



## **NDA AND NON-COMPETE AGREEMENT**

This **NDA and Non-Compete Agreement** (hereinafter referred to as the "**Agreement**") is made on 10 day of Jan, 2022, by and between:-

**Amromed**, having its registered office at **No.15, Perambur High Road, 2nd Street, Perambur, Chennai 600012**; Email: [hr@amromed.com](mailto:hr@amromed.com) hereinafter referred to as the "**Amromed**" or "**Disclosing Party**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns) of the **First Part**;

AND

Kakoli Saha, an Indian national, presently residing at Address - Dhanmondi, Dhaka, Email: [kakolisaha306@gmail.com](mailto:kakolisaha306@gmail.com) hereinafter referred to as "**Recipient**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, successors and permitted assigns) of the **Second Part**;

### **WHEREAS**

- A. The Disclosing Party had appointed the Recipient as its 'employee' for working on its various client's projects and other tasks. The Parties acknowledge that during the course of discussions between them, the Recipient have become and shall continue to become privy to certain Confidential Information (*defined below*) relating to the Disclosing Party, its business and clients, and the Recipient has agreed to be bound by the non-disclosure provisions of this Agreement to govern the use and disclosure of the Confidential Information. Since the Confidential Information also has the elements of intellectual property, therefore the Recipient has also agreed to protect the Intellectual Property therein.
- B. Recipient has also agreed to be bound by the non-compete, non-solicit and non-circumvention restrictions in the manner provided in this Agreement, in order to protect the legitimate business interests of Amromed.



- C. In consideration of the mutual promises and agreements between the Parties hereto, the Parties have agreed to enter into this Agreement to govern the terms and conditions of their association

**NOW THEREFORE IT IS HEREBY AGREED BY AND AMONGST THE PARTIES AS UNDER:**

**1. TERM**

This Agreement shall commence from the Effective Date and shall continue until the engagement of the Recipient lasts with the Disclosing Party. However, the NDA, Non-Compete, Non-solicit and Non-circumvention provisions of this Agreement shall last and survive for the respective periods mentioned therein.

**2. CONFIDENTIAL INFORMATION**

**2.1** For the purpose of this Agreement, the term "**Confidential Information**" shall mean such information relating to the Disclosing Party, its affiliates, its business and the clients, as the Disclosing Party may from time to time provide to the Recipient, or which Recipient itself learns, under or relating to this Agreement or during the term of its engagement with the Disclosing Party, including all information communicated in writing or orally or visually or that comes to the knowledge of the Recipient in any other manner, and in any form, (tangible as well as intangible), relating to the affiliates, clients, business affairs, any technical data, or know-how, including but not limited to that, which is or relates to:

- a) unpublished computer code, software code, software, inventions, trade secrets, ideas, processes, research, formats, formulas, human readable code on any media, object code, data, programs, specifications, other works of authorship, improvements, discoveries, developments, designs and techniques;
- b) Amromed related information, including without limitation, name, address and contact information;
- c) Client related information and data, their business details, personally identifiable information (PII) as well as non-personally identifiable information (Non-PII), project details;



- d) business plan, expansion plan, product plans, products, services, customers, markets, specifications
- e) non-public market information; brand and reputation;
- f) price and cost data, fee amounts, pricing and billing arrangements, marketing techniques;
- g) marketing or finances of Amromed in any form, partner details and information, business mission, plans, goals and strategies, market studies;
- h) Intellectual property, including without limitation, the one not yet publicly disclosed, or information relating to Amromed's or its client's proprietary rights or copyrights;
- i) research records, details of Amromed's employees, owner, vendors, suppliers and business partners, and such other proprietary information relating to the business of the Disclosing Party and is not in the public domain.

### **3. NON-DISCLOSURE AND CONFIDENTIALITY**

**3.1** The Recipient recognizes that in the course of its discussions with the Disclosing Party, it shall become privy to Confidential Information relating to the Disclosing Party. Accordingly, the Recipient agrees and undertakes:

- (a) that the Recipient shall not, without the prior written permission of the Disclosing Party, directly or indirectly use or cause to be used, or disclose or cause to be disclosed any Confidential Information to any third party;
- (b) that the Recipient shall take all steps as may be reasonably necessary to protect the integrity of the Confidential Information and to ensure against any unauthorized disclosure thereof;
- (c) that the Recipient shall promptly inform the Disclosing Party of any accidental disclosure of Confidential Information and shall take all steps, together with the Disclosing Party, to retrieve and protect the Confidential Information; and
- (d) that the Recipient shall use the Confidential Information only for the purpose for which it was provided and shall not use it in any other manner



