**INCUBATION AGREEMENT**

**Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**AMONG**

**IIM LUCKNOW ENTERPRISE INCUBATION CENTRE,**

**IIM LUCKNOW NOIDA CAMPUS**

**AND**

**“\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”**

Contents

[1. INCUBATION AND MENTORING SUPPORT](#__RefHeading___Toc738_2298189576) 4

[2. INFRASTRUCTURAL SUPPORT](#__RefHeading___Toc740_2298189576) 5

[3. FINANCIAL SUPPORT](#__RefHeading___Toc742_2298189576) 5

[4. GENERAL TERMS OF INCUBATOR](#__RefHeading___Toc744_2298189576) 6

[5. INCUBATION COSTS](#__RefHeading___Toc746_2298189576) 6

[6. OBLIGATIONS OF THE INCUBATEES](#__RefHeading___Toc748_2298189576) 7

[7. MANAGEMENT AND INFORMATION RIGHTS](#__RefHeading___Toc750_2298189576) 8

[8. IPR](#__RefHeading___Toc752_2298189576) 8

[9. BOARD REPRESENTATION AND NO LIABILITY](#__RefHeading___Toc754_2298189576) 9

[10. NON-COMPETE AND NON-SOLICITATION](#__RefHeading___Toc756_2298189576) 10

[11. TRANSFER RESTRICTIONS](#__RefHeading___Toc758_2298189576) 11

[12. CONFIDENTIALITY](#__RefHeading___Toc760_2298189576) 11

[13. INDEMNIFICATION 1](#__RefHeading___Toc762_2298189576)1

[14. NO PARTNERSHIP 1](#__RefHeading___Toc764_2298189576)1

[15. AMENDMENTS 1](#__RefHeading___Toc766_2298189576)1

[16. TERM AND TERMINATION 1](#__RefHeading___Toc768_2298189576)1

[17. CONSEQUENCES OF TERMINATION 1](#__RefHeading___Toc770_2298189576)2

[18. NOTICE 1](#__RefHeading___Toc772_2298189576)2

[19. LEGALLY BINDING 1](#__RefHeading___Toc774_2298189576)2

[20. EXPENSES& STAMP DUTY 1](#__RefHeading___Toc776_2298189576)2

[20.1 Each Party hereto shall bear its own costs and disbursements of and incidental to the execution of this Agreement, including professional fees and costs of its respective advisors and counsel. 1](#__RefHeading___Toc778_2298189576)2

[20.2 Company shall bear and pay the stamp duty on this Agreement. 1](#__RefHeading___Toc780_2298189576)2

[21. WAIVER OR RESERVATION OF RIGHTS 1](#__RefHeading___Toc782_2298189576)2

[22. SEVERABILITY 1](#__RefHeading___Toc784_2298189576)3

23. EXIT.……………………………………………………………………………………....13

24. FORCE MAJEURE………………………………………………………………………..13

25.GOVERNING LAW……………………………………………………………………… 13

26. DISPUTE RESOLUTION, JURISDICTION……………………………………………...13

27. SCHEDULE A……………………………………………………………………………..15

28. SCHEDULE B……………………………………………………………………………..18

**INCUBATION AGREEMENT**

**THIS INCUBATION AGREEMENT** (hereinafter referred to as this **“Agreement”**) is made on this\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_ (“**Effective Date**”) at Noida, Uttar Pradesh.

**BY AND AMONG**

IIM Lucknow Enterprise Incubation Centre, having CIN U93030UP2013NPL056372, a Section 8 company incorporated under Companies Act 1956, having its registered office at B-1, Institutional Area, Block B, Industrial Area, Sector 62, Noida, Uttar Pradesh 201307 and also having Campus at B-1, Institutional Area, Block B, Industrial Area, Sector 62, Noida, Uttar Pradesh 201307, which is (hereinafter referred as **“IIML-EIC”** which expression shall, unless inconsistent with the context or meaning thereof, be deemed to include its successors and permitted assigns) of the **FIRST PART**;

**AND**

**[Mr.] \_\_\_\_\_\_\_\_\_\_\_\_\_\_ S/o \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ having PAN \_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the **“Founder 1**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include his legal heirs, executors, administrators and permitted assigns) of the **SECOND PART;**

**AND**

**[Mr.] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ S/o \_\_\_\_\_\_\_\_\_\_\_\_\_\_**  residing at S/o \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ having PAN \_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the **“Founder 2**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include his legal heirs, executors, administrators and permitted assigns) of the **THIRD PART**;

 **\_\_\_\_\_\_\_\_Company legal name\_\_\_\_\_\_\_\_\_\_** having CIN \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ having registered office at C/o \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the **“Company” or “Start-Up”**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include his legal heirs, executors, administrators and permitted assigns) of the **FOURTH PART**;

The Founder 1, and Founder 2 shall hereinafter be collectively referred to as **“Founders”** and individually as **“Founder”**

The Founder 1, and Founder 2 and Company shall hereinafter be collectively referred to as **“Incubatees”** and individually as **“Incubatee”**.

