

Date: __/__/__

Among

VIVEKANANDA IF

AND

.....

INCUBATION AGREEMENT

THIS INCUBATION AGREEMENT (hereinafter referred to as this “**Agreement**”) is made on _____ day of _____, 2024 (“Effective Date”) at _____.

BY AND AMONG

Vivekananda Incubation Foundation (VIF) having CIN U80903UP2022NPL166204, a Section 8 startup incorporated under the Companies Act 2013, having its registered office at Dr. Bhimrao Ambedkar University, Paliwal Park, Kamla Nagar, Civil Lines, Agra, Uttar Pradesh 282003, which is (hereinafter referred as “VIF” which expression shall, unless inconsistent with the context or meaning thereof, be deemed to include its successors and permitted assigns) of the **FIRST PART**;

AND

..... bearing CIN/ LLPIN....., and having its registered office at hereby represents itself as a startup entity at the stage [*ideation, preparing prototype, prototype ready, launched, early traction, acceleration*] hereinafter referred to as a “**Start-Up**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include his legal heirs, executors, administrators and permitted assigns of the **SECOND PART**;

AND

..... having PAN residing at (hereinafter referred to as the “**Authorised Representative**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include his legal heirs, executors, administrators and permitted assigns) of the **THIRD PART**;

AND

The Start-up expresses its intent to formally participate in an incubation program, herein referred to as the Virtual incubation program and permitted assigns of the **FOURTH PART;**

RECITALS

- A. **WHEREAS**, is classified as Non-profit organization under Section 8, Companies Act 2013. Dr. Bhimrao Ambedkar University, Paliwal Park, Kamla Nagar, Civil Lines, Agra, Uttar Pradesh, is the Host Institution of the VIF owing the Infrastructure being used by apart from other required support services from time to time. It promotes entrepreneur development, startup incubation, and early-stage investment in the startups.
- B. **WHEREAS**, founders and startup shall hereinafter be collectively referred to as “Incubate”.
- C. **WHEREAS**, The Founders are the promoters of the Start-Up.
- D. **WHEREAS**, is willing and has consented to incubate the innovation and business ideas of the Start-Up into viable commercial products or services as per the terms of this Agreement.
- E. **WHEREAS**, the founders shall hereinafter be collectively referred to as “Incubate”. The VIF and startup shall hereinafter be collectively referred to as “Parties” and individually as a “Party”.

NOW THEREFORE IN CONSIDERATION OF THE PREMISES AND MUTUAL COVENANTS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:

1. INCUBATION AND MENTORING SUPPORT

- 1.1. The Startup registered with VIF shall be provided incubation and mentoring support as per this Agreement and other terms as decided and deemed fit by the VIF from time to time.
- 1.2. The VIF shall endeavour and make efforts to provide to the Startup following incubation and mentoring support through the expert mentors recommended and selected by VIF from time to time depending upon the requirement of the Incubate(s):-

- 1.2.1. *Business Mentoring*: Guidance by VIF expert mentors, angel investors, experienced & successful senior business and corporate sector executives and industry veterans on a broad range of topics, including the fundamentals of setting up a business, identifying suppliers, the appropriate location for the business, pricing of the product, marketing, developing effective business processes, etc.
- 1.2.2. *IPR Mentoring*: Guidance on intellectual property right strategy to be followed by the Startup or Start-Up, in line with the larger strategy of the business model.
- 1.2.3. *Support services*: Assistance in connecting to lawyers, accountants, marketers, human resource specialists, intellectual property right agencies and other qualified practitioners in order to provide assistance in setting up the business and taking care of VIF requirements. VIF will not be liable for either quality or cost or any other breakdown related to delivery of such services.
- 1.2.4. *Visibility*: Showcasing of VIF on startup's website, marketing communication and promotional materials and other possible places; participation in events, seminars, and conferences organized by VIF, VIF shall endeavor to increase the traction for the Start-Up.
- 1.2.5. *Training & Development*: Access to training material on relevant issues like accounts, taxation for start-ups, understanding intellectual property, etc. VIF may also organize training events from time to time in order to help entrepreneurs tackle the challenges of starting-up and for the capacity development of the Start-Up.
- 1.2.6. *Monitoring and Review*: VIF may review and monitor the progress and growth of the Start-up/ business of the Startup. Any suggestions or advice given by the VIF should be seriously considered by the Startup.
- 1.3. Notwithstanding anything mentioned in Agreement, it is specifically understood by the Incubates that VIF's role is that of a facilitator and platform provider for incubation, mentoring, business support and/or investment by private and institutional investors and it will endeavour to deliver on the above objectives on a best-efforts basis. How much value the Incubates derive from VIF and its connections and whether or not the startup gets any investment will depend on several factors including, but not limited to, the perseverance and application of

