

**Appendix B - CONFIDENTIALITY, NON DISCLOSURE AND NON
COMPETITION AGREEMENT**

1. **PARTIES & PURPOSE:** This is a Confidentiality, Non-Disclosure and Non-Competition Agreement (hereinafter "NDA") between Mango IT Solutions (hereinafter, "MIS"), and the undersigned (hereinafter, "Employee/Contractor"), located at the respective addresses below. This NDA is meant to secure the property, trade secrets, client information and data, Patent Health Information (PHI) and confidential information (collectively referred to herein as "Privileged Materials") from misuse, defined as any use which is not authorized by MIS, or distribution of Privileged Materials by any means.
2. **PRIVILEGED MATERIALS:** shall herein include, without limitation, all strategic and development plans; potential sales prospects in the process of being solicited; company aliases; financial condition, status, or rating; business plans; co-developer identities; data; business records; customer, client, and vendor lists and identities (actual and prospective); policies and records; market reports; Contractor lists and manuals; the identities of ad agencies, marketing firms, accounting firms, law firms or any other firms servicing MIS; the identity or nature of formal or informal business alliances or partnerships between MIS and other companies in or out of MIS's industry; policies and procedures; information and ideas related to processes; relevant technologies; concepts and theories; application, installation, or repair of products or services; special business techniques; various trade secrets; confidential information; company structure; financial books; analyses of the market; forms; software programs; any physical property such as computer hardware and peripherals; merchandise; novelties; literature; route books; bulletin sets; labels; samples; stationary; business cards; consignment equipment; supplies; books; records; documents; files; or any copies of the same, regardless of their medium or state, and all other information regarding manufacture or distribution of products or provisioning of services and any other confidential or proprietary information which may be disclosed by MIS or its clients to the Contractor in the course of their relationship, which is not generally available to the public.
3. **PROHIBITED PARTIES:** shall herein include, without limitation:
 - a. Any person, partnership, joint venture, firm, corporation, company, association, subsidiary, parent company, or any institutional, industrial, commercial, governmental, or other entity, management, or sales department not specifically agreed to in writing by MIS.
And shall also include the Contractor, himself or herself, if the Privileged Materials are found to be used for any reason or any purpose not contemplated by original negotiations and/or any agreement signed by Contractor and MIS, be such use alone or as a sales representative, or executive, or owner, or manager, or Agent of some other Prohibited Party.
4. **RESTRICTED TERRITORIES:** shall herein mean all the territories within India.
5. **DURATION:** This NDA shall be considered and understood by both parties to be an independent covenant and agreement, surviving for a period of no less than one (1) year past the actual date of the termination of any underlying agreement. If no such agreement exists, this NDA shall be in force for three (3) years past the date of its execution. This covenant, contained in this NDA, shall be construed as a covenant independent of any other provision in any and all agreements, and the existence of any claim or cause of action on or arising out of any agreement by Contractor against MIS, whether predicated on this NDA or otherwise, shall not constitute a defense to the enforcement by MIS of this covenant.
6. **WARRANTY AGAINST PRIOR EXISTING RESTRICTIONS.** The Contractor represents and warrants to MIS that he or she is not a party to any agreement containing a non-competition clause or other restriction with respect to: (i) the services which Contractor is required to perform hereunder; or (ii) the use or disclosure of any information or Privileged Materials directly or indirectly related to MIS's business, or to the services Contractor is required to render pursuant hereto.