The IIML-EIC, Company and the Founders shall hereinafter be collectively referred to as “**Parties**” and individually as a “**Party**”.

**RECITALS**

1. **WHEREAS,** IIML-EIC is classified as Non-profit organization under Section 8, Companies Act 2013. Indian Institute of Management, Lucknow is the Host Institution of the IIML-EIC owing the Infrastructure being used by IIML-EIC apart from other required support services from time to time. It promotes entrepreneur development, startup incubation, and early-stage investment in the startups.
2. **WHEREAS,** the Company carries on the business activities of Information Technology (“Business”).
3. **WHEREAS,** The Founders are the promoters of the Start-Up.
4. **WHEREAS,** IIML-EIC is willing and has consented to incubate the novel technology and business ideas of the Start-Up into viable commercial products or services as per the terms of this Agreement.

**NOW THEREFORE IN CONSIDERATION OF THE PREMISES AND MUTUAL COVENANTS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:**

# **INCUBATION AND MENTORING SUPPORT**

1. The Company registered with IIML-EIC shall be provided incubation and mentoring support as per this Agreement and other terms as decided and deemed fit by the IIML-EIC from time to time.
2. The IIML-EIC shall endeavor and make efforts to provide to the Company following incubation and mentoring support through the expert mentors recommended and selected by IIML-EIC from to time to time depending upon the requirement of the Incubatee(s):-
3. **Business Mentoring:** Guidance by IIML-EIC expert mentors, angel investors, experienced & successful senior business and corporate sector executives and industry veterans on a broad range of topics, including the fundamentals of setting up a business, identifying suppliers, the appropriate location for the business, pricing of the product, marketing, developing effective business processes, etc.
4. **IPR Mentoring:** Guidance on intellectual property right strategy to be followed by the Company or Start-Up, in line with the larger strategy of the business model.
5. **Support services:** Assistance in connecting to lawyers, accountants, marketers, human resource specialists, intellectual property right agencies and other qualified practitioners in order to provide assistance in setting up the business and taking case of basic requirements. IIML-EIC will not be liable for either quality or cost or any other breakdown related to delivery of such services.
6. **Visibility:** Showcasing of IIML-EIC on Company’s website, marketing communication and promotional materials and other possible places; participation in events, seminars and conferences organized by IIML-EIC, IIML-EIC shall endeavor to increase the traction for the Company or Start-Up.
7. **Training & Development:** Access to training material on relevant issues like accounts, taxation for start-ups, understanding intellectual property, etc. IIML-EIC may also organize training events from time to time in order to help entrepreneurs tackle the challenges of starting-up and for the capacity development of the Start-Up.
8. **Monitoring and Review:** IIML-EIC may review and monitor the progress and growth of the Start-up/ business of the Company. Any suggestions or advice given by the IIML-EIC should be seriously considered by the Company.
9. Notwithstanding anything mentioned in Agreement, it is specifically understood by the Incubates that IIML-EIC’s role is that of a facilitator and platform provider for incubation, mentoring, acceleration, business support and/or investment by private and institutional investors and other entities and it will endeavor to deliver on the above objectives on a best efforts basis. How much value the Incubates derive from IIML-EIC and its connections and whether or not the Company gets any investment will depend on several factors including, but not limited to, the perseverance and application of the promoter/entrepreneur, strength of the idea and business and demonstrated capability to execute. Failure to learn or to attract investment on the part of the Company will not create any liability on IIML-EIC, its promoters, management team, operating team, office bearers, or those of any of its associate companies, business support partners, advisors or any other person or entity whom IIML-EIC might have called upon to help it achieve its objectives.

# **INFRASTRUCTURAL SUPPORT**

[[

* 1. IIML-EIC will provide access to working space and the following infrastructure support to the Incubatees for a period as may be determined by the IIML-EIC:
1. Co-Working Space
2. IoT & AI Lab facilities
3. Shared Conference Hall (depending on availability)
4. Discussion /Conference Room (depending on availability)
5. Standard Furniture etc.
6. Cabins, open fixed seats and floating seats
7. Electricity
8. Printing facility (on chargeable basis)
9. Internet and Wi-Fi connection
10. Land Line Phone usage (on chargeable basis)
11. Other support as IIML-EIC may deem fit
	1. Incubatees shall not claim above support as a matter of right, but the infrastructural support shall be provided to Incubatees on availability basis by the IIML-EIC. The IIML-EIC shall in no way be bound to provide above said support to the Incubatees. The Incubatees shall treat the premise with utmost care, and not do anything unprofessional, illegal or immoral that may disrupt the working culture, reduce or adversely affect the productivity of the said office or otherwise bring IIML-EIC to disrepute in any manner.
	2. Smoking and alcohol is prohibited in the Incubator’s facility.
	3. No Incubatee shall be permitted to use the premises or the address of the IIML-EIC for the registration of the Company.

