

Dated [•], 2021 [Note: insert actual date of signing]

UNITED SPIRITS LIMITED

- and -

XYZ

Confidentiality Agreement

This confidentiality agreement ("**Agreement**") is made on this [•] day of [•], 2021 ("**Execution Date**") and shall be effective from [•], 2021 ("**Effective Date**");

BETWEEN:-

- (1) **United Spirits Limited**, a company incorporated in India with CIN L01551KA1999PLC024991 whose registered office is at "UB Tower", #24 Vittal Mallya Road, Bangalore 560 001 ("**USL**"); and
- (2) **XYZ**, a company incorporated in India with ("**Partner**").

USL and Partner are hereinafter collectively referred to as the "Parties" and individually as a "Party".

BACKGROUND:-

- A. The Parties are evaluating a prospective business partnership with each other and /or investment opportunity by USL in the Partner ("**Transaction**").
- B. Each Party is willing to disclose certain Confidential Information (defined below) to the Receiver (defined below) in order to facilitate the Authorized Purpose.
- C. In order to protect any Confidential Information disclosed by the Discloser (defined below) to the Receiver, the Parties agree to the following terms.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS CONTAINED HEREIN, IT IS AGREED:-

1. Definitions

In this Agreement, the following words shall have the meanings set out below:

- 1.1 "Affiliate" in relation to any Person (including a Party to this Agreement), any Person directly or indirectly owning and/or controlling, owned and/or controlled by or under common ownership or control with such other Person at any time during the period for which the determination of affiliation is made and for the purposes of this Agreement, "control" shall mean in relation to any Person, the power to direct the management or policies of that Person directly or indirectly through the ownership of voting securities, by contract or otherwise;
- 1.2 "Authorised Purpose" Any and all business activities and/or discussions between the Parties for the purposes agreed thereon, as may be evidenced through records kept in the normal course of business (email to be sufficient) including but not limited to activities and/or discussions in connection with the Transaction;
- 1.3 "Confidential Information" shall bear the meaning as ascribed to it under Clause 2;

- 1.4 “Discloser” the Party disclosing Confidential Information under this Agreement;
- 1.5 “Intellectual Property Rights/ IP” any patent, extension of the exclusivity granted in connection with a patent, petty patent, utility model, trade mark, registered design or any application for registration of the same or right to apply for the same (including, but not limited to, continuations, continuations in part and divisional applications), any copyright or neighbouring or related rights, database right, design right, rights in trade, business or domain names, rights in trade dress and logos, rights in inventions, publication rights, rights in confidential information (including the Confidential Information), trade secrets and know-how or any similar or equivalent rights in any part of the world;
- 1.5 “Person” any individual, corporation or body corporate, partnership, association, trust or other entity or organisation, including that person’s legal personal representatives, successors and permitted assigns;
- 1.6 “Personnel” in respect of a Party, its officers, employer, employees and professional advisors;
- 1.7 “Receiver” the Party receiving Confidential Information under this Agreement.

2. Confidential Information

2.1 In this Agreement, “Confidential Information” shall, subject to Clause 2.2, mean this Agreement, any and all information or materials disclosed, directly or indirectly, by the Discloser or any of its Affiliates to Receiver whether before or after the date of this Agreement and whether orally, in writing, electronically or in any other form, including information or materials relating to the Authorised Purpose, all the research, developments, product plans, products, services, diagrams, formulae, processes, techniques, technology, firmware, software, know-how, designs, ideas, discoveries, inventions, improvements, copyrights, trademarks, trade secrets, customers, suppliers, markets, marketing, finances disclosed by the Discloser pertaining to the business of the Discloser and/ or any information to which the Receiver may have or gain access to, during the Term of this Agreement.

2.2 “Confidential Information” shall not include any information or material which:-

- 2.2.1 is or becomes public knowledge through no improper conduct on the part of Receiver or its Affiliates;

- 2.2.2 is already lawfully in the possession of Receiver free from any obligations of confidentiality or restrictions on use; or
 - 2.2.3 is subsequently obtained by Receiver from a Person free from any obligations of confidentiality or restrictions on use and such Person is in lawful possession of such information and/or materials and is not in violation of any contractual or legal obligation to maintain the confidentiality of such information and/or materials.
- 2.3 The onus shall be on Receiver to prove that any of the exceptions included in Clause 2.2 apply.

3. **Confidentiality Obligations**

- 3.1 Receiver shall treat all Confidential Information as secret and confidential and shall not use, copy or disclose any Confidential Information to any Person except as permitted in Clause 3.3.
- 3.2 Receiver shall take all necessary precautions to ensure the security of all Confidential Information and shall comply with the Discloser's directions in relation to all Confidential Information. In particular, Receiver shall not make any copies of documents or other materials containing Confidential Information unless specifically authorised by the Discloser.
- 3.3 Receiver shall be entitled to:-
- 3.3.1 use Confidential Information solely for the Authorised Purpose;
 - 3.3.2 disclose Confidential Information solely to those of its Personnel who need to know Confidential Information for Receiver to carry out the Authorised Purpose and who are prior to disclosure of the Confidential Information bound by appropriate and legally binding confidentiality and non-use obligations; and
 - 3.3.3 disclose any part of the Confidential Information solely to the extent that it is legally required to do so by any government authority or court of competent jurisdiction, provided that Receiver shall notify the Discloser of any required disclosure, use its best endeavours to limit such disclosure and give the Discloser the opportunity to make representations to the relevant authority or court.
- 3.4 Receiver shall ensure that its Personnel keep all Confidential Information secret and confidential and only use Confidential Information as permitted under this Agreement. Receiver shall be fully responsible if any of its Personnel make any unauthorised disclosure or use of any Confidential Information.
- 3.5 Receiver shall promptly notify the Discloser if Receiver becomes aware of any unauthorised disclosure or use of any of the Confidential Information.