7. **RESTRICTIVE COVENANT.**
 - a. The Contractor acknowledges that the Privileged Materials are (i) a valuable, special, and unique asset of MIS's business, regardless of their form or origin, (ii) that they belong solely to MIS, and that (iii) they constitute specialized and highly confidential information not generally known in the industry.
 - b. *Trade Secrets and Confidential Information.* Contractor hereby understands and agrees that in the course of their relationship with MIS, they may become aware or be informed of certain confidential or proprietary information, the unauthorized revelation of which may be unwelcome by and/or damaging to MIS or its clients. Accordingly, the Contractor recognizes and acknowledges that it is essential to the company to protect the confidentiality of such trade information. Contractor therefore agrees for mutual promise and other good and valuable consideration including but not limited to an offer of employment, continued employment, and post-employment employer references: (i) to keep secret and secure, hold in confidence, act as trustee, protect and safeguard against unauthorized use, publication, distribution, transfer, revelation or disclosure, direct or indirect, by act or omission, any confidential proprietary information or Privileged Materials belonging to MIS or its clients; (ii) not to use, communicate, reveal, disclose or otherwise make available any such information or Privileged Materials, directly or indirectly, by act or omission, to any Prohibited Party for any reason or purpose whatsoever, unless (a) such information has already become common knowledge, or unless (b) to a person expressly designated in writing by MIS; (iii) not to unfairly compete or obtain unfair advantage through direct or indirect use, in commercial activity which may be comparable to the commercial activity contemplated by MIS; and (iv) to comply with other reasonable security measures as pertaining to such information when so requested by MIS or its clients; and (v) inform MIS, should Contractor know or have reason to know, of any breach by a third party of this NDA.
 - c. *Limitation.* The restriction herein shall not be applicable with respect to information which is known to Contractor at the time of the execution of this NDA, or which becomes part of the public domain without breach of this NDA or the underlying agreement, or is legitimately and independently obtained by Contractor with no request or expectation of confidentiality by MIS or its clients, or pursuant to judicial or administrative governmental action or proceeding, provided adequate notice and opportunity is given by the other party to MIS or to its clients to contest such action or proceeding. Nothing herein shall be deemed to grant or create a license or right of Contractor to obtain or be entitled to such confidential information from MIS or its clients.
 - d. *Removal.* Under no circumstances shall Contractor remove from MIS's office any of MIS's Privileged Materials without MIS's prior written consent; nor shall Contractor make copies of Privileged Materials for use outside of MIS's office, except as specifically authorized in writing by MIS. Upon termination of this or any underlying agreement, Contractor shall immediately return to MIS at its offices at the address below, personally or by courier, all of MIS's Privileged Materials in the possession of Contractor. Until all of the above listed and similar items, without limitation, are returned by Contractor to MIS's satisfaction, MIS may withhold any sums due to Contractor under the provisions of this or any other underlying agreement. If the Privileged Materials are not returned within 10 (ten) business days from the date on which MIS notifies Contractor of its demand for the return of the materials, then Contractor shall be deemed to be in breach of this NDA, and such non-return may be deemed to be a theft.