# **FINANCIAL SUPPORT**

# IIML-EIC shall endeavour to connect and demonstrate the Company to the potential angel and institutional investors and support them in raising funds through the IIML-EIC’s funding programs based on committee recommendation, Investor Network or the outside Investors.

# The IIML-EIC may also invest / co-invest (but will not be under any obligation) to provide seed fund to the deserving Company, as may be selected and decided by the IIML-EIC. IIML EIC funding program investments takes place in form of equity funding based on committee recommendation post execution of incubation agreement. A separate agreement will be executed for the investment/ funding support made by IIML EIC.

# IIML EIC will make the necessary prior disclosure related to the investment amount. IIML EIC and the Incubatee after mutual consent will set the milestones to be achieved using the investment amount and the Company will be required to submit the utilisation certificate as per the approved milestones.

# IIML EIC does not commit any assured funding to the startups but acts as a facilitator for exploring funding options for the startups via inhouse and network support.

# **GENERAL TERMS OF INCUBATOR**

1. The Incubatees shall not do anything unpleasant obscene, illegal or immoral that may disrupt the decorum or working culture of the IIML-EIC to disrepute in any manner.
2. The Incubatees shall adhere to the timelines set up by the IIML-EIC.
3. IIML-EIC shall provide facilities of printing, scanning, photocopying, refreshments Document Scanner, Library: Management Books, Subscription to IT, Business, Management and Trade journals and newspapers, Meeting/Conference room with projection equipment, Tele or Video conferencing facilities etc. to the Incubatees on affordable chargeable basis.
4. The Incubatees shall observe the holidays as per the calendar of the IIML-EIC.

# **INCUBATION COSTS**

1. **Equity**-Subject to the terms of this Agreement, the Incubatee is required to provide, on a dilutable basis, liability free Equity Shares (fully paid up) **3% (Three Percentage)** of Paid up equity share capital of the company for the incubation and mentoring services as on signing date. The allotment of Equity Shares (Equity Compensation) are set in Schedule-B to this agreement:
2. **Incubation Infrastructure**- IIML EIC provides a hybrid mode of incubation i.e physical and virtual.
3. **Physical Incubation (Infrastructure)**

**5.3.1** IIML EIC shall provide physical incubation (infrastructure) facility support from time to time on need basis by the Incubatee. The Incubatee will intimate the requirement of number of seats at the time of execution of this agreement which may be increased or decreased as per mutual discussion.

**5.3.2** IIML EIC will charge a nominal amount of Rs.6,000/- per month per seat in cabin excluding all applicable taxes more particularly described in Schedule -A to this agreement for utilisation of infrastructure.

**5.3.3** In case of any damage to the infrastructure of IIML EIC, Incubatee shall be liable to pay the damage in actuals to the Incuabtor. A separate code of conduct is enclosed as Schedule C which needs to be signed by the founders in order to avail physical infrastructure facility.

**5.3.4** Unless mutually agreed upon otherwise and subject to the terms and conditions of this Agreement, monthly invoices will be issued by the Incubator 3 days in advance of the month in which Service is to be provided and are payable and/or settled, where undisputed, by the Incubatee within 7 days by wire transfer (national electronic funds transfer (NEFT)/real time gross settlement (RTGS)/cheque/demand draft as per the remittance instructions on the respective monthly invoice. On payments not received by the due date (“Delayed Payment(s)”), the Incubator will assess, until such time as payment in full is made, a late payment charge/penalty of the Delayed Payment in accordance with clause herein below.

**5.3.5** In addition to any other rights the Incubator may have under this Agreement, at law, in equity, under contract (including, without limitation, this Agreement) or otherwise (all of which are hereby expressly reserved), the Incubator may suspend provision of the Services and Facilities (if any) on a 15 days’ notice for the Incubatee’s failure to pay any due to the Incubator. The pending dues beyond 7 days from the date of the invoice will be subject to levy of interest @ 18% per annum till such time it has been paid by the incubatee. In case if the Incubatee does not receive the invoice as per Clause 5.1, it may email to the Incubator, requesting for the Invoice and/or any representative of the Incubatee shall visit Incubator’s office for collecting a copy of the Invoice.