4. **Ownership of Confidential Information and IP**

- 4.1 All documents, files and other items provided to Receiver by or on behalf of the Discloser and containing Confidential Information shall remain the property of the Discloser and shall be

returned by Receiver to the Discloser on request, together with all copies. If and to the extent the Confidential Information is incapable of being returned, the Receiver shall destroy or delete (and undertake not to attempt to recover) all such Confidential Information and all copies, reproductions, reductions and extracts thereof, at its own cost and will certify in writing to the Discloser that the Confidential Information has been completely destroyed.

- 4.2 All rights, interest in and title to IP shared by the Discloser shall remain with the Discloser and/or such third party owner of the IP and no rights to the IP shall be assigned to the Receiver under this Agreement.

5. Data Privacy Obligations

Any third party data collected by the Receiver shall be in accordance with the relevant data privacy laws. The Receiver undertakes not to disclose such data to any third party, except as provided under the relevant laws.

6. Sub-contractors

Receiver shall not be entitled to use any sub-contractors (including Affiliates) in connection with the Authorised Purpose, except with the prior written consent of the Discloser.

7. Publicity

- 7.1 Except as permitted under Clause 7.2, neither Party shall, without the prior written consent of the other Party, make any announcement or otherwise provide any information to any third party (other than its legal advisors) concerning the existence, terms or performance of this Agreement and/or any dispute or disagreement relating to it, in each case either directly or indirectly and whether or not the Discloser or any of its Affiliates is mentioned directly or by implication.

- 7.2 Nothing in Clause 7.1 shall prevent either Party from making any announcement or disclosure of the existence and terms of this Agreement in order to comply with the requirements of any governmental or regulatory authority (including any securities exchange) any court order or law. Save where prohibited by law, each Party shall consult with the other, taking into account each other's reasonable comments on the timing, contents and manner of release of any such announcement or disclosure.

8. Liability and Indemnity

- 8.1 Neither Party nor any of its directors, employees, agents or advisers makes any representation or warranty, express or implied, as to the accuracy or completeness of any Confidential Information it discloses under this Agreement and shall not be liable to the other Party in respect of such Confidential Information or its use.

- 8.2 Receiver shall indemnify the Discloser and its Affiliates against any action, claim, cost, loss, liability, expense or damage that they may suffer or incur, arising directly or indirectly from

any breach of the provisions of this Agreement or any act or omission by any of Receiver's Personnel which causes Receiver to be in breach of this Agreement.

8.3 The Parties acknowledge that damages alone would not be an adequate remedy for any breach of the provisions of this Agreement. Accordingly, notwithstanding Clause 14 and without prejudice to any other rights or remedies that any Party may have, the Parties agree that they shall be entitled to equitable relief before the courts of any competent jurisdiction, including interim injunctions and orders for specific performance, in the event of any breach of the provisions of this Agreement, in addition to all other remedies available at law or in equity.

9. **Assignment**

Neither Party shall be entitled to assign its rights or obligations under this Agreement to any Person without the prior written consent of the other Party.

10. **Term and Termination**

The term of this Agreement shall commence from the Effective Date and shall continue for a period of 1 (one) year thereafter. Either Party may terminate this Agreement at any time for any reason by delivering 30 (Thirty) days written notice of termination to the other Party without assigning any reason whatsoever. The confidentiality obligations set forth in this Agreement shall remain in full force and effect in perpetuity despite expiry / termination of this Agreement or return of such Confidential Information.

11. **Waiver**

Any failure or delay of either Party to exercise any rights or powers under this Agreement shall not be deemed to be a waiver of those or any other rights, nor will any single or partial exercise of them preclude any further exercise, unless expressly so agreed in writing by such Party.

12. **Severability**

If any provision of this Agreement is declared void or otherwise unenforceable, then the provision shall be omitted and the remaining provisions of this Agreement shall continue in full force and effect.

13. **Entire Agreement**

This Agreement constitutes the entire agreement and understanding between the Parties with regard to its subject matter and supersedes all prior oral or written agreements, representations, understandings or arrangements between the Parties relating to the subject matter of this Agreement. Any amendment to this Agreement must be made in writing and signed by the duly authorised representatives of each Party.

14. **Costs**

During the development of any proposal or in relation to the Authorised Purpose, each Party will bear its own costs and expenses of such unless explicitly agreed and authorised in writing by the other Party.

15. **Governing Law**

This Agreement shall be governed and construed in accordance with Indian Law and shall be within the exclusive jurisdiction of the Courts at Mumbai, India.

EXECUTED BY THE PARTIES the day and year first above written:-

Signed for and on behalf of **United Spirits Limited** by its duly authorised representative:-

Signed for and on behalf of **XYZ** by its duly authorised representative:-

Signature.....

Signature.....

Name.....

Name.....

Title.....

Title.....

Date.....

Date.....