the promoter/entrepreneur, strength of the idea and business and demonstrated capability to execute. Failure to learn or to attract investment on the part of the startup will not create any liability on VIF, its promoters, management team, operating team, office bearers, or those of any of its associate companies, business support partners, advisors or any other person or entity whom VIF might have called upon to help it achieve its objectives. Notwithstanding anything contained in this agreement, no financial liability upon VIF - IF can be created nor VIF - IF will be liable to pay any liability due any foreseen or unforeseen reason.

2. INFRASTRUCTURAL SUPPORT

2.1. VIF will provide access to working space and the following infrastructure support to the Incubates for a period as may be determined by the VIF:

- a. Co-Working Space
- b. Shared Conference Hall (depending on availability)
- c. Discussion /Conference Room (depending on availability)
- d. Standard Furniture etc.
- e. Cabins, open fixed seats and floating seats
- f. Electricity
- g. Printing facility (on chargeable basis)
- h. Internet and Wi-Fi connection
- i. Land Line Phone usage (on chargeable basis)
- j. Other support as VIF may deem fit

2.2. Incubates shall not claim above support as a matter of right, but the infrastructural support shall be provided to Incubates on availability basis by the VIF. The VIF shall in no way be bound to provide above said support to the Incubates. The Incubates shall treat the premise with utmost care, and not do anything unprofessional, illegal or immoral that may disrupt the working culture, reduce or adversely affect the productivity of the said office or otherwise bring VIF to disrepute in any manner.

2.3. Smoking and alcohol are prohibited in the Incubation Foundation's facility.

2.4. No Incubate shall be permitted to use the premises or the address of the VIF for the registration of the startup.

3. FINANCIAL SUPPORT

- 3.1. VIF shall endeavour to connect and demonstrate the Startup to the potential angel and institutional investors and support them in raising funds through the VIF's Investor Network or the outside Investors. The selected Startup may be allowed to pitch before the investors on a selected date and venue.
- 3.2. The VIF may also invest/co-invest (but will not be under any obligation) to provide seed fund to the deserving Startup, as may be selected and decided by the VIF at its sole discretion from time to time.
- 3.3. The Incubates shall disclose the utilization of funds in advance to the VIF and the funds so raised by the Startup shall be used as disclosed.

4. GENERAL TERMS OF

- 4.1. The Incubates shall not do anything unpleasant, obscene, illegal or immoral that may disrupt the decorum or working culture of the VIF to disrepute in any manner.
- 4.2. The Incubates shall adhere to the timelines set up by the VIF.
- 4.3. VIF shall provide facilities of printing, scanning, photocopying, refreshments Document Scanner, Library: Management Books, Subscription to IT, Business, Management and Trade journals and newspapers, Meeting/Conference room with projection equipment, Tele or Video conferencing facilities etc. to the Incubates on affordable chargeable basis.
- 4.4. The Incubates shall observe the holidays as per the calendar of the VIF.

5. INCUBATION COSTS

- 5.1. For providing incubation facility support VIF shall charge a fee of (will be mutually decided after incubation program starts) per month per cubical (For Physical Incubation) and a fee of (will be mutually decided after incubation program starts) per year (For Virtual Incubation) excluding all applicable taxes till completion of twelve months from the date of signing of this agreement.
- 5.2. In addition to above clauses, the Startup shall be obligated to allot/ transfer/issue, at face value, (will be mutually decided after incubation program starts) of the equity shares on fully diluted basis to the VIF or any other person or entity nominated by the VIF with a buyback option.

The equity sharing will be a value based proposition where:

All the services provided by the VIF will be valued.

&

The value of the transformation from the day of joining and after 90 days of incubation will be measured (mutually).

&

The calculated value of the service for the rest of the tenure will be added to derive sharable percentage of equity.

5.3. All applicable taxes shall be charged at actual by the VIF and be solely borne by the Startup.

5.4. The Incubatees shall be jointly and severally liable for the payment of above costs to the VIF.

6. OBLIGATIONS OF THE INCUBATES

The Incubates shall abide by its obligation under this Agreement and comply with the following: -

6.1. The Startup shall pay the fee and issue/ transfer / allot equity shares to the VIF as per clause 5.

6.2. VIF shall have the right, but not the obligation, to appoint one Director on Board of the Startup and a Board Observer during the tenure of incubation or till the time VIF holds any equity shares, whichever is later. The promoters of Incubate shall appoint such nominated person as Director in the Startup within 5 days after the nomination by the VIF.

6.3. The Incubates shall abide by the timelines set up by the VIF and shall not violate any of the provisions of this Agreement.

6.4. In case of failure to pay the fee to VIF as per Clause 5, the Startup shall be liable to pay a interest as decided by VIF. In case the Startup is unable to pay outstanding amounts (along with the interest) to the VIF, the VIF shall have the option to require the Startup to issue equity shares equivalent to the amount outstanding in the name of VIF.

6.5. The Startup shall provide a list of all its directors, founders, promoters or any other bonafide persons in the format as required by VIF. The Incubates shall not use VIF

name either directly or indirectly in their business dealings, either during the time when the facilities are availed or in the future business dealings unless written permission is obtained from VIF for using the name. The Startup shall inform VIF in advance about change of its name or any other form of legal entity, any change in the incubation/business plans or any change in their ownership pattern or shareholding.

- 6.6. The Startup shall furnish its annual financial reports like cash flow statement, balance sheet, MIS, and any other information and document as may be desired by VIF.
- 6.7. The Incubates shall keep confidential, all the discussions, inputs and terms discussed during selection process or while in operation with VIF.
- 6.8. The Incubates shall use the VIF premises only for the business as pre-disclosed by the Incubate and permitted by the VIF.
- 6.9. The Incubates shall keep the VIF and the common space provided neat or clean and to take proper care of the facilities provided during the term of occupation and at the time of leaving the Incubate shall agree to pay for any damage of such facilities as determined by VIF.
- 6.10. The Incubates shall observe that noise levels are kept at a minimum and no abnormal level of noise by equipment or employees or visitors should be made.
- 6.11. The Incubates shall not takeout of VIF premises any equipment without the approval of the official authorised by VIF.

7. MANAGEMENT AND INFORMATION RIGHTS

- 7.1. So long as the VIF holds any share in the Startup, the Startup shall deliver to the VIF the following information:
 - 7.1.1. Audited annual financial statements.
 - 7.1.2. Unaudited Quarterly (and year-to-date) financial statements including an income statement, a statement of cash flow and a balance sheet.
 - 7.1.3. Monthly profitability and cash flow statement.
 - 7.1.4. Copy of board pack as circulated to the Directors of the Startup
- 7.2. The Startup shall intimate the VIF in writing, about any event at least 7 days prior to occurrence of such events.

7.3. The Startup shall keep the VIF informed in writing about all material changes, information and events (including but not limited to any information related to future rounds of funding). If the Startup fails to keep VIF informed about the material information, then the Startup shall fully indemnify the VIF to its satisfaction against all losses, deficits, damages and claims in the manner as required by the VIF.

8. Intellectual Property Rights

8.1. In case the Incubates is desirous of using any Intellectual Property of VIF then the Incubates shall make such request in writing to VIF and use the same only after the written consent from VIF.

8.2. The Incubates shall protect their Intellectual Properties as per the instructions or guidelines as instructed by VIF.

8.3. Intellectual Property in any and all materials developed, devised, written or otherwise acquired by the Incubates in the past or during the Incubation period shall vest exclusively in the Incubates as the sole owner.

8.4. The Incubates shall be the true and legal owner of the Intellectual Property (ies), which are claimed or used by such Incubate(s) and the same shall be free from all encumbrances.

8.5. For the purpose of this Agreement:

“Intellectual Property” means and includes collectively or individually, the following worldwide rights relating to intangible property, whether or not filed, perfected, registered or recorded and whether now or hereafter existing, filed, issued or acquired: (a) patents, patent applications, patent disclosures, patent rights, including any and all continuations, continuations-in-part, divisions, re-issues, re-examinations, utility, model and design patents or any extensions thereof; (b) rights associated with works of authorship, including without limitation, copyrights, copyright applications, copyright registrations; (c) rights in trademarks, trademark registrations, and applications therefore, trade names, service marks, service names, logos, or trade dress; (d) rights relating to the protection of trade secrets and confidential information; and (e) internet domain names, Internet and World Wide Web (WWW) URLs or addresses; (f) mask work rights, mask work registrations and applications therefore; and (g) all other

intellectual, information or proprietary rights anywhere in the world including rights of privacy and publicity, rights to publish information and content in any media.”

9. BOARD REPRESENTATION AND NO LIABILITY

- 9.1. The VIF shall have the right, but not the obligation to nominate 1 (one) Director in the Board of Directors of the Startup and 1 (one) Observer to the Board of meetings of the Startup. In the event of any increase in the overall board composition, the number of Directors so nominated by the VIF shall proportionately increase.
- 9.2. Quorum for the meetings of Board of Directors would be the presence (either in person or through video conference) of at least 2 directors, including at least one director nominated by the VIF (if appointed by VIF).
- 9.3. Subject to the provisions of Applicable Laws, the Startup expressly agree and undertake that neither the VIF nor the Director appointed by the VIF shall be liable for any applicable law, including but not limited to, defaults under the Companies Act, 2013 (or a like law) taxation and labour laws of India, since they are not responsible for the day to day management or affairs of the Startup.
- 9.4. Subject to the provisions of Applicable Laws, the Startup expressly agree and undertake that the Director appointed by VIF shall not be identified as an officer in default of the Incubate, or occupies of any premises used by the incubate or employers under applicable laws. Further, the Startup undertake to ensure that the other Directors or suitable persons are nominated as officers in default, occupies and /or employers, as the case may be, in order to ensure that the Director appointed by VIF do not incur any liability case may be, in order to ensure that the Director appointed by VIF do not incur any liability.

10. NON-COMPETE AND NON-SOLICITATION

So long as the VIF holds any Shares in the Startup, the Founders shall not directly or indirectly through Third Parties:

- 10.1. solicit the clients of the Startup and entice business away from the Startup or any group companies/ affiliates;

- 10.2. use the services of or make any offers of employment or contract or sub-contract to the Startup or a group companies/ affiliates staff or sub-contractors (whether individual or corporate), current or former employees;
- 10.3. engage in any business, directly or indirectly, that is in competition with the business of the Startup or any group companies/ affiliates.

11. CONFIDENTIALITY

The VIF and Incubate(s) shall keep confidential, the contents of the Incubation and mentoring support and other sensitive information exchanged or received during the incubation period. Both VIF and the Incubatee(s) shall take all reasonable measures to protect the secrecy of and avoid disclosure or use of any confidential information of the other Party in order to prevent it from falling into the public domain or the possession of persons other than authorized by such Party.

12. VALIDITY

In the event that any provisions, guidelines, or rules are inadvertently omitted from this Incubation Agreement but are present within the startup policy of the VIF, it is hereby agreed that such provisions, guidelines, or rules shall be deemed to be incorporated into and made an integral part of this Agreement. Any such incorporation shall render the omitted provisions, guidelines, or rules fully valid and enforceable as if they had been explicitly included within this Agreement.