# **OBLIGATIONS OF THE INCUBATEES**

The Incubatees shall abide by its obligation under this Agreement and comply with the following:

1. The Company shall pay the fee and issue/ transfer / allot equity shares to the IIML-EIC as per clause 5 within 7 days of signing this Agreement.
2. IIML-EIC shall have the right, but not the obligation, to appoint one Director on Board of the Company and a Board Observer during the tenure of incubation or till the time IIML-EIC holds any equity shares, whichever is later. The promoters of Incubatee shall appoint such nominated person as Director in the Company within 5 days after the nomination by the IIML-EIC.
3. The Incubatees shall abide by the timelines set up by the IIML-EIC and shall not violate any of the provisions of this Agreement.
4. In case of failure to pay the fee to IIML-EIC as per Clause 5, the Company shall be liable to pay a nominal interest as decided by IIML-EIC. In case the Company is unable to pay outstanding amounts (along with the interest) to the IIML-EIC, the IIML-EIC shall have the option to require the Company to issue equity shares equivalent to the amount outstanding in the name of IIML-EIC.
5. The Company shall provide a list of all its directors, founders, promoters or any other bonafide persons in the format as required by IIML-EIC. The Incubatees shall not use IIML-EIC name either directly or indirectly in their business dealings, either during the time when the facilities are availed or in the future business dealings unless written permission is obtained from IIML-EIC for using the name. The Company shall inform IIML-EIC in advance about change of its name or any other form of legal entity, any change in the incubation/business plans or any change in their ownership pattern or shareholding.
6. The Company shall furnish its annual financial reports like cash flow statement, balance sheet, MIS, and any other information and document as may be desired by IIML-EIC.
7. The Incubatees shall keep confidential, all the discussions, inputs and terms discussed during selection process or while in operation with IIML-EIC.
8. The Incubatees shall use the IIML-EIC premises only for the business as pre-disclosed by the Incubatee and permitted by the IIML-EIC. The Incubatee shall not use the premises for purpose of registered office address and/or statutory registrations.
9. The Incubatees shall keep the IIML-EIC and the common space provided neat or clean and to take proper care of the facilities provided during the term of occupation and at the time of leaving the Incubatee shall agree to pay for any damage of such facilities as determined by IIML-EIC.
10. The Incubatees shall observe that noise levels are kept at a minimum and no abnormal level of noise by equipment or employees or visitors should be made.
11. The Incubatees shall not takeout of IIML-EIC premises any equipment without the approval of the official authorised by IIML-EIC.

#  **MANAGEMENT AND INFORMATION RIGHTS**

1. So long as the IIML-EIC holds any share in the Company, the Company shall deliver to the IIML-EIC the following information:
	* 1. Audited annual financial statements within 6 months from the end of each financial year.
		2. Unaudited Quarterly (and year-to-date) financial statements including an income statement, a statement of cash flow and a balance sheet within 30 days from the end of each quarter
		3. Monthly profitability and cash flow statement within 15 days from end of each month
		4. Copy of board pack as circulated to the Directors of the Company
		5. Such other information as may specifically be asked by IIML-EIC which will be provided by the Incubatee within 15 days from the date of request made for such information or within such extended period as may be mutually agreed.
2. The Company shall intimate the IIML-EIC in writing, about any event at least 7 days prior to occurrence of such events.
3. The Company shall keep the IIML-EIC informed in writing about all material changes, information and events (including but not limited to any information related to future rounds of funding). If the Company fails to keep IIML-EIC informed about the material information, then the Company shall fully indemnify the IIML-EIC to its satisfaction against all losses, deficits, damages and claims in the manner as required by the IIML-EIC.

# **INTELLECTUAL PROPERTY RIGHTS**

# In case the Incubatees is desirous of using any Intellectual Property of IIML-EIC then the Incubatees shall make such request in writing to IIML-EIC and use the same only after the written consent from IIML-EIC.

# The Incubatees shall protect their Intellectual Properties as per the instructions or guidelines as instructed by IIML-EIC.

# Intellectual Property in any and all materials developed, devised, written or otherwise acquired by the Incubatees in the past or during the Incubation period shall vest exclusively in the Incubatees as the sole owner.

# The Incubatees shall be the true and legal owner of the Intellectual Property (ies), which are claimed or used by such Incubatee(s) and the same shall be free from all encumbrances.

# The parties shall neither infringe, copy, imitate alter or otherwise interfere nor shall have or claim any right or ownership or goodwill in any manner whatsoever with the trademarks, trade name, copyright, designs, colours, artistic works, labels or any other Intellectual Property Materials belonging to the other Party

# The parties shall have no rights or interests in any of the Intellectual Property Materials of the other party relating to the Product. Either Party shall promptly notify the other Party of any infringement or attempted infringement of such trademarks or other proprietary rights of which the other party has knowledge

# Either Party shall not use the name of the other party for media advertising, publicity or any document without the prior written consent of the other Party. Provided that, any such written consent, if provided by the other Party is deemed to have been withdrawn and shall stand withdrawn upon the termination of this Agreement.

