

## **PROGRAM PARTICIPATION AGREEMENT**

This Agreement is executed a on this the .... day of .....2023,  
between

M/s ....., a .....incorporated under .....and  
having its Registered Office at ....., represented by its  
Director/Proprietor **Mr/Ms.** \_\_\_\_\_,(hereinafter  
referred to as “1<sup>st</sup> t Party” which expression shall, unless it be  
repugnant to the subject or context thereof, include its successors,  
administrators, executors and assigns) of the ONE PART;

And

**M/s NOVANTA MINUTES Pvt Ltd**, a private company duly registered  
under the company’s act 2013, and having its Registered Office at  
2/46A, Sreejesh Road, Kumarapuram.P.O, Kizhakkambalam-683562,  
represented by its Managing Director **Mr. Binil Raj**(hereinafter  
referred to as The “2<sup>nd</sup> Party” which expression shall, unless it be  
repugnant to the subject or context thereof, include its successors,  
administrators, executors and assigns) of the OTHER PART;

**WHEREAS**, the 1<sup>st</sup> party desires to associate with the 2<sup>nd</sup> party in  
terms of subscribing the services of the mobile application developed  
and owned by the 2<sup>nd</sup> party in accordance with terms of this  
Agreement; and

**WHEREAS**, the 2<sup>nd</sup> party is the absolute owner of Mobile App desires  
to avail the mobile application services to the 1<sup>st</sup> party on an  
independent contractor basis, as set forth in this Agreement

**NOW THEREFORE**, in consideration of the above Recitals, which are  
hereby incorporated into the below Agreement, and in consideration of  
the mutual promises made herein, the receipt and sufficiency of which  
are hereby acknowledged, the parties herein further agree as follows:

### **1. The Program**

The 2<sup>nd</sup> party herein has developed a Mobile Application by name and  
style “WHISTLE” (hereinafter referred as “The Program”) which will  
provide a directory of Football Turfs, Cricket Nets, indoor Volley Ball,  
Basket Ball and Badminton Courts owned by Program Partners and  
thereby helps to improve the business of the registered partners. The  
program will serve as a directory which will provide contact details,  
service information, facilities descriptions and pictures of the 1<sup>st</sup>

party's Business, making it accessible for the end users who subscribe the program.

## **2. The Service**

The 2<sup>nd</sup> party shall list 1<sup>st</sup> party's name and other general contact information in the program. If 1<sup>st</sup> party provides to the 2<sup>nd</sup> party any trademark, service mark, trade name, other proprietary logo or insignia, URL, domain name, or other source or business identifier, or any other text, images, audio, video, or other content (excluding software), then for such shared materials the 1<sup>st</sup> party grants to the 2<sup>nd</sup> party a worldwide, royalty-free, non-exclusive, non-sub licensable, and non-transferrable license to use, reproduce, display, distribute, and translate all or any part of such Materials in connection with the Program. The 1<sup>st</sup> party shall ensure to have all rights necessary to grant to the 2<sup>nd</sup> party the rights described in this Section. The 2<sup>nd</sup> party may make reasonable, minor changes to such Materials, such as resizing or reformatting of the materials. As between the parties, the 1<sup>st</sup> party own and reserve all right, title, and interest in and to the Materials provided by the 1<sup>st</sup> party.

## **3. The Program Overview and Administration**

3.1.Joining the Program: To join the Program, the 1<sup>st</sup> party must submit a complete Program application, agree to the Customer Agreement, and be accepted by the 2<sup>nd</sup> party into the Program. Acceptance into the Program does not authorise you to resell or sublicense the 2<sup>nd</sup> party's services.

3.2.Program Administration: If the 1<sup>st</sup> party is accepted into the Program, by providing a Program Account Information, then the 2<sup>nd</sup> party will create a Program account for the 1<sup>st</sup> party and will manage the participation in the Program. The 2<sup>nd</sup> party may use the 1<sup>st</sup> party's Program Account Information to send information about the Program, or other information that 2<sup>nd</sup> party thinks might be of interest to the 1<sup>st</sup> party. The 2<sup>nd</sup> party will handle the 1<sup>st</sup> party's Program Account Information, and any other personal information they receive from 1<sup>st</sup> party's use of the Program website or otherwise collect during 1<sup>st</sup> party's participation in the Program, in accordance with the Privacy Policy of the 2<sup>nd</sup> party. Except to the extent 2<sup>nd</sup> party is at fault, the 1<sup>st</sup> party is responsible for all activities that occur under its Program account.

