

TERMS OF SERVICE AGREEMENT

This Terms of Service Agreement ("Agreement") is made on _____ between:

- (1) **Digital 38 Pte Ltd** a company incorporated in Singapore having its registered office at 2 Kallang Avenue CT Hub #09-10, Singapore, company registration number 201331353E, and,
- (2) _____ a company incorporated in _____ having its registered office at _____, company registration number _____ ("Service Provider").

Collectively hereinafter referred to as the "Parties".

Background & Term:

- A. D38 desires to engage Service Provider to perform _____ ("Services"), and other services as may be agreed upon between the parties in the future.
- B. Service Provider will provide services to D38 on project basis and for the consideration and upon the terms set forth below. This Agreement will continue until the completion of all projects assigned to Service Provider unless earlier terminated as provided below.
- C. Service Provider acknowledges and agrees that this is a non-exclusive agreement and that D38 may appoint other companies to provide the services to D38.
- D. Payment term is net 60 days from date of invoice.
- For agreed upon and signed work only
 - Invoice date not to be earlier than the delivery date of the assigned task or a date that was agreed by D38 earlier in writing.
- E. The purpose of this Agreement is to facilitate the exchange of confidential and/or proprietary information for use in exploration by the Parties of the possibility of entering into a future business relationship (the "Purpose").

Confidentiality

- F. D38 may disclose to the Service Provider technical and/or commercial information relating to its businesses, facilities, products, techniques and processes in form of oral disclosure, demonstration, emails, source files, device, apparatus, model, sample of any kind, computer program, document, specification, or drawing which information is proprietary to D38 ("Confidential Information").
- Confidential Information shall also include all/any commercial information disclosed to D38 by the Service Provider. Service Provider shall keep the Information received from D38 as strictly confidential and shall not disclose it to third parties without a prior written permission of D38.
 - Service Provider will not (without first obtaining the prior written consent of D38) during or after the term of this Agreement, disclose, make commercial or other use of, give or sell to any person, firm or corporation, any information received directly or indirectly from D38 or acquired or developed in the course of this Agreement, including but not limited to, ideas, source files, inventions, methods, designs, formulas, systems, improvements, prices, discounts, business affairs, products, data and know-how, the existence of this Agreement and technical information of any kind whatsoever unless such information has been publicly disclosed by authorized officials of D38.
 - All material embodying Confidential Information or relevant or related thereto whether or not supplied by D38, including, without limitation, rejected drawings, computer input or output, and including all copies of any kind shall be returned to D38 and/or certify that it is destroyed upon written request of D38.
 - It is explicitly agreed hereunder, that the Service Provider shall not make any publicity on, press release of or reference to this Agreement, or the co-operation with D38 clients, D38 other suppliers and other D38 related companies.

Ownership and Use of Materials

- G. Service Provider hereby assigns all rights, title and interest in the Materials, including patent, copyright, (including copyright in derivative works) industrial or registered design, domain name, trade secret, and trademark rights (collectively, "Intellectual Property") to D38 and will cause all copyright, trademark, industrial or registered design and patent applications in Singapore or throughout the world to be assigned to D38 (subject to the rights of third parties as have been previously disclosed by Service Provider in writing, and acknowledged by D38), and will execute all documents reasonably necessary to effect such assignments or the ownership provisions described herein at no additional cost to D38, except that D38 will pay all reasonable and ordinary expenses for any registration of such trademark, industrial or registered design and patents. D38 will have the sole and exclusive right to determine whether to file, prosecute or enforce any copyright, trademark, industrial or registered design or patent.
- H. D38 will be sole owner of all Materials (see definition below) created for D38, (and Service Provider will agree to send all completed or uncompleted source files to D38 after the completion of the project), subject to the rights of any third parties as disclosed by Service Provider in writing and accepted by D38. Under no circumstances will any Material or Materials created by Service Provider for D38 or presented to and approved by D38 be available for use by any other firm or entity, without the prior written approval of D38, regardless of whether such Materials are, in whole or part used in final cut form by D38. Under no circumstance may Materials that consist of or incorporate any of D38's Intellectual Property will be made available by Service Provider to unrelated third parties for their potential ownership. Service Provider shall not disclose or list any and all Materials created for D38 as Service Provider's portfolio and work.
- I. For purposes of this Agreement, "Materials" will mean but not limited to all original designs, artwork, devices, developments and inventions, concepts, plans, ideas, programs, campaigns or executions in any form presented to D38 for marketing execution, advertising, merchandising, packaging and other materials, including without limitation, presentation materials, photographs, videos, storyboards, rough cuts, software and databases, prepared or developed by Service Provider or third parties at Service Provider's request, pursuant to this Agreement, and all patent, copyright, (including derivative works) and trademark and trade secret rights, and all original works of authorship created by Service Provider, or on Service Provider's behalf, for D38 and all other materials of any kind developed for or on behalf of D38.
- J. Service Provider hereby assigns and transfers all ownership of all Materials to D38, without limitation, and for the entire duration of the copyrights according to the corresponding law provisions, all rights, use and benefits in the Materials created by Service Provider. Service Provider waives any moral rights it may have in any Materials created for or on behalf of D38. D38 holds the exclusive right to use and modify all the titles, names, slogans, logos, characters, symbols, designs, likenesses, and other visual representatives of any Materials, subject to the underlying rights of third parties have been previously disclosed and approved by D38, including, but not limited to, television and other broadcasting rights and video rights, publishing rights of all printed material and music publishing rights, as well as the promotion and marketing of any such throughout the world.
- K. Service provider is prohibited to use any material that is a derivative of a material used in D38 projects for other projects, clients and/or campaigns unless requested upon by D38.
- L. Service provider should maintain absolute silence at all times about projects, know-hows and their personal opinions about the projects and products they are involved in. (i.e. service provider may be featuring sugar free fruit concentrate for D38 projects and should not blog/ comment/ declare during or after the project that it was full of sugary taste).