# For the purpose of this Agreement:

**“Intellectual Property”** means and includes collectively or individually, the following worldwide rights relating to intangible property, whether or not filed, perfected, registered or recorded and whether now or hereafter existing, filed, issued or acquired: (a) patents, patent applications, patent disclosures, patent rights, including any and all continuations, continuations-in-part, divisions, re-issues, re-examinations, utility, model and design patents or any extensions thereof; (b) rights associated with works of authorship, including without limitation, copyrights, copyright applications, copyright registrations; (c) rights in trademarks, trademark registrations, and applications therefore, trade names, service marks, service names, logos, or trade dress; (d) rights relating to the protection of trade secrets and confidential information; and (e) internet domain names, Internet and World Wide Web (WWW) URLs or addresses; (f) mask work rights, mask work registrations and applications therefore; and (g) all other intellectual, information or proprietary rights anywhere in the world including rights of privacy and publicity, rights to publish information and content in any media.”

# **BOARD REPRESENTATION AND NO LIABILITY**

1. The IIML-EIC shall have the right, but not the obligation to nominate 1 (one) Director in the Board of Directors of the Company and 1 (one) Observer to the Board of meetings of the Company, if required, under following circumstances: -

9.1.1 To safeguard the interest of the founder/founders or on request of the founder/ founders in case of dispute among founders or any others reasons as deemed fit.

9.1.2 If any substantial adverse effect is being caused to IIML EIC such as breach of contract, misusing our brand name, etc in order to safeguard our identity and brand of IIML EIC.

9.1.3 Default or non-compliance of any legal and regulatory framework/ compliances.

In the event of any increase in the overall board composition, the number of Directors if nominated by the IIML-EIC shall proportionately increase.

1. Quorum for the meetings of Board of Directors would be the presence (either in person or through video conference) of at least 2 directors, including at least one director nominated by the IIML-EIC (if appointed by IIML-EIC).
2. Subject to the provisions of Applicable Laws, the Company expressly agree and undertake that neither the IIML-EIC nor the Director appointed by the IIML-EIC shall be liable for any applicable law, including but not limited to, defaults under the Companies Act, 2013 (or a like law) taxation and labor laws of India, since they are not responsible for the day to day management or affairs of the Company.
3. Subject to the provisions of Applicable Laws, the Company expressly agree and undertake that the Director appointed by IIML-EIC shall not be identified as an officer in default of the Incubatee, or occupies of any premises used by the incubate or employers under applicable laws. Further, the Company undertake to ensure that the other Directors or suitable persons are nominated as officers in default, occupies and /or employers, as the case may be, in order to ensure that the Director appointed by IIML-EIC do not incur any liability case may be, in order to ensure that the Director appointed by IIML-EIC do not incur any liability.

# **NON-COMPETE AND NON-SOLICITATION**

 So long as the IIML-EIC holds any Shares in the Company, the Founders shall not directly or indirectly through Third Parties:

1. disclose to any third party the names, backgrounds or qualifications of any employees of the Incubatee or otherwise identify them as potential candidates for employment.
2. solicit the clients of the Company and entice business away from the Company or any group companies/ affiliates;
3. use the services of or make any offers of employment or contract or sub-contract to the Company or an group companies/ affiliates staff or sub-contractors (whether individual or corporate), current or former employees;
4. engage in any business, directly or indirectly, that is in competition with the business of the Company or any group companies/ affiliates.

# **TRANSFER RESTRICTIONS**

As long as IIML-EIC holds any Shares in the Company, the Founders seek prior permission from IIML EIC before transferring equity share to any party. IIML EIC will not unreasonably hold this request.

# **CONFIDENTIALITY**

The IIML-EIC and Incubatee(s) shall keep confidential, the contents of the Incubation and mentoring support and other sensitive information exchanged or received during the incubation period. Both IIML-EIC and the Incuabtee(s) shall take all reasonable measures to protect the secrecy of and avoid disclosure or use of any confidential information of the other Party in order to prevent it from falling into the public domain or the possession of persons other than authorized by such Party.

# **REPRESENTATION, WARRANTIES AND INDEMNIFICATION**

# 13.1 Each Party represents to the other Parties hereto that:

# Such Party has the full power and authority 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 and validly existing under the Laws of the jurisdiction of its incorporation or organization, having full power and authority to enter into and perform its obligations under this Agreement.

# The execution and delivery by such Party of this Agreement and the performance by such Party of its obligations and the transactions contemplated hereunder has been duly authorized by all necessary corporate or other action of such Party.

# the execution and delivery of this Agreement by such Party and their promises, agreements or undertakings under this Agreement do not violate any law, rule, regulation or order applicable to such Party or violate or contravene the provisions of or constitute a default under any documents, contracts, agreements or any other instruments to which such Party is a party or which is applicable to such Party.

13.2 The Incubatees shall indemnify, defend and hold harmless the IIML-EIC its directors, partners, employees, agents and representatives (an “Indemnified Party”) from and against any and all damages, losses, liabilities, obligations, claims of any kind, interest, costs, taxes or expenses (including without limitation, reasonable attorney’s fees and expenses) suffered or incurred, directly (excluding any consequential losses) by any Indemnified Party as a result of any failure to perform or breach of any provision or term of this Agreement.

# **NO PARTNERSHIP**

Nothing in this Agreement shall create or deemed to have create a partnership between the IIML-EIC and the Company and none of them shall have the power or authority to enter any agreement on behalf of the other or otherwise.

# **AMENDMENTS**

This Agreement shall be subject to periodical review and amendments /modification by the IIML-EIC at its sole discretion without any prior notice or intimation to any person or entity, including but not limited to Incubatee(s). It will be the responsibility of the Company or Start-Up enrolled with IIML-EIC, to update themselves from time to time on amendments in Agreement and procedures. IIML-EIC reserves the rights to make an exception of all or any of the terms of Agreement for particular Company or Start-Up on a case to case basis more specifically making Indian Institute of Management, Lucknow as party to this Incubation Agreement being Host Institution of IIML-EIC subject to approval by its Board of Governors.

# **TERM AND TERMINATION**

1. This Agreement shall enter into force upon signature by the legal representatives (or in the case of the Incubator by the duly authorized representative) of both Parties on the Execution Date and shall continue in force until for a period of 2 (Two) year (“Incubation Period”), unless it is cancelled or otherwise terminated in accordance with clause 17
2. This Agreement may be renewed and the Incubation Period can be extended for a successive 1(one) year terms (each, a “Renewal Term”) by mutual written agreement of the Parties to this Agreement as addendum, executed not less than 2 (two) months prior to the expiration of the Incubation Period or any Renewal Term, as applicable, provided that the total Incubation Period or any Renewal Term shall not exceed two years unless agreed otherwise in exceptional circumstances
3. IIML-EIC shall have sole right and discretion to remove any Company from the IIML-EIC, which has either violated any rule or provision, set out by this Agreement or any other directives or rules of the IIML-EIC. The IIML-EIC may give 7 days’ notice before terminating any Company from the IIML-EIC. The decision of the IIML-EIC in this regard shall be final and binding upon Company. IIML-EIC shall not be under obligation to give any reason to Company for its removal from the IIML-EIC.

# **CONSEQUENCES OF TERMINATION**

 In the event of removal or termination of the Incubatee(s) from the IIML-EIC for any reason:

1. the Company shall immediately stop and refrain from using the IIML-EICs name, logo or any kind of intellectual property rights permitted by IIML-EIC;
2. the Company shall within 7 days of the removal or termination clear all the dues and outstanding amounts of the IIML-EIC.
3. the Company shall within 7 days of the removal or termination clear all its belonging and other items from the IIML-EIC.

# **NOTICE**

 Any notice or other document to be given under this Agreement shall be in writing and may be given to either of the Parties (as the case may be) by email as well as by first class post or other fast postal service at the addresses mentioned above in the Parties description.

# **LEGALLY BINDING**

 Unless otherwise indicated the obligations in this Agreement shall be legally binding. In the event of any dispute between the Incubatee(s) and the IIML-EIC, the IIML-EIC and Incubatee(s) shall use their best endeavors to resolve the dispute through amicable negotiations. If no settlement is reached. It shall be referred to the Governing Body of IIML-EIC, for arbitration, whose decision shall be viewed only as per the provisions of Clause 26.

# **EXPENSES& STAMP DUTY**

* 1. Each Party hereto shall bear its own costs and disbursements of and incidental to the execution of this Agreement, including professional fees and costs of its respective advisors and counsel.
	2. Company shall bear and pay the stamp duty on this Agreement.

# **WAIVER OR RESERVATION OF RIGHTS**

 No forbearance, indulgence or relaxation or inaction by any Party at any time to require performance of any of the provisions of this Agreement shall in any way affect, diminish or prejudice the right of such Party to require performance of that provision. Any waiver or acquiescence by any Party of any breach of any of the provisions of this Agreement shall not be construed as a waiver or acquiescence of any right under or arising out of this Agreement, or of the subsequent breach, or acquiescence to or recognition of rights other than as expressly stipulated in this Agreement.

# **SEVERABILITY**

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable law. Any invalid or unenforceable provision of this Agreement shall be replaced with a provision, which is valid and enforceable and most nearly reflects the original intent of the unenforceable provisions.