**3.2 The Recipient shall strictly adhere to the provisions mentioned above except:**

- (a) to the extent that such Confidential Information is already in the public domain, other than by breach of this Agreement;
- (b) to the extent that such Confidential Information is required to be disclosed by any applicable law or any applicable regulatory requirements or by any regulatory body to whose jurisdiction the Recipient is subject or with whose instructions it is customary to comply under notice to the Disclosing Party. Provided that in such case, the Recipient will notify the Disclosing Party about such requirement, and will allow Disclosing Party to obtain a necessary injunction. Provided further that Recipient in such case shall disclose only as little of the Confidential Information, as strictly required;
- (c) in so far as it is disclosed to the employees, directors, partner, or professional advisers of the Recipient on a strictly need-to-know basis, provided that the Recipient shall procure that such persons treat such Confidential Information as confidential by signing a Non-Disclosure Agreement with them in this regard, the provisions of which shall not be less stringent than the ones as mentioned in this Agreement. Provided that Recipient shall be strictly liable for any contravention of this Agreement by such employee, director, partner, or professional advisor of the Recipient; and
- (d) to the extent that any of such Confidential Information was previously known or already in the lawful possession of the Recipient, prior to disclosure by the Disclosing Party, provided that they can prove the same by cogent evidence.

**3.3 Reproductions:** The Recipient shall not, except as and to the extent required, make any copies or reproduce the Confidential Information. Such copies or reproductions shall be subject to the terms and conditions of this Agreement and the Recipient shall take such steps as are necessary to restrict access to and protect the confidentiality of such copies or reproductions of the Confidential Information

**3.4 Return or Erase Of Confidential Information:** The Disclosing Party may demand the return or erasing of the Confidential Information at any time upon giving written notice to Recipient and within **48 (forty-eight) hours** of receipt of such notice, the Recipient shall return or destroy all Confidential Information supplied to the Recipient by the Disclosing Party and destroy or permanently erase (to the extent technically practicable) all copies of such Confidential Information made by the Recipient and use its reasonable endeavors to ensure that anyone to whom the Recipient has supplied any such Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them



**3.5 No Warranties:** The Confidential Information is being provided “as-is” and “as available”. The Recipient understands and acknowledges that the Confidential Information may not be accurate or complete and the Disclosing Party makes no warranty or representation (*whether express or implied*) concerning the Confidential Information, or its accuracy or completeness.

**3.6 Term of Confidentiality Restriction:-** Notwithstanding anything contained herein, the obligations of the Recipient as mentioned in Clause 3.1 to 3.4 of this Agreement shall also continue for a period of **10 (ten) years** from the date of termination or expiration of this Agreement, for any reason whatsoever, **unless the applicable law gives a higher recognition than this to any part of the Confidential Information, in which case, such higher term shall apply.**

#### **4. NON-COMPETE, NON-SOLICIT AND NON-CIRCUMVENTION**

**4.1 Non-Compete:** During the Term of this Agreement, and for a duration of **1 (one) year** after its termination or expiration, the Recipient agrees that he/she, either alone, or through a partner, joint venturer, or in any other direct or indirect manner, shall neither start any new business which is identical or similar to the business model, product or services provided by Amromed, and nor shall compete with Amromed by using the Confidential Information in any other manner whatsoever. The above-mentioned restriction shall apply in every place where Amromed conducts in business.

**4.2 Non-Solicit:** During the term of this Agreement, and for a duration of **1 (one) year** following the termination of Recipient’s engagement with the Disclosing Party, the Recipient shall not:

- a) Solicit, encourage, induce, or attempt to solicit, encourage, or induce any employee, marketing agent, consultant, freelancer, or contractor of Amromed, to terminate his employment, agency, consultancy or contract with Amromed;
- b) Induce or attempt to induce any current customer or client of Amromed, to terminate relationship with Amromed; or



- c) Induce or attempt to induce any potential customer with whom Amromed has had any discussions or negotiations within 6 (six) months prior to Recipient's termination of engagement, not to establish a relationship with Amromed

**4.3 Non-Circumvention:** The Recipient shall not at any time during the term of his engagement with Amromed, and for a period of **1 (one) year** following its termination thereof, circumvent, or attempt to circumvent, Amromed, by building or attempting to build any workable relationship with the present as well as potential clients of Amromed, during the said period. For the sake of clarity, the Recipient shall not during the above-mentioned period, solicit/induce or attempt to solicit/induce, or accept any kind of relationship with the clients or potential clients of Amromed, and shall not serve them in any capacity, including without limitation, as their employee, consultant, agent, advisor, freelancer, contractor, etc., even in the case where such opportunity has been offered by the client or potential client itself. Whenever any such client or potential client of Amromed approaches the Recipient for a direct relationship (thereby circumventing Amromed), the Recipient shall immediately inform/intimate Amromed about the same.

**4.4 Sufficiency of Compensation:** The Recipient acknowledges that the compensation/salary/fee paid by Amromed to the Recipient for the performance of its services, already includes a compensation for abiding by the Non-compete, Non-solicit and Non-circumvention restrictions mentioned in this Agreement, and the same is sufficient consideration in and of itself for Recipient's agreement to the restrictive covenants set forth in this Section.

