



Terms and Conditions

for the Contract with Employees/Employee/Freelancers

1. Intellectual Property Rights

1. **Retained Rights.** Each party will retain all right, title, and interest in and to its own Pre-Existing Intellectual Property irrespective of any disclosure of such Pre-Existing Intellectual Property to the other party, subject to any licenses granted herein.
2. **Pre-Existing Intellectual Property.**
 - a) Employee/Freelancer will not use any Employee/Freelancer or third party Pre-Existing Intellectual Property in connection with this Contract unless Employee/Freelancer has the right to use it for Client's benefit. If Employee/Freelancer is not the owner of such Pre-Existing Intellectual Property, Employee/Freelancer will obtain from the owner any rights as are necessary to enable Employee/Freelancer to comply with this Contract.
 - b) Employee/Freelancer grants Client a non-exclusive, royalty-free, worldwide, perpetual and irrevocable license in Employee/Freelancer and third party Pre-Existing Intellectual Property, to the extent such Pre-Existing Intellectual Property is incorporated into any Deliverable, with the license including the right to make, have made, sell, use, reproduce, modify, adapt, display, distribute, make other versions of and disclose the property and to sublicense others to do these things.
 - c) Employee/Freelancer will not incorporate any materials from a third party, including Open Source or freeware, into any Deliverable unless (i) Employee/Freelancer clearly identifies the specific elements of the Deliverable to contain third party materials, (ii) Employee/Freelancer identifies the corresponding third party licenses and any restrictions on use thereof, and (ii) approval is given by Client in writing.
 - d) Employee/Freelancer represents, warrants, and covenants that Employee/Freelancer has complied and shall continue to comply with all third party licenses (including all open source licenses) associated with any software components that will be included in the Deliverables or any other materials supplied by Employee/Freelancer. Employee/Freelancer shall indemnify Client against any losses and liability incurred by Client due to failure of Employee/Freelancer to meet any of the requirements in any of the third party licenses.





3. Ownership of Deliverables.

- a) Subject to Employee/Freelancer and third party rights in Pre-Existing Intellectual Property, all Deliverables, whether complete or in progress, and all Intellectual Property Rights related thereto shall belong to Client, and Employee/Freelancer hereby assigns such rights to Client. Employee/Freelancer agrees that Client will own all patents, inventor's certificates, utility models or other rights, copyrights, or trade secrets covering the Deliverables and will have full rights to use the Deliverables without claim on the part of Employee/Freelancer for additional compensation and without challenge, opposition or interference by Employee/Freelancer and Employee/Freelancer will, and will cause each of its Personnel to, waive their respective moral rights therein.
- b) Employee/Freelancer will sign any necessary documents and will otherwise assist Client in securing, maintaining, and defending copyrights or other rights to protect the Deliverables in any country.

4. **No Rights to Customer Intellectual Property.** Except for the limited license to use materials provided by Client as may be necessary in order for Employee/Freelancer to perform Services under this Contract, Employee/Freelancer is granted no right, title, or interest in any Client Intellectual Property.

2. Confidentiality

1. **Confidential Information.** For purposes of this Contract, "Confidential Information" shall mean information or material proprietary to a Party or designated as confidential by such Party (the "Disclosing Party"), as well as information about which a Party (the "Receiving Party") obtains knowledge or access, through or as a result of this Contract (including information conceived, originated, discovered, or developed in whole or in part by Employee/Freelancer hereunder).
2. Confidential Information does not include:
 - a) information that is or becomes publicly known without restriction and without breach of this Contract or that is generally employed by the trade at or after the time the Receiving Party first learns of such information;
 - b) generic information or knowledge which the Receiving Party would have learned in the course of similar employment or work elsewhere in the trade;
 - c) information the Receiving Party lawfully receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation;
 - d) information the Receiving Party rightfully knew prior to receiving such information from the Disclosing Party to the extent such knowledge was not subject to restrictions on further disclosure; or (e) information the Receiving Party develops independent of any information originating from the Disclosing Party.