# **EXIT**

The Incubator shall be entitled to participate in any initial public offering undertaken by the Incubatee. Subject to the approval of the Incubatee, The Incubator shall have the right to exit from the Incubatee in any round of fund raising and equity investment undertaken by the Incubatee on the same terms or at such varied terms as agreed between the Parties. Alternatively, the Incubatee shall have the option to provide an exit for all the shares held by the Incubator in the Incubatee through a sale to a strategic or financial investor *or*buy-back the shares held by the Incubator at such price as mutually decided between the Parties and permissible under applicable Law, not exceeding the FMV as applicable at the time

**24. FORCE MAJEURE**

1. Neither Party shall be liable for any failure or delay on its part in performing its obligations under this Agreement if such failure or delay is due to Force Majeure conditions in whole or in part makes it impossible for the other party to perform its obligations under this Agreement;
2. The Party affected by such Force Majeure conditions shall forthwith notify the other Party of the nature and extent thereof and shall put in its best efforts to mitigate such condition. The performance of the obligations under this Agreement shall be suspended for the period during which the Force Majeure conditions continue. However, if the Force Majeure conditions prevail for a continuous period of fifteen (15) days, the Parties shall enter into bona fide discussion with a view of alleviating its effect on this Agreement by such alternative arrangement as may be fair and reasonable.

**25. GOVERNING LAW**

This Agreement shall be governed in all respects by the laws of the Republic of India.

**26. DISPUTE RESOLUTION, JURISDICTION**

1. If any dispute arises between the Parties during the subsistence of this Agreement or thereafter, in connection with the validity, interpretation, implementation or alleged breach of any provision of this Agreement or regarding a question, including the question as to whether the termination of this Agreement by any Party hereto has been legitimate, the Parties hereto shall endeavor to settle such dispute amicably.
2. In case of such failure, any of the Parties to the dispute shall be entitled to refer the dispute to a sole arbitrator, to be appointed mutually.
3. The Arbitration proceedings shall be governed by the Indian Arbitration Act, 1996. The place of arbitration shall be exclusively Noida and the cost of arbitration shall be shared equally by the parties. The arbitration proceedings shall be conducted in English and the arbitral award shall also be stated in English.
4. The Parties agree that the arbitration award shall be final and binding on the Parties.

In witness whereof parties hereto have signed this Incubation Agreement on the date and year mentioned hereinbefore.

|  |
| --- |
|  **For IIM Lucknow Enterprise Incubation Center** |

|  |  |  |
| --- | --- | --- |
| **Founder1**Name: Signature:\_\_\_\_\_\_\_\_\_\_ | **Founder 2**Name: Signature:\_\_\_\_\_\_\_\_\_\_ | **IIM LucknowEnterprise Incubation Centre**  Managing Director’s Signature |

**SCHEDULE – “A”**

**SPACE ALLOCATION POLICY**

At IIM Lucknow Enterprise Incubation Centre, we support and nurture the creative, innovative startups to scale up its operations by providing mentorship, capacity development, market access, and working space. We provide work space designed to actively support the growth start-ups in its early stage of development and most notably foster networking between incubated startup founders and others in entrepreneurial space. Incubated startups may avail physical facility at our incubation with respect to the following guidelines:

* + - 1. The Incubation space will be allocated either in the form of Individual seats or an Office Cabin accommodating normally 4-6 employees/seats per cabin. The maximum limit in rare cases may go upto 10 employees per Startup. A prior approval for allocation of 10 seats will be needed from the MD, who will approve after consultation with undersigned.
			2. The duration of space allocation agreement period would be 12 Months from the date of incubation agreement. However, the same may be extended for a maximum period of 12 Months basis availability of space and the approval from the Managing Director, IIML EIC. The MD will give this approval after consultation with undersigned.
			3. The chargeable amount with effect from 1st April’23 for physical facility at IIML Enterprise Incubation Centre is Rs. 6,000/- per seat per month for Cabin Space & Rs 3,000 for lobby area at first floor of IIML EIC office (plus taxes as applicable). IIML-EIC reserves the right to change the chargeable amount as and when needed. However, no change will be brought in on agreements already signed.

All the physically incubated startup needs to comply with the code of conduct as stipulated by IIML EIC & incorporated into the space agreement, failing to the aforesaid code of conduct results in the termination of the physical space; incubation agreement or both.

**CODE OF CONDUCT**

**FOR STARTUPS AVAILING PHYSICAL SPACE AT IIML EIC OFFCIE**

1. Code of Conduct: IIM Lucknow is an academic institution of repute. This reputation is built on its traditional academic processes and culture of academic excellence built over a period of time. Behavioural discipline and mutual respect and empathy between the faculty and students has been the corner stone of this culture.

2. The purpose of this code of conduct is to ensure that the environment supporting academic excellence be maintained on the campus. Since the Incubator physically is located in the premises of this academic campus, certain codes of behaviour become incumbent on all to ensure that the culture and environment supporting academic atmosphere is maintained. Founders and all the employees of the incubated/accelerated startups availing physical facility at IIML EIC will be required to maintain and implement the highest standards of personal conduct and discipline. The conduct guidelines are aligned to within the campus conduct which may be distinct from an open market office space.

3. Hence all Incubatees should strictly comply with IIML EIC Incubator Policies on behavior and physical activities while they are on campus. Non-adherence of the Code of Conduct shall be deemed misconduct by the incubated startup. Repeated violation more than twice will result in termination of the space agreement.