**4.5 Legitimate Business Interests:** The Recipient acknowledges that the covenants and agreements set forth in this Section hereof are necessary to protect the legitimate business interests of Amromed and that any breach of such covenants and agreements shall cause immediate and irreparable harm to Amromed

## **5. INTELLECTUAL PROPERTY PROTECTION AND OWNERSHIP**

During the Term, the Disclosing Party will share with the Recipient certain Confidential Information that falls under the ambit of intellectual property, including without limitation, copyright, design right, patent, trademark, trade dress, etc. (hereinafter referred to as the **"Intellectual Property"**) and thus protected by relevant intellectual



property laws or intended to be protected as such. Nothing in this Agreement shall be deemed as licensing or assignment of any kind by the Disclosing Party of such Intellectual Property, and Amromed, or its clients shall remain the owner of such Confidential Information, as the case may be. Such Intellectual Property shall always be the sole and exclusive property of the concerned party, and the Recipient shall not disclose, use, share, imitate, or otherwise exploit the same, without the prior written consent of the Disclosing Party. ***This clause shall survive the termination or expiration of this Agreement for perpetuity.***

## 6. LIQUIDATED DAMAGES

The Recipient acknowledges that the restrictions mentioned in this Agreement are important to protect the legitimate business interests of the Disclosing Party, and therefore the Recipient undertakes to compensate the Disclosing Party in case of breach of any provision of this Agreement to a sum of **INR 5,00,000 (INDIAN RUPEES FIVE LACS)**, or such lesser amount as determined by the Disclosing Party at its sole discretion after taking into consideration the nature of damages sustained, and after providing a reasonable opportunity to the Recipient of being heard. The relief mentioned under this Agreement shall be in addition to any other relief available to the Disclosing Party, as per the applicable law. **If the court of competent jurisdiction holds this clause to be unenforceable, either wholly or partially, for any reason whatsoever, in that case the remaining provisions of this Agreement and/or this Section shall not be affected and shall continue in full force and effect.**

## 7. NOTICE

All notices under this Agreement shall be in writing, sent by email or first-class registered or recorded delivery post to the Party being served at its address specified above or at such other address of which such Party shall have given notice aforesaid and marked for the attention of that Party's signatory to this Agreement (or such other person as notified to the other Party).



## 8. INJUNCTIVE RELIEF

The Parties acknowledge that the Recipient understands that the Disclosing Party shall suffer irreparable damage if the Recipient breaches any of its obligations under this Agreement and that monetary damages shall be inadequate to compensate the Disclosing Party. Consequently, the Recipient acknowledges that, in addition to any other remedies of rights, the Disclosing Party shall have the right to obtain injunctive relief to enforce the terms of this Agreement

## 9. INDEMNIFICATION

The Recipient hereby provides complete indemnity to the Disclosing Party for any loss or damage (*including reasonable attorney's fees and costs*) caused to the Disclosing Party or any of its affiliates and assignees due to breach of obligations of the Recipient under this agreement

## 10. DISPUTE RESOLUTION AND GOVERNING LAW

**10.1** This Agreement and any dispute or claim (including non-contractual disputes or claims) or controversy arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of **Republic of India**.

**10.2** Each party irrevocably agrees that the courts located at **Chennai, Tamil Nadu (IN)** shall have exclusive jurisdiction to settle any dispute or claim (*including non-contractual disputes or claims*) or controversy arising out of or in connection with this Agreement or its subject matter or formation.

## 11. RESERVATION OF RIGHTS

No forbearance, indulgence, relaxation or inaction by the Disclosing Party at any time, to require performance of any of the provisions of this Agreement shall, in any way, affect, diminish or prejudice its right to require performance of that provision at a later point in time.





## 12. PARTIAL INVALIDITY

If any provision of this Agreement is held to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by 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 provision.

## 13. ENTIRE AGREEMENT

This Agreement, along with any **Employment Agreement** (*or its equivalent*), contains the entire agreement between the parties with respect to the subject matter of this Agreement. The Agreement supersedes all prior understanding, agreements, or representations, whether oral or in writing.

## 14. MODIFICATIONS

This Agreement may be modified or altered only by a writing executed by both the Parties.

**IN WITNESS WHEREOF THE PARTIES HERETO HAVE SET AND SUBSCRIBED THEIR RESPECTIVE HANDS TO THESE PRESENTS  
ON THE DAY, MONTH AND YEAR HEREINABOVE MENTIONED:**

### Signed and Delivered

By the Disclosing Party - **Amromed**

through Mr. Niyaz Ahmed

Dated:

### Signed and Delivered

By the Recipient

Print Name: **Kakoli Saha**

Dated: