dispute to Court. Parties shall make effort to resolve their dispute by way of laws laid down under the Arbitration and Conciliation Act, 1996.
- 15.4 Severability: The invalidity or unenforceability of any provision in this Agreement shall in no way affect the validity or enforceability of any other provision herein. In the event of the invalidity or unenforceability of any provision of this Agreement, the Parties will immediately negotiate in good faith to replace such a provision with another, which is not prohibited or unenforceable and has, as far as possible, the same legal and commercial effect as that which it replaces.
- 15.5 Intellectual Property Right: IP developed by the incubated company during the incubation should be owned by the incubate.
- 15.6 Amendments and Waiver: No modification or amendment to this Agreement and no waiver of any of the terms or conditions hereof shall be valid or binding unless made in writing and duly executed by all the Parties.
- 15.7 Notices: Unless otherwise provided herein, all notices or other communications to be given shall be made in writing and by letter (hand delivered with due acknowledgement or registered post) or email communication (followed by written notice by registered post) and shall be deemed to be duly given or made, in the case of personal delivery, when delivered, or, in the case of a letter, 5 (Five) calendar days after being deposited in the post (by registered post, with acknowledgment due), postage prepaid, to such Party at its address specified in the name clause herein above or at such other address as such Party may hereafter specify for such purposes to the other by notice in writing.

15.8 Counterparts: This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original but all of which together shall constitute one and the same instrument and any Party may execute this Agreement by signing any one or more of such originals or counterparts.

15.9 Survival: All the provisions in this Agreement, which by their nature are intended to survive termination of this Agreement hereof shall survive termination of this Agreement.

15.10 Liability : "Notwithstanding anything contrary contained herein the Incubatee and the Promoters shall indemnify and insulate IIT (ISM) Dhanbad, CIIE IIT (ISM) DHANBAD and its faculty/students or employees from any damage or loss or any civil criminal proceedings that may arise from the activities of the Incubatee".

IN WITNESS WHEREOF the Parties hereto have executed this Agreement on the date and the year first hereinabove written.

For and on behalf of Incubatee	For and on behalf of Promoter(s)	For and on behalf of Incubator
Signature: Name: Title: Director, Date:	Signature: Name: Title: Director, Date:	Signature: Name: Title: Associate Dean (I&E) & Head - CIIE IIT (ISM) DHANBAD Date:

ANNEXURE A

Promoter(s) Details List of founding members who holds equity in the company

S. No.	Name of Promoter	Son of	Address
1.			
2.			

ANNEXURE B

Shareholding Pattern of the Incubatee on a Fully Diluted Basis Prior to first Closing

<Shareholding to be described after each closing, based on the number of closing dates, annexure C. This may need amendment if the seed fund amounts in each tranche are not fixed>

S.No.	Name of Shareholder	Number of Equity Shares	Shareholding Percentage

Shareholding Pattern of the Incubatee on a Fully Diluted Basis Post first Closing