3. **Client Confidential Information.** The following constitute Confidential Information of Client and should not be disclosed to third parties: the Deliverables, discoveries, ideas, concepts, software in various states of development, designs, drawings, specifications, techniques, models, data, source code, source files, documentation, object code, diagrams, flow charts, research, development, processes, procedures, "know-how", marketing techniques and materials, marketing and development plans, customer names and other information related to customers, price lists, pricing policies and financial information, this Contract and the existence of this Contract, and any work assignments authorized or issued under this Contract.
 - a) Employee/Freelancer will not use Client's name, likeness, or logo (Client's "Identity"), without Client's prior written consent, to include use or reference to Client's Identity, directly or indirectly, in conjunction with any other clients or potential clients, any client lists, advertisements, news releases or releases to any professional or trade publications.
4. **Non-Disclosure.** The Parties hereby agree that during the term hereof and at all times thereafter, and except as specifically permitted herein or in a separate writing signed by the Disclosing Party, the Receiving Party shall not use, commercialize, or disclose Confidential Information to any person or entity. Upon termination, or at any time upon the request of the Disclosing Party, the Receiving Party shall return to the Disclosing Party all Confidential Information, including all notes, data, reference materials, sketches, drawings, memorandums, documentations, and records which in any way incorporate Confidential Information.
5. **Right to Disclose.** With respect to any information, knowledge, or data disclosed to Client by the Employee/Freelancer, the Employee/Freelancer warrants that the Employee/Freelancer has full and unrestricted right to disclose the same without incurring legal liability to others, and that Client shall have full and unrestricted right to use and publish the same as it may see fit. Any restrictions on Client's use of any information, knowledge, or data disclosed by Employee/Freelancer must be made known to Client as soon as practicable and in any event agreed upon before the start of any work.

3. Conflict of Interest

1. Employee/Freelancer represents that its execution and performance of this Contract does not conflict with or breach any contractual, fiduciary, or other duty or obligation to which Employee/Freelancer is bound. Employee/Freelancer shall not accept any work from Client or work from any other business organizations or entities which would create an actual or potential conflict of interest for the Employee/Freelancer or which is detrimental to Client's business interests.





4. Termination

Rights to Terminate

1. Client may terminate this Contract and/or an individual project for its convenience, without liability at any time, upon prior written notice to Employee/Freelancer.
2. Employee/Freelancer may terminate this Contract with 7 days advanced written notice provided there are no open projects at the time notice is given.
3. Client may terminate this Contract and/or any open projects with 1 day of notice for cause if the Employee/Freelancer fails to perform any of its obligations under this Contract or if Employee/Freelancer breaches any of the warranties provided herein and fails to correct such failure or breach to Client's reasonable satisfaction within 1 calendar days (unless extended by Client) following notice by Client. Client shall be entitled to seek and obtain all remedies available to it in law or in equity.
4. Upon termination of any project or work given Employee/Freelancer hereunder, Employee/Freelancer will immediately provide Client with any and all work in progress or completed prior to the termination date. As Client's sole obligation to Employee/Freelancer resulting from such termination, Client will pay Employee/Freelancer an equitable amount as determined by Client for the partially completed work in progress and the agreed to price for the completed Services and/or Deliverables provided and accepted prior to the date of termination.
5. Upon termination or expiration of this Contract or a project performed by Employee/Freelancer hereunder, whichever occurs first, Employee/Freelancer shall promptly return to Client all materials and or tools provided by Client under this Contract and all Confidential Information provided by Client to Employee/Freelancer.
6. Any provision or clause in this Contract that, by its language or context, implies its survival shall survive any termination or expiration of this Contract.

5. Warranties

Employee/Freelancer warrants that:

1. The Services and Deliverables are original and do not infringe upon any third party's patents, trademarks, trade secrets, copyrights or other proprietary rights,
2. it will perform the Services hereunder in a professional and skillful manner,
3. the Deliverables Employee/Freelancer provides to Client are new, of acceptable quality free from defects in material, and workmanship and will meet the requirements and conform with any specifications agreed between the parties,





4. it has all necessary permits and is authorized to do business in all jurisdictions where Services are to be performed,
5. it will comply with all applicable federal and other jurisdictional laws in performing the Services,
6. it has all rights to enter into this Contract and there are no impediments to Employee/Freelancer's execution of this Contract or Employee/Freelancer's performance of Services hereunder.

6. Limitation of Liability

1. EXCEPT AS SET FORTH IN THIS SECTION BELOW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES NOR FOR LOSS OF DATA, PROFITS OR REVENUE, COST OF CAPITAL OR DOWNTIME COSTS, NOR FOR ANY EXEMPLARY OR PUNITIVE DAMAGES, ARISING FROM ANY CLAIM OR ACTION, INCIDENTAL OR COLLATERAL TO, OR DIRECTLY OR INDIRECTLY RELATED TO OR IN ANY WAY CONNECTED WITH, THE SUBJECT MATTER OF THE AGREEMENT, WHETHER SUCH DAMAGES ARE BASED ON CONTRACT, TORT, STATUTE, IMPLIED DUTIES OR OBLIGATIONS, OR OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES
2. NOTWITHSTANDING THE FOREGOING, ANY PURPORTED LIMITATION OR WAIVER OF LIABILITY SHALL NOT APPLY TO CONTRACTOR'S OBLIGATION UNDER THE INDEMNIFICATION OR CONFIDENTIAL INFORMATION SECTIONS OF THIS AGREEMENT OR EITHER PARTY'S LIABILITY TO THE OTHER FOR PERSONAL INJURY, DEATH, OR PHYSICAL DAMAGE TO PROPERTY CLAIMS.\

7. Inspection and Acceptance

1. **Non-Conforming Services and Deliverables.** If any of the Services performed or Deliverables delivered do not conform to specified requirements, Client may require the Employee/Freelancer to perform the Services again or replace or repair the non-conforming Deliverables in order to bring them into full conformity with the requirements, at Employee/Freelancer's sole cost and expense. When the defects in Services and/or Deliverables cannot be corrected by re-performance, Client may: (a) require Employee/Freelancer to take necessary action, at Employee/Freelancer's own cost and expense, to ensure that future performance conforms to the requirements and/or (b) reduce any price payable under the applicable project to reflect the reduced value of the Services performed and/or Deliverables delivered by Employee/Freelancer and accepted by Client.
2. If Employee/Freelancer fails to promptly conform the Services and/or Deliverables to defined requirements or specifications, or take action deemed by Client to be sufficient to ensure future performance of the project in full conformity with such requirements, Client may





- a) by contract or otherwise, perform the services or subcontract to another Employee/Freelancer to perform the Services and reduce any price payable by an amount that is equitable under the circumstances and charge the difference in re-procurement costs back to Employee/Freelancer and/or
- b) terminate the project and/or this Contract for default.

8. Insurance

1. Employee/Freelancer shall maintain adequate insurance coverage and minimum coverage limits for its business as required by any applicable law or regulation, including Workers' Compensation insurance as required by any applicable law or regulation, or otherwise as determined by Employee/Freelancer in its reasonable discretion. Employee/Freelancer's lack of insurance coverage shall limit any liability Employee/Freelancer may have under this Contract.

9. Miscellaneous

1. **Assignment.** Employee/Freelancer shall not assign any rights of this Contract or any other written instrument related to Services and/or Deliverables provided under this Contract, and no assignment shall be binding without the prior written consent of Client. Subject to the foregoing, this Contract will be binding upon the Parties' heirs, executors, successors, and assigns.
2. **Governing Law.** The Parties shall make a good-faith effort to amicably settle by mutual agreement any dispute that may arise between them under this Contract. The foregoing requirement will not preclude either Party from seeking injunctive relief as it deems necessary to protect its own interests. This Contract will be construed and enforced in accordance with the laws of the State of Jharkhand, India, excluding its choice of law rules.
3. **Severability.** The Parties recognize the uncertainty of the law with respect to certain provisions of this Contract and expressly stipulate that this Contract will be construed in a manner that renders its provisions valid and enforceable to the maximum extent possible under applicable law. To the extent that any provisions of this Contract are determined by a court of competent jurisdiction to be invalid or unenforceable, such provisions will be deleted from this Contract or modified so as to make them enforceable and the validity and enforceability of the remainder of such provisions and of this Contract will be unaffected.
4. **Independent Contractor.** Nothing contained in this Contract shall create an employer and employee relationship, a master and servant relationship, or a principal and agent relationship between Employee/Freelancer and Client. Client and Employee/Freelancer agree that Employee/Freelancer is, and at all times during this Contract shall remain, an independent contractor.





5. **Force Majeure.** Neither Party shall be liable for any failure to perform under this Contract when such failure is due to causes beyond that Party's reasonable control, including, but not limited to, acts of state or governmental authorities, acts of terrorism, natural catastrophe, fire, storm, flood, earthquakes, accident, and prolonged shortage of energy. In the event of such delay the date of delivery or time for completion will be extended by a period of time reasonably necessary by both Employee/Freelancer and Client. If the delay remains in effect for a period in excess of thirty days, Client may terminate this Contract immediately upon written notice to Employee/Freelancer.
6. **Entire Contract.** This document and all attached or incorporated documents contain the entire agreement between the Parties and supersede any previous understanding, commitments, or agreements, oral or written. Further, this Contract may not be modified, changed, or otherwise altered in any respect except by a written agreement signed by both Parties.