13. INDEMNIFICATION

The Incubates shall indemnify, defend and hold harmless the VIF, its directors, partners, employees, agents and representatives (an "Indemnified Party") from and against any and all damages, losses, liabilities, obligations, claims of any kind, interest, costs, taxes or expenses (including without limitation, reasonable attorney's fees and expenses) suffered or incurred, directly (excluding any consequential losses) by any Indemnified Party as a result of any failure to perform or breach of any provision or term of this Agreement. Incubates shall keep VIF - IF indemnified in all cases and circumstances, including but not limited to, from all claims, liabilities and taxes.

14. NO PARTNERSHIP

Nothing in this Agreement shall create or deemed to have create a partnership between the VIF and the Startup and none of them shall have the power or authority to enter any agreement on behalf of the other or otherwise.

15. AMENDMENTS

This Agreement shall be subject to periodical review and amendments /modification by the VIF at its sole discretion without any prior notice or intimation to any person or entity, including but not limited to Incubate(s). It will be the responsibility of the Startup or Start-Up enrolled with VIF, to update themselves from time to time on amendments in Agreement and procedures. VIF reserves the rights to make an exception of all or any of the terms of Agreement for particular Startup or Start-Up on a case-to-case basis more specifically making Dr. Bhimrao Ambedkar University as party to this Incubation Agreement being Host Institution of VIF subject to approval by its Board of Governors.

16. TERM AND TERMINATION

- 16.1. The term of the Agreement shall be Twelve Months (12 months) from the Effective Date, which may be renewed by VIF for subsequent Twelve Months (12 months). In no case, the term of Agreement shall exceed 24 months with or without modifying the terms and conditions of this agreement.
- 16.2. VIF shall have sole right and discretion to remove any Startup from the VIF, which has either violated any rule or provision, set out by this Agreement or any other directives or rules of the VIF. The VIF may give 7 days' notice before terminating any Startup from the VIF. The decision of the VIF in this regard shall be final and binding upon Startup. VIF shall not be under obligation to give any reason to Startup for its removal from the VIF.

17. CONSEQUENCES OF TERMINATION

In the event of removal or termination of the Incubate(s) from the VIF for any reason:

- 17.1. the Startup shall immediately stop and refrain from using the VIFs name, logo or any kind of intellectual property rights permitted by VIF;
- 17.2. the Startup shall within 7 days of the removal or termination clear all the dues and outstanding amounts of the VIF.
- 17.3. the Startup shall within 7 days of the removal or termination clear all its belonging and other items from the VIF.

18. NOTICE

Any notice or other document to be given under this Agreement shall be in writing and may be given to either of the Parties (as the case may be) by email as well as by first class post or other fast postal service at the addresses mentioned above in the Parties description.

19. LEGALLY BINDING

Unless otherwise indicated the obligations in this Agreement shall be legally binding. In the event of any dispute between the Incubate(s) and the VIF, the VIF and Incubate(s) shall use their best endeavours to resolve the dispute through amicable negotiations. If no settlement is reached, it shall be referred to the Governing Body of VIF for arbitration whose decision shall be final and binding.

20. EXPENSES & STAMP DUTY

- 20.1. Each Party hereto shall bear its own costs and disbursements of and incidental to the execution of this Agreement, including professional fees and costs of its respective advisors and counsel.
- 20.2. Startup shall bear and pay the stamp duty on this Agreement.

21. WAIVER OR RESERVATION OF RIGHTS

No forbearance, indulgence or relaxation or inaction by any Party at any time to require performance of any of the provisions of this Agreement shall in any way affect, diminish or prejudice the right of such Party to require performance of that provision. Any waiver or acquiescence by any Party of any breach of any of the provisions of this Agreement shall not be construed as a waiver or acquiescence of any right under or

arising out of this Agreement, or of the subsequent breach, or acquiescence to or recognition of rights other than as expressly stipulated in this Agreement.

22. SEVERABILITY

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable 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 provisions.

In witness whereof parties hereto have signed this Incubation Agreement on the date and year mentioned hereinbefore.

Name: Prof. Anil K Gupta

Faculty In Charge & Executive Director

Vivekananda IF

Signature:

Authorised Representative Name:

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Designation:

Signature:

Seal of the company