S. No.	Name of Shareholder	Number of Equity Shares	Shareholding Percentage

ANNEXURE D

Due Diligence Actions to Be Completed Prior to Closing

1. The Incubatee shall complete necessary amendments to the MOA and Articles as per the terms of this Agreement; The Incubatee shall convene an EGM and shall, at such meeting pass (a) a special resolution for approval of the amendments to the MOA and Article, to incorporate all the provisions of this Agreement in the form agreed to mutually between the Incubatee, Promoters and Incubator (“**Closing Shareholder Resolutions**”).
2. The Incubatee and the Promoters shall certify the shareholding pattern of the Incubatee prior to and post each of the Closing Date.
3. The Incubatee shall have completed all legal formalities in respect of a Rights Issue, specified in the Act, including (a) the delivery of Offer Letters to all the existing Shareholder(s) in the Incubatee, specifying the number of Shares offered to each of the existing Shareholder(s) of the Incubatee, and the terms of such offer; and (b) receipt of responses by the existing Shareholder(s) of the Incubatee to such Offer Letters, accepting/rejecting/renouncing such offer in favor of the Incubator.
4. The Incubatee and the Promoters shall have confirmed that they have undertaken the increase and re-classification of the authorized share capital of the Incubatee, so as to accommodate the issuance of Incubator Shares, and shall have filed the relevant forms under the Act in this regard, with the jurisdictional ROC.
5. The Incubator shall have conducted a legal, technical and financial due diligence to their satisfaction, and the Incubatee and the Promoters shall have resolved, to the reasonable satisfaction of the Incubator, any issues arising from such due diligence.
6. The Parties shall mutually agree on the form of the amended MOA and Articles.
7. The Incubatee shall have obtained all required governmental approvals, corporate, creditor, shareholder, Board, third party and other approvals, permissions, licenses, consents, registrations and authorizations required under Applicable Law or under any contract or otherwise, permitting it to enter into this Agreement and to render this Agreement legal, valid, binding and enforceable; and issue and allot the Incubator Shares to the Incubator.
8. The Promoters and employees shall have entered into Employment Agreements, with the Incubatee, in a form acceptable to the Incubator. The terms of the Employment Agreement shall *inter alia* include confidentiality, intellectual property, non-compete and non-solicitation clauses etc.
9. Incubatee shall have, prior to each “Investment Closing Date”, reported to the Incubator the completion of milestones with respect to the previous Investment along with utilisation certificate (“UC”) and obtained an approval for the next tranche of Investment from the project evaluation team (“PET”) of Incubator.

ANNEXURE E

Terms of Incubator Shares

These terms and conditions of the Incubator Shares shall be effective from the Closing Date:

1. DIVIDEND RIGHTS

- 1.1 The preferential dividend is cumulative and shall accrue from year to year whether or not paid, and accrued dividends shall be paid in full (together with dividends accrued from prior years) prior and in preference to any dividend or distribution payable upon shares of any other class or series in the same fiscal year.
- 1.2 In addition to and after payment of the preferential dividend as stated above, each Incubator Share would be entitled to participate *paripassu* in any cash or non-cash dividends paid to the holders of shares of Equity Shares on a *pro rata*, as-if-converted basis.

2. LIQUIDATION PREFERENCE

- 2.1 Upon the occurrence of a Liquidation Event at any time, the Incubator shall be entitled to receive from, amounts recovered as a consequence of such a Liquidation Event (“**Liquidation Amount**”), in preference to the other Shareholders of the Incubatee, the Incubator’s pro-rata share of the Liquidation Amount in the ratio of the Incubator’s shareholding in the Incubatee, along with all declared but unpaid dividends; or at Minimum Exit Price plus all declared / accrued but unpaid dividends; or at fair market value (“**FMV**”) of the Incubator Shares calculated by an accounting firm plus all declared / accrued but unpaid dividends; whichever is higher.
- 2.2 For the sake of clarity, it is specified that the Liquidation Preference of the Incubator under Para 2.1 above shall rank senior to the Promoter(s)’ rights and any other Shareholders’ rights on the occurrence of a Liquidation Event.

3. VOTING RIGHTS

- 3.1 The holders of the Incubator Shares shall be entitled to receive notice of and vote on all matters that are submitted to the vote of the Shareholders of the Incubatee (including the holders of Equity Shares). Each of the Promoter(s) and the Incubatee hereby acknowledge that the Incubator has agreed to subscribe to the Incubator Shares on the basis that the Incubator will be able to exercise voting rights on the Incubator Shares as if the same were converted into Equity Shares. Each Incubator Share shall entitle the holder to the number of votes equal to the number of whole or fractional Equity Shares into which such Incubator Shares could then be converted.

3. GENERAL

- 5.1. Certificate of Adjustment: In each case of an anti-dilution adjustment, the Incubatee shall cause any of its Directors to compute such adjustment or readjustment and prepare a certificate showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to the Incubator.

No Impairment: The Incubatee shall not avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Incubatee, but shall at all times in good faith assist in carrying out all such action as may be reasonably necessary or appropriate in order to protect the conversion rights of the Incubator against impairment.