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The **Contractor** shall not at any time disclose, sell, or otherwise make available by action or omission, all or any part of the Privileged Material to any Prohibited Party for any reason or any purpose whatsoever. In the event of the **Contractor's** breach or threatened breach of this paragraph, **MIS** shall be entitled to a preliminary restraining order and an injunction restraining and enjoining the **Contractor** from disclosing all or any part of the Privileged Materials and from rendering any services to any: (i) Prohibited Party to whom all or any part of such Privileged Materials have been, or are threatened to be, disclosed and (ii) third parties that are not within the class of Prohibited Parties but that might disclose the Privileged Materials to any Prohibited Party, and (iii) to newspapers, magazines, television and film companies, or Internet-based news or information service websites, and any other organizations in the mass media. In addition to or in lieu of the above, **MIS** may pursue all other remedies available to **MIS** for such breach, threatened breach or circumvention of this NDA, including the First Instance Report (FIR), recovery of fees, court costs, and damages from the **Contractor**.

9. **NON-COMPETITION; NON-CIRCUMVENTION; NON-SOLICITATION:** This Clause shall be in force for one (1) year past the date of this NDA's execution, if there is no underlying agreement. If there is an underlying agreement, then this Non-Competition Clause shall be in force during the term of the underlying agreement and for a period of one (1) year after the expiration or termination of this NDA for any reason. **Contractor** shall not, directly or indirectly, engage in, enter into, or in any manner take part in, any business, profession, or other endeavor, by himself or herself or with any Prohibited Party, which competes with **MIS** with respect to those duties outlined in any agreement between **Contractor** and **MIS**, or in any other ways competes or interferes with **MIS's** sale or provisioning of any service, product, equipment, reasonably contemplated service, or any combination thereof. The **Contractor** will not, directly or indirectly, within the Restricted Territories, contact or engage, solicit or entice, either as an individual acting independently or as part of or on behalf of any Prohibited Party, any then-existing client of **MIS**, current client of **MIS**, or any party listed in par. #3(A) which may reasonably be a client, or is likely to be a prospective client, of **MIS**, for the purposes of selling any service, product, equipment, or any combination thereof. Solicitation or acceptance of offers, orders, requests, or other business outside the Restricted Territories for performance in any of the Restricted Territories shall constitute "engaging in business" in the Restricted Territories in violation of this NDA. The **Contractor's** provision to a third party of Privileged Material for the purpose of having such third party engage in any of the activities restricted by this Non-Competition Clause, shall constitute "engaging in business" in the Restricted Territories in violation of this NDA.

10. **FAIR COMPETITION:** The parties acknowledge that they have attempted to limit the **Contractor's** right to compete only to the extent necessary to protect **MIS** from unfair competition. If any portion of this covenant not to compete, however, is held by the Competent Court to be unreasonable, arbitrary, or against public policy, the covenant herein shall be considered divisible, both as to time and to geographical area. The parties hereto agree that, in the event any New York court or other legally binding fact finder determines the specified time period or specified geographical area to be unreasonable, arbitrary, or against public policy, a lesser time period or geographic area, which is determined by a court or other fact-finder to be reasonable, non-arbitrary, and not against public policy, may be enforced against **Contractor**. In such case, each week of the specified period shall be deemed a separate period of time, and each county of each State of the restricted areas shall be deemed a separate geographical area. **Contractor** further acknowledges that: (i) in the event their employment with **MIS** terminates for any reason, he or she will be able to earn a living in their chosen profession without violating the foregoing restrictions; and (ii) their ability to earn a livelihood without violating such restrictions is a material condition to his retention by **MIS**.

11. **NO WAIVER:** **MIS's** failure to pursue a legal claim in response to any breach of this NDA in no way implies an acceptance of such breach or similar breaches in the past, present, or future, nor does it imply an abandonment of any legal claims related to such breach or similar breaches.
12. **CHOICE OF LAW AND FORUM, AND ARBITRATION:** The parties agree to attempt to resolve all disputes arising out of, or related to, this NDA through good-faith negotiation. Failing the negotiation process, all legal disputes shall be filed and settled at the Competent Court in Indore, India. In the event of litigation between parties, the losing party shall pay to the non-defaulting party all of the non-defaulting party's costs and expenses, including attorneys' fees, incurred by that party in enforcing the terms of this NDA.
13. **ENTIRE AGREEMENT & HEADINGS:** This NDA and any Schedules and underlying agreements constitute the entire agreement and supersede all prior written and oral understandings between the parties pertaining to the subject matter herein. The unenforceability or invalidity of any provision(s) of this NDA will not impair the remaining provisions. This NDA is to be read in its entirety and the headings, inserted for convenience and reference, may not be read to limit the purport of any or all of the paragraphs under this NDA.

IN WITNESS WHEREOF, **Contractor** states that **Contractor** has read and understood all of the above paragraphs and agrees to all the terms contained herein.

X Shubham
Signature of Authorized Representative

X SHUBHAM KUMAR JAISWAL
Printed Name

Title

Company Name

Address

Telephone

Email

Date of Execution

X _____
Mango IT Solutions
15/3 Old Palasia, Indore 452001, INDIA

Date of Execution

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