

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (hereinafter referred to as the “**Agreement**”) entered into this [.] day of [.] 2017.

BY AND BETWEEN:

[.] (**CIN [.]**), a company existing under the Companies Act, 2013 and having its registered office at [.], hereinafter referred to as the “**Company**” (which expression shall, unless it be repugnant to the subject or context thereof, include its successors-in-interest and permitted assigns);

AND

MR. [.] (DIN/PAN [.]), son of [.] aged about [.] years, residing at [.] (hereinafter referred to as the “**Employee**”).

(The Company and the Employee shall hereinafter collectively be referred to as “**Parties**” and individually as a “**Party**”.)

WHEREAS:

- A. The Company is engaged in the business of [.] (“**Business**”).
- B. The Employee has [.] years of experience in the field of [.] and as represented to the Company, the Employee can bring about substantial and significant development in the field/segment of [.] which is an integral part of the Business.
- C. The Company has pursuant to discussions/interview held by [.] [.] with the Employee on [.] and as recommended by [.] has agreed to employ the Employee as [.] of the Company and the Company in order to set out the terms of employment of the Employee as employee of the Company is desirous of entering into this Agreement and the Employee has agreed to the same.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties, intending to be bound legally, agree as follows:

1. Definitions and Interpretation

- 1.1 In this Agreement, the following expressions shall, unless the context otherwise requires, have the following meanings:

“**Affiliate**” in relation to a person,

- (a) being a corporate entity, shall mean any entity or person, which controls, is controlled by, or is under the common control of such person.
- (b) being an individual, shall mean any relative or any other entity or person, which is controlled by such individual or a relative of such individual.
- (c) in any other case, shall mean a person controlled by a Party/Parties to this Agreement.

For the purposes of this Agreement, the term ‘control’ shall have the same meaning as

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ascribed to it in the Companies Act 2013.

“Agreement” shall mean this Employment Agreement and shall include any recitals, schedules or exhibits that may be annexed and any amendments or modifications made to this Employment Agreement from time to time by the Parties in writing.

“Business” shall have the same meaning ascribed to it under Recital A of this Agreement.

“Board” or **“the Board of Directors”** shall mean the board of directors of the Company¹.

“Confidential Information” shall include any trade / business secret, technical knowledge or know-how, financial information, budgets, business and other plans, customer lists, pricing policies and procedures, marketing data, product data, capital strategy, research and development projects, any formula pattern or compilation of information used in the Business of the Company, or any Affiliate or any customers or suppliers thereof or their affairs or any other information notified to the Employee as confidential.

“Intellectual Property” means and includes all intellectual property and all rights therein including, without limiting the generality of the foregoing, all inventions (whether patentable or not, and whether or not patent protection has been applied for or granted), improvements, developments, discoveries, proprietary information, trademarks, trademark applications, trade names, know-how, trade secrets, processes, designs (whether or not registrable and whether or not design rights subsist in them), works in which copy-right may subsist (including computer software and preparatory and design materials).

“Person(s)” shall mean and include any individual, sole proprietorship, unincorporated association, unincorporated organization, body corporate, corporation, company, partnership, unlimited or limited liability company, joint venture, government authority or trust or any other entity or organization.

1.2 In this Agreement:

- (i) References to statutes or any provisions thereof shall be construed as references to such statutes or the provisions thereof as amended, extended, consolidated or replaced from time to time and to all statutory instruments or orders made pursuant to statutory provisions;
- (ii) Unless otherwise stated, references to clauses and sub-clauses are references to clauses and sub-clauses of this Agreement;
- (iii) Headings to clauses are for convenience only and shall not affect the construction or interpretation of this Agreement; and
- (iv) words in the singular shall include the plural and vice versa.
- (v) Recitals shall form a part of this Agreement.

1A. Term

¹ Can be “Supervisory Authority” if he is not reporting to Board

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The employment of the Employee by the Company shall be effective from the date of execution of this Agreement and shall continue until termination of this Agreement either by the Employee or the Company in accordance with this Agreement.

2. Duties, Obligations and Powers of the Employee

- 2.1 The Employee shall fulfil such general duties and responsibilities as are consistent with such position and as may reasonably be assigned to him from time to time by the Board².
- 2.2 The Employee shall, during the Term:
- 2.2.1 abide by the rules and regulations of the Company as are in force;
 - 2.2.2 subject to clause 2.2.1, do all such acts and deeds which are required to be performed in capacity of employee of the Company and abide by all the laws as are in force, necessary for carrying out the Business in India and as may be reasonably assigned to him by the Board from time to time;
 - 2.2.3 keep the Board informed about decisions and actions taken by him on a quarterly basis.
 - 2.2.4 use all reasonable endeavours to promote the interests of the Company and furtherance of the Business of the Company and devote a reasonable period of his working time to the best of his ability as is reasonably required for discharging the duties and responsibilities as a director of the Company.
 - 2.2.5 devote full time, attention and energies to the Business of the Company and shall not engage in any other business.
 - 2.2.6 at all times while performing services for the Company, devote his reasonable best efforts, skill and ability and shall perform his responsibilities as an executive of the Company in a competent and professional manner.
 - 2.2.7 be primarily responsible (without any limitation) for such operations and activities of the Company, details of which are referred under Schedule I to this Agreement.
- 2.3 The Employee agrees that he shall not participate in any activity that constitutes an actual or has a substantial likelihood of being in conflict of interest with his employment with the Company or with the Business of the Company.
- 2.4 The Employee agrees to abide by the rules, regulations, instructions, personnel policies and the policies of the Company and any change thereof which may be adopted by the Company from time to time.
- 2.5 The Employee shall not, during the Term:

² Can be replaced by Supervisory Authority

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- 2.5.1 do anything contrary to the rules, regulations, instructions, personnel policies and the policies of the Company;
 - 2.5.2 sign and execute any papers, documents, filings, returns, applications, writings, reports on behalf of the Company if it is not in accordance with the provisions of the Memorandum of Association, Articles of Association of the Company;
 - 2.5.3 do anything which may, bring the Company into disrepute or harm its goodwill or reputation;
 - 2.5.4 carry on or engage in, directly or indirectly, whether through partnership or as joint venture partner, collaborator or agent or in any other manner, any business that competes with the Business in any manner whatsoever, during the continuance of this Agreement except with the prior written approval of the Board, and for a period of 1 (one) year from the date of termination of this Agreement;
 - 2.5.5 disclose to any Person any Confidential Information which may come to his knowledge while discharging his duties as an Employee in the Company (except where such disclosure is properly authorised by the Board) or use or attempt to use any Confidential Information in any manner which is not in the proper performance of his services or which may or is likely to injure or cause loss directly or indirectly to the Company or its Business;
 - 2.5.6 solicit or endeavour to entice away from or discourage from dealing with the Company, either directly or indirectly, any Person who is or has at any time during the Term, been a vendor, supplier, service provider, contractor, customer, client, or employee of the Company during the continuance of this Agreement and for a period of 1 (one) year from the date of termination of this Agreement.
- 2.6 The Employee further acknowledges that each of the restrictions contained above in Clause 2 is separate and is to be construed separately and that he understands the full effect of the covenants and restrictions in Clause 2 and considers the same to be reasonable in the circumstances and that irreparable harm could be caused to the Company and/or the Affiliate by a breach of such covenants and restrictions. The Employee further agrees and acknowledges that, if any such restriction is found to be void, this shall not affect the validity of any other restriction and if that restriction could be rendered valid by alteration and/or deletion of some part thereof then such restriction shall apply with such alteration and/or deletion as may be necessary to make it valid and effective.

3. Remuneration

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- 3.1.1 In consideration of the Employee agreeing to act as an employee of the Company, subject to the provisions of Companies Act, 2013³ and the rules made thereunder and subject to the provisions of the Memorandum of Association, Articles of Association of the Company the Company shall pay to the Employee a consolidated remuneration on cost to company basis of Rs. [.] (Rupees [.]) per month with effect from [.] and which shall be revised by the Board or any committee created and empowered by the Board for the same, from time to time at its discretion.
- 3.1.2 All forms of compensation or benefits paid to the Employee hereunder shall be subject to all applicable taxes and the Company may withhold any amounts payable under this Agreement and such taxes as shall be required to be withheld pursuant to any applicable law or regulation.

4. Leave & Holidays

Employee shall be entitled to minimum of 30 paid days of annual leave in addition to other holidays, casual leave, etc in accordance with the terms of the human resource policy of the Company.

5. Intellectual Property

If at any time in the course of Employee's employment under this Agreement makes or discovers or participates in the making or discovery of any Intellectual Property, the same shall be treated as services for hire. The Employee shall disclose the full details of the Intellectual Property in writing to the Company and the Intellectual Property shall be the property of the Company who shall own all rights in such Intellectual Property. At the request of the Company, Employee shall give and supply all such information, data and assistance as may be necessary or in the opinion of the Company desirable to enable the Company to exploit the Intellectual Property. Company and Employee shall execute all documents including power of attorney and do all things which may, in the opinion of Company, be necessary or desirable for obtaining protection for the Intellectual Property.

6. Entire Agreement

- 6.1 This Agreement contains the entire understanding of the Employee and the Company with respect to the employment of the Employee by the Company and supersedes any and all prior understandings, written or oral, between the Employee and the Company. Any such prior understandings or agreements are hereby terminated and are of no further force and effect. This Agreement may not be amended, waived, discharged or terminated orally, but only by an instrument in writing, specifically identified as an amendment to this Agreement, and signed by the Employee and a duly authorized officer of the Company with the prior consent of the Board. By entering into this Agreement, the Employee certifies and acknowledges that he has carefully

³ At Director Level

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read all of the provisions of this Agreement and that he voluntarily and knowingly enters into said Agreement.

- 6.2 This Agreement shall be subject to the provisions of the Memorandum of Association, Articles of Association of the Company and SSHA. In the event of any provision of this Agreement contradicts with the provisions of the Memorandum of Association, Articles of Association of the Company and SSHA the provisions of Memorandum of Association, Articles of Association of the Company and SSHA shall prevail.

7. Representations and Warranties

- 7.1 The Employee represents and warrants to the Company that he is not bound by any restrictive covenants, including but not limited to non-competition, non-disclosure and non-solicitation covenants, which will have a restriction on his services under this Agreement, other than those contained in this Agreement. The Employee agrees to indemnify and hold harmless the Company for any liability the Company may incur as a result of the existence of any other such covenants, obligations or commitments.

8. Termination

- 8.1 Subject to Clause 1A, this Agreement may be terminated, either:
- 8.1.1 by the Company, at any time, by giving to the Employee not less than 4 (four) weeks prior written notice; or
 - 8.1.2 by the Employee at any time, by giving to the Company not less than 12 (twelve) weeks prior written notice.
- 8.2 The Company may forthwith, without prior notice and without prejudice to its other remedies, terminate this Agreement, if the Employee:
- 8.2.1 is deemed to have been disqualified to act as director under section 164 of the Companies Act, 2013⁴;
 - 8.2.2 absents himself from all the meetings of the Board of Directors held during a period of twelve months with or without seeking leave of absence of the Board;⁵
 - 8.2.3 negligently or fraudulently commits any other material breach of his obligations under this Agreement, Memorandum of Association, Articles of Association and the laws as in force;
 - 8.2.4 where he is found guilty of moral turpitude, wilful misconduct, commits fraud, or any other similar reasons after a due and proper inquiry conducted in the regard;

⁴ If appointed at Director level

⁵ If appointed at Director level

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- 8.2.5 by his actions or omissions affects the name or reputation of the Company into serious disrepute or prejudices the interests of the Business of the Company;
- 8.3 The Employee shall, upon termination of this Agreement at any time:
- 8.3.1 not represent himself as being in any way connected with or interested in the Business or the Company;
 - 8.3.2 return in good condition and order all of the Company's property in his possession, if any which may be in his custody, use, care or charge;
 - 8.3.3 resign (without prejudice to any claims which the Employee may have against the Company arising out of this Agreement or the termination thereof) from all appointments or offices which he holds as nominee or representative of the Company, if any; and
 - 8.3.4 not retain any copies (including electronic or hard copies) or any other property which contains or refers to Confidential Information of the Company.
- 8.4 *Termination of Employment for Disability.* Subject to Clause 1A, during the Term, the Employee's employment may be terminated by the Company at any time by giving prior written notice of ninety (90) days to the employee or his representatives upon failure by the Employee to substantially perform his duties hereunder, as a result of physical or mental incapacity (hereinafter referred to as "Disability"), if such Disability continues for more than three (3) consecutive months or an aggregate of more than four (4) months in any Financial Year (such disability, "Permanent Disability").
- 8.5 Notwithstanding the termination of this Agreement, Clause 9 (Confidentiality), Clause 10 (Indemnity), Clause 11.2 (Accrued rights) and Clause 11.3 (regarding dispute resolution) of this Agreement shall survive such termination and continue to bind the Parties.
- 8.6 Upon the termination of this Agreement, however caused, the Company shall cause to file the necessary forms/returns for reporting the resignation of the Employee from the Board.
- 9. Confidentiality**
- 9.1 The Employee agrees that he shall be privy to Confidential Information from time to time in the discharge of his duties, functions and responsibilities as the employee of the Company.
- 9.2 The Employee shall not, except in the proper performance of his duties, functions and responsibilities as assigned from time to time by the Board or under this Agreement or otherwise, either during the Term or at any time after the termination of this Agreement (howsoever caused), without the prior written consent of the Board, use for his own benefit or for the benefit of any other Person (other than the Company or any Affiliate) or, except as required by law, a court or tribunal of competent jurisdiction or any applicable regulatory or statutory authority or body, to evidence the

