

NON-DISCLOSURE AND CONFIDENTIALITY
AGREEMENT

This Non-Disclosure and Confidentiality Agreement is made on this XX day of [XXXX (“**Effective Date**”) hereinafter referred to as the (“**Agreement**”);

By and Between

M/s Kixx Media Pvt. Ltd., a private limited company incorporated under the Companies Act, 2013 and having its registered office at (●), hereinafter referred to as the “**Disclosing Party**”, which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns) of the **ONE PART**;

AND

Mr./Ms./Mrs., XXXXX, S/o,D/o,W/o XXXXX, Permanent Address and having permanent address at **S/o, Current Address** (hereinafter referred to as the “**Receiving Party**”) of the **OTHER PART**.

(Both the Disclosing Party and the Receiving Party shall collectively be referred to as the “Parties” and individually as “Party”)

WHEREAS

- A. The Receiving Party has entered into an employment agreement with the Disclosing Party as on the Effective Date (hereinafter referred to as the “**Employment Agreement**”) and has been employed by the Disclosing Party as the **XXXXXXXX** of the Disclosing Party;
- B. Pursuant to the aforesaid Employment Agreement, the Disclosing Party may disclose its certain Confidential Information (as defined below) belonging to the Disclosing Party to enable the Receiving Party to provide services to the Disclosing Party;
- C. Such Confidential Information is proprietary to the Disclosing Party, having been conceived, designed, developed or accumulated by the Disclosing Party, at great expense and constitutes the exclusive property of the Disclosing Party;
- D. The Receiving Party recognizes that the disclosure of any Confidential Information by the Disclosing Party in the course of his employment does not confer any rights on the Receiving Party to the disclosed Confidential Information and the Parties have entered into this NDA to prevent the Receiving Party from un-authorized use or disclosure or Confidential Information as herein provided or from using the Confidential Information for the purposes other than for providing the services pursuant to the Employment Agreement.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants contained herein, the Disclosing Party and the Receiving Party hereby agree as follows:

1. Confidential Information

- 1.1. For the purposes of this NDA, “Confidential Information” means information about the Disclosing Party, its business or its business partners’ business or activities or its affiliates’ business or activities (whether in written, electronic or oral or visual form) that is proprietary and confidential, which shall include all business, financial, technical and other information of the Disclosing Party or of its affiliates’ marked or designated by Disclosing Party as “confidential” or “proprietary”; or written or verbal or visual information which, by the nature of the circumstances surrounding the disclosure, ought in good faith to be treated as confidential (regardless of whether such information could be protected under copyright, patent, trade mark or other intellectual property rights). The Confidential Information shall specifically include, without limitation, all oral or written information, discoveries, ideas, concepts, software developed or in various stages of development, design, drawings, specifications, charts, graphs, drawings, tapes, compact discs, digital video discs, techniques, models, data, mark-up languages source code, object code, documentation, diagrams, flowcharts, research, development, processes, procedures, “know-how”, marketing techniques and materials, marketing and development plans, customer names and other information related to customers (including, addresses, phone numbers, e-mail addresses, and all other information relating to the employees), price list, brokerage / commission structure, pricing policies and financial information (including information shared by electronic means, i.e. e-mail, fax, etc.), whether proprietary or otherwise any and all general and specific information relating in any way to the business of Disclosing Party and / or its affiliates, services or data, including but not limited to copyrights, inventions, trade secret and proprietary information, technical data, techniques, development, engineering, procurement requirements, product details, business plans and forecasts, sales information, personnel information, specifications, computer programs, software code, operations, pricing policies, financial information, projections, strategies, budgets, patents, trademarks, technology, systems, distribution operations and any other information relating to any of the Disclosing Party’s and / or its affiliates business, technologies, prospects or customers, as well as any and all extracts, analyses, summaries, reviews, notes and other materials prepared by the Disclosing Party and / or its affiliates or their representatives that contain or are derived in any way from such information. For the sake of clarity, the Receiving Party agrees and undertakes that any information unless otherwise indicated by the Disclosing Party to be not confidential shall be strictly treated as “Confidential Information.”
- 1.2. Notwithstanding the foregoing, the term “Confidential Information” shall not include any information that:
- (a) is or becomes generally available to the public other than through disclosure or other wrongful conduct by the Receiving Party;
 - (b) becomes known to the Receiving Party on a non-confidential basis prior to the disclosure of such information by the Disclosing Party; or
 - (c) becomes available to Receiving Party on a non-confidential basis from a person (other than from the Disclosing Party or its representatives) who, to the knowledge of the Receiving Party, after due inquiry, is not prohibited from disclosing such information by any legal, contractual or fiduciary obligation to the Disclosing Party or its representatives.

- 1.3. The Receiving Party agrees: (i) that it will not disclose to any third Party or use any Confidential Information disclosed by the Disclosing Party except as expressly permitted in this NDA; (ii) that it will take all reasonable measures to maintain the confidentiality of all Confidential Information in its possession or control, which will in no event be less than the measures they use to maintain the confidentiality of its own information of similar importance; and (iii) that it will not use any Confidential Information in a manner detrimental to the Disclosing Party and/or its affiliates or otherwise than as required by, and during the term of, the Receiving Party's employment by the Disclosing Party.

2. COVENANT OF NON-DISCLOSURE

- 2.1. Receiving Party will not, without first obtaining Disclosing Party's prior written consent, reveal, communicate or disclose to any person, directly or indirectly, under any circumstances or by any means any Confidential Information or the fact that such Confidential Information exists or has been made available to the Receiving Party.
- 2.2. The Receiving Party agrees to use Confidential Information solely in a manner that actually or potentially benefits Disclosing Party and/or its affiliates and the Receiving Party will not use the Confidential Information for any other purpose whatsoever.

3. REQUIRED DISCLOSURE

- 3.1. If the Receiving Party or any of its representatives are required by applicable law, regulation, or legal process to disclose any Confidential Information, the Receiving Party shall prior to such disclosure, promptly notify the Disclosing Party in writing to seek an injunction order or other appropriate remedy, and will provide reasonable assistance, as requested, to the Disclosing Party in obtaining such injunction order or other appropriate remedy, provided that any costs or expenses incurred in connection with such injunction order shall be the sole responsibility of the Disclosing Party.

4. VALIDITY

- 4.1. This NDA shall commence on the Effective Date and the Receiving Party shall be obligated at all times with effect from the Effective Date to adhere to the terms with respect to disclosure and confidentiality of Confidential Information and the same shall survive the termination of the Employment Agreement.

5. NO LICENCE

- 5.1. The Disclosing Party has not granted to the Receiving Party or any of its representatives any license, by implication or otherwise, to use any Confidential Information, except as permitted by the Disclosing Party in connection with the Receiving Party's employment by the Disclosing Party. All the Confidential Information is and shall continue to be the exclusive and permanent property of the Disclosing Party and/or its affiliates.

6. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

- 6.1. Upon termination of employment of the Receiving Party with the Disclosing Party, for whatsoever reason, the Receiving Party having received Confidential Information from the Disclosing Party shall: (i) cease using the Confidential Information; (ii) promptly return the Confidential Information and all copies, notes, or extracts thereof to the Disclosing Party; (iii) destroy all extracts, analyses, compilations, studies, summaries, reviews, notes and other materials prepared by Receiving Party or its representatives that contain any Confidential Information; and (iv) certify in writing that it has complied with the obligations set forth in this paragraph.

7. ACKNOWLEDGMENT OF IRREPARABLE HARM

- 7.1. The Receiving Party acknowledges that the Confidential Information is special and unique to the Disclosing Party and/or its affiliates and that any breach of the terms and conditions of this NDA may result in irreparable and continuing harm to the Disclosing Party for which there will be no adequate remedy in law. Accordingly, the Receiving Party or any of its representatives recognize and agree that remedies in law may be inadequate to protect the Disclosing Party and/or its affiliates against any actual or threatened breach of this NDA by either the Receiving Party or any of its representatives. Therefore, without prejudicing any rights or remedies that may otherwise be available to the Disclosing Party and/or its affiliates, the Disclosing Party and/or its affiliates shall be entitled to seek specific performance of this NDA, including immediate issuance of a temporary restraining order and /or preliminary or permanent injunctive relief, in connection with any breach or threatened breach of this NDA.

8. REMEDIES CUMULATIVE

- 8.1. All remedies (whether under this NDA, at law or in equity) available to the Disclosing Party and/or its affiliates for any breach or threatened breach of this NDA are cumulative and may be exercised separately or concurrently. No failure or delay by the Disclosing Party and/or its affiliates in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power, or privilege hereunder.

9. SURVIVAL OF THIS NDA

- 9.1. It is hereby agreed that Receiving Party shall continue to be governed by the confidentiality requirements of this NDA even if his employment with the Disclosing Party is terminated.

10. NO ASSIGNMENT

- 10.1. The Receiving Party may not assign any of its rights or delegate any of its duties under this NDA (unless by operation of law), without the Disclosing Party's prior written consent, which consent the Disclosing Party may withhold in its sole discretion. Any attempted assignment in violation of this NDA shall be void and of no legal force or effect.

11. WAIVER

- 11.1. No waiver of any provision of this NDA shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

12. NOTICES

- 12.1. Notices, demands or other communication required or permitted to be given or made under this NDA shall be in writing and delivered personally or sent by prepaid post with recorded delivery, or by email or by telex or legible telefax addressed to the intended recipient at its address set forth below, or to such other address or telex or telefax number as either Party may from time to time duly notify to the others:

If to the Disclosing Party: M/s Kixx Media Private Limited
Address: [●]
Fax: [●]
Email: [●]
Attention: [●]

If to the Receiving Party: Mr./Ms. _____
Address: [●]
Fax: [●]
Email: [●]

- 12.2. Any such notice, demand or communication shall, unless the contrary is proved, be deemed to have been duly served at the time of delivery in the case of service by delivery in person or by post, and at the time of dispatch in the case of service by telex or telefax or email.

13. GOVERNING LAW AND VENUE

- 13.1. This NDA shall be exclusively governed by and construed and enforced in accordance with the applicable laws of India, both substantive and procedural and all the disputes and claims arising out of the NDA shall be submitted to the exclusive jurisdiction of the Courts at New Delhi, India.

14. AMENDMENT

- 14.1. No supplement, modification or amendment of this NDA shall be valid unless the same is in writing and signed by all parties hereto.

15. SEVERABILITY

- 15.1. In the event any provision or portion of this NDA is held to be unenforceable or invalid by any court of competent jurisdiction, the remainder of this NDA shall remain in full force and effect and shall in no way be affected or invalidated thereby.

IN WITNESS WHEREOF, the parties hereto have caused this NDA to be duly executed on the date first written above.

BY AND ON BEHALF OF
M/s Kixx Media Private Limited (Disclosing Party)

(Authorized Signatory)

AND

BY Mr./Ms./Mrs.
(Receiving Party)