Performance Standards

- M. While this Agreement is in force, Service Provider will provide Services to D38 at such times and with respect to such assignments as are mutually agreed to from time to time and upon acceptance of an assignment will perform the Services in a professional manner and in accord with applicable industry standards, including but not limiting to prompt follow up and responses, and delivery of work according to agreed scope on schedule.

Termination

- N. D38 may terminate this Agreement by giving to Service Provider 7 days' notice in writing of its intention to terminate, with the exception of the two scenarios below, such termination will not release Service Provider from the provisions of Sections E, F, G, H, I, which will remain binding upon Service Provider until expressly released by D38 in writing. Upon termination, D38 will be entitled to receive all completed and uncompleted designs, plans, suggestions, ideas, and all other information and documents which Service Provider and its employees and agents have made or developed with respect to any Services up to the termination date, and all materials at Service Provider side should be returned to D38 and/or certified in writing that it is irrevocably destroyed.
 - i. D38 may terminate the Services by the Service Provider by giving the Service Provider 7 days' notice in writing, if Service Provider performance standards falls below industry standards including but not limiting to poor responses, lack and failure of actions when prompt by D38.
 - ii. D38 may terminate the Services by the Service Provider by giving the Service Provider 1 day's notice in writing shall D38 or it's represented client decide to terminate the Services. Service Provider shall not claim any liability or losses against D38 unless agreed by D38 and it's represented client on the amount of cancellation fee.

Applicable Law

- O. This Agreement shall be construed in accordance with and governed by the laws of Singapore and the Parties hereby irrevocably submit to the non-exclusive jurisdiction of the Singapore Courts.

Non-Compete

- P. At all times while this agreement is in force and after its expiration and termination, Service Provider agrees to refrain from disclosing D38's customer lists, trade secrets, or other confidential material. Service Provider agrees to take reasonable security measures to prevent accidental disclosure and industrial espionage. While this agreement is in force, the Service Provider agrees to use best efforts to abide by the nondisclosure and noncompetition terms of this agreement. After expiration or termination of this agreement, Service Provider agrees not to compete with D38 for D38's clients for a period of 1 year. Competition means pitching business among D38's client portfolio. Service Provider agrees to pay liquidated damages of US\$100,000 (one hundred thousand United States Dollars) for any violation of the covenant not to compete contained in this paragraph.

Non-solicitation

- Q. Service Provider agree that they will not whether directly or indirectly, on their respective account or in conjunction with or on behalf of any other person or entity at any time during duration of any of the parties' obligations under this Agreement and for a period of twelve (12) months after the termination of this Agreement howsoever occasioned, persuade, induce, solicit or entice away, or attempt to persuade, induce, solicit or entice away from the other party any person who is an employee or member of staff of the other party whether or not such person would commit a breach of his contract of employment by reason of leaving such employment. . In the event any D38 employees are recruited by the Service Provider during duration of any of the parties' obligations under this Agreement and for a period of twelve (12) months after the termination of this Agreement howsoever occasioned, then Service Provider is to promptly pay D38 US\$10,000 (ten thousand United States Dollars) or 30% of their last contract value, whichever is higher.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the latest date set forth below.

Digital 38 Pte Ltd

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____