* + - * 1. Startup Founder and the team members are expected to utilize and avail the allocated space only. Startups are required to confine their movement to the space allocated to them.
				2. In addition to the space granted, no other area or facility of the campus like open spaces, Lobby area, near classrooms, playgrounds, nearby Faculty residence etc shall be used.
				3. Employees of Startups who use a personal vehicle to commute, will declare their vehicle details to the COO, IIML-EIC, who will after internal discussions and approval inform the Administration, IIM Lucknow. IIM Lucknow reserves the right to disallow ingress of non-registered vehicles whose details are not already declared and available with IIML-EIC.
				4. In a rare event, if any Incubated startup wishes to celebrate an event, they will need to seek prior approval of use of a space from the MD, who may then decide after discussing with undersigned. Post approval, small-gathering may happen at the designated place only. Other than the designated location, no other area shall be used to organize events or small gatherings. The IIML-EIC reserves the right to refuse such requests.
				5. Incubated startup shall not be allowed in on days that the Incubator is not working. The Incubator works 5 days per week plus odd Saturdays. The Incubator does not work on Gazetted Holidays and holidays and on 2nd & 4th Saturday and all Sundays. Incubated startups are not allowed into the campus on days when the IIML EIC is on holiday.
				6. Incubated startup can initiate the working hours as early as 8:30 am and must have a closure time at 6:30 pm. No startup is allowed to work from campus beyond the aforesaid timings.
				7. Incubated startup has to submit an undertaking upon the allocated incubation space. It includes the details of the startup, date of allocation of space & number of seats allocated.
				8. The incubated startup shall not use IIM Lucknow EIC address as their registered address. However, the same can be used as a communication address only.

4. The incubated startup shall share the list of employees with IIML-EIC in the Proforma shared with them at the time of signing the space allocation agreement and maintain the updated list of employees which should to intimated to IIML EIC team from time to time.

5. An addition / reduction made in the employees shall be informed to IIML-EIC within 03 days of such change.

6. The incubated startups who have occupied the seats shall have identity card for founders and employees, whose names are shared with IIML-EIC during their presence at IIM Lucknow (Noida campus).

7. The monthly rental charges mentioned in the letter shall be paid by 10th day of every month otherwise interest will be charged on daily basis @ Rs.100/-

8. The Use of canteen and the cost of food purchased will be as per the rules laid down by the IIM Lucknow, Noida Campus management.

9. The incubated startups are allowed to access the labs (IOT and AI) for the purpose of any technical use only with prior permission of the Chief Operating Officer- IIML-EIC / Managing Director- IIML-EIC.

10. The cabin, furniture and other facilities which are provided by IIML-EIC shall be used for official purpose only.

11. IIML-EIC will not be responsible for any of your belonging pertaining to you and your employees.

12. The behaviour of Startup Founders and its employees with IIM Lucknow officials including security personals should be absolutely professional at all times. Any misconduct may lead to strict action by IIML EIC authorities.

Acknowledgement By Startup Founder:

By my signature, I acknowledge that I have read, understand, and agree to the policies, code of conduct & expected behaviour while on campus during my physical incubation duration at IIM Lucknow Enterprise Incubation center.

Date:

Place:

Startup Founder’s Signature & Stamp

**SCHEDULE – “B”**

**Obligations of the Incubatee and its Founder for allotment of the Equity Shares (Equity Compensation)**

1. The Founders will transfer equity shares to the extent of **3%** of Equity on fully diluted basis by executing Form No. SH-4 - Securities Transfer Form Pursuant to section 56 of the Companies Act, 2013 and sub-rule (1) of rule 11 of the Companies (Share Capital and Debentures) Rules 2014 alongwith this agreement on the date of execution of this agreement.
2. The Board shall have passed appropriate resolutions for approving the Transfer of equity shares from Founders to the Incubator on submission of Form No. SH-4 - Securities Transfer Form to the company;
3. The Company shall have filed appropriate forms with the Registrar for the giving effect to the resolutions passed under this Clause and shall, where requested for by the Incubator, deliver to the Incubator, within 30 (thirty) days of such request, certified true copies thereof along with the receipt in respect of such forms;
4. The Company shall deliver to the Incubator duly stamped share certificates in relation to the Equity Shares allotted within 60 days from the date of execution of this agreement.
5. The Company shall update the register of member so as to reflect the Incubator as the holder of the Equity Shares allotted to him under this Agreement.
6. All of the obligations with regard to transfer of equity shares, shall be satisfied no later than 60 (sixty) days from the date of execution of this Agreement or such later date as may be mutually decided between the Parties.
7. The Incubator shall not be required to pay any consideration for the Equity Shares and the Equity Shares shall be issued in lieu of incubation services