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- proper discharge of his duties as an employee/[director] of the Company, directly or indirectly divulge or disclose to any Person (other than any Person employed by the Company or any Affiliate including, for the avoidance of doubt, any professional or other advisor appointed by the Company or any Affiliate), any Confidential Information which has come or may come to his knowledge during his Term or previously or otherwise.
- 9.3 All rights, title and interest in and to the Confidential Information shall remain the exclusive property of the Company or, where appropriate, any Affiliate, and the Employee shall not, during his Term (otherwise than in the proper performance of his duties) or at any time after the date of termination of this Agreement (however caused), directly or indirectly, use, divulge, export, publish or communicate to any person, firm, company or other organisation any Confidential Information for any purpose whatsoever and shall use his best endeavours to prevent its unauthorised publication, use or disclosure. This obligation shall be in addition to and not in derogation or substitution of any express or implied duty of confidentiality owed by the Employee to the Company or any Affiliate.
- 9.4 This Clause shall survive termination to the extent of any Confidential Information which has not been made public or has not been sought by any competent court or government authority.
- 10. Indemnity**
- 10.1 The Employee represents and warrants to the Company that he is not bound by any restrictive covenants, including but not limited to non-competition, non-disclosure and non-solicitation covenants, which will have a restriction on his services under this Agreement, other than those contained in this Agreement. The Employee agrees to indemnify and hold harmless the Company for any liability the Company may incur as a result of the existence of any other such covenants, obligations or commitments.
- 10.2 The indemnity contained in this Clause shall be governed exclusively by and construed according to the laws of India and the courts in Kolkata shall have exclusive jurisdiction for all proceedings arising out this indemnity.
- 11. Miscellaneous**
- 11.1 **No Assignment**
The Employee's obligations under this Agreement are personal in nature and shall not be assigned or transferred by the Employee.
- 11.2 **Accrued rights**
The expiration or termination of this Agreement however arising, shall not operate to affect such of the provisions of this Agreement as are expressed to operate or have effect after then and shall be without prejudice to any accrued rights or remedies of the Parties.
- 11.3 **Arbitration, Governing law and Jurisdiction**

[NAME OF COMPANY]	[EMPLOYEE]

11.3.1 In the event that there arises any dispute, difference, claim or question (“**Dispute**”) at any time arising between the Parties in relation to or arising out of this Agreement, the Dispute shall be finally settled through arbitration. A sole arbitrator shall be appointed jointly by the Parties within 30 (thirty) days from the date of expiry of 45 (forty-five) days from the date of service of the request. If the Parties cannot reach an agreement with respect to the sole arbitrator to be appointed within 30 (thirty) days then each Party shall appoint one arbitrator each and both the appointed arbitrators shall appoint the third arbitrator. The arbitration shall be held in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof. The venue of arbitration shall be Kolkata and the proceedings shall be in the English language. Award published in accordance with above, shall be final and binding on the Parties.

11.3.2 This document is governed by Indian Law and subject to Clause 11.3.1, each of the Parties shall hereby submit to the exclusive jurisdiction of the courts at Kolkata.

11.4 **Notices**

A notice, consent, information or request that must or may be given or made to a Party is only given or made if it is delivered or posted to that Party at the address stated above in this Agreement.

11.5 **Severability**

If a Clause or part of a Clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any Clause or part of a Clause is illegal, unenforceable or invalid, that Clause or part is to be treated as removed from this Agreement but the rest of this Agreement shall not be affected.

11.6 **Variation**

Subject to the Memorandum of Association, Articles of Association of the Company and SSHA this Agreement may be varied by the Parties in writing.

11.7 **Waiver**

No failure to exercise, nor delay or omission by any Party in exercising, any right, power or remedy conferred on it under this Agreement or provided by applicable law shall except with the express written consent of that Party affect that right, power or remedy or operate as a waiver of it. No single or partial exercise by any Party of any right, power or remedy shall prevent any further exercise of that right, power or remedy or the exercise of any other right, power or remedy.

11.8 **Counterparts**

[NAME OF COMPANY]	[EMPLOYEE]

This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to the other Parties.

[NAME OF COMPANY]	[EMPLOYEE]

IN WITNESS whereof the Company and the Employee have executed this Agreement on the day and year first hereinbefore written.

SIGNED AND DELIVERED by]
[.]]
By the hand of [.] pursuant to the board resolution]
passed on [.]
In the presence of:]
Witness:]
]]
SIGNED AND DELIVERED by]
[.] (DIN/PAN [.])]
In the presence of:]
Witness:]

[NAME OF COMPANY]	[EMPLOYEE]