3.3.Program Fees: The 2<sup>nd</sup> party bills Program fees as described as separate tariffs which shall be available at the office of the 2<sup>nd</sup> party. The 1<sup>st</sup> party shall pay the agreed Program fees, including applicable taxes or similar fees, in accordance with the Customer Agreement, using one of the payment methods supported by the 2<sup>nd</sup> party. All Program fees paid to 2<sup>nd</sup> party are non-refundable.

3.4.Conduct: The 1<sup>st</sup> shall at all times (a) conduct activities in the Program in a professional and competent manner and, when applicable, in accordance with the Community Codes of Conduct,(b) comply with all applicable laws, rules, and regulations, and orders of any governmental authority, and (c) not engage in any harmful, false, or deceptive acts or practices.

#### 4. TERME & TERMINATION

4.1.Term: These Terms will commence on the Effective Date and will remain in effect until terminated under this Section.(Term)

4.2.Termination: Either party may, by giving at least 30 days' notice, terminate these Terms for any or no reason. The 2<sup>nd</sup> party may also terminate these Terms of participation in any aspect of the Program immediately upon notice to the 1<sup>st</sup> party, (1) if the later is in material breach and fail to cure within a reasonable time period specified by the 2<sup>nd</sup> party, (2) if the participation of the 1<sup>st</sup> party in the Program could subject the 2<sup>nd</sup> party or its affiliates to harm, or (3) in order to comply with the law or requests of governmental entities.

4.3.Effect of Termination: Upon termination of these Terms (a) the 1<sup>st</sup> party remains responsible for all Program fees incurred through the date of termination, (b) the 1<sup>st</sup> party will immediately return, cease use of, and remove from website, or, if instructed by the 2<sup>nd</sup> party, destroy all Materials in its possession, (c) the 1<sup>st</sup> party will immediately cease to identify or hold itself out as a "Program participant" or "Program partner."

#### 5. DISCLAIMERS

The program and the program content, 3<sup>rd</sup> party data and any benefits (including access to and use of partner only section of the program website) or other materials that the 2<sup>nd</sup> party might offer through the program (collectively, "the materials") are provided "As-Is" except to the extent prohibited by law, the 2<sup>nd</sup> party and its affiliates (a) make no representation or warranties of any kind, whether express, implied, statutory, or otherwise regarding the program or materials, and (b) disclaims all warranties, including any implied or expressed warranties, of the services, service

quality, fitness for particular purpose, non infringement, or quiet enjoyment that the materials, products and services will be error free or free from harmful components arising out of any course of dealing or usage of trade.

## 6. LIMITATION OF LIABILITY

The 2<sup>nd</sup> party and its affiliates will not be liable to the 1<sup>st</sup> party for any indirect, incidental, special consequential or exemplary damages or for any loss of revenue, profit of goodwill, even if a party has been advised of the possibility of such damages, arising in connection with (a) the 1<sup>st</sup> party participation in the program; (b) the use of partner materials; or (c) any investment expenditures, or commitments by the 1<sup>st</sup> party in connection with these terms of participation and the program will be limited to a refund of the fees paid by the 1<sup>st</sup> party to the 2<sup>nd</sup> party or its affiliates as per section 3.3 during the 12 months before the liability arose. The limitation in this section 6 applies only to the maximum extent permitted by the applicable law.

## 7. MODIFICATIONS

The 2<sup>nd</sup> party may modify these Terms at any time by posting a revised version on its website or by otherwise notifying the 1<sup>st</sup> party in accordance with Section 9.3. The modified Terms will become effective upon posting or, notifying to the 1<sup>st</sup> party by email, as stated in the email message. By continuing to participate in the Program after the effective date of any modifications to these Terms, the 1<sup>st</sup> party agrees to be bound by the modified terms. It is the 1<sup>st</sup> party's responsibility to check the website of the 2<sup>nd</sup> party regularly for modifications to these Terms

## 8. CONFIDENTIALITY & PUBLICITY:

The Receiving Party to a Disclosing Party's Confidential Information provided under the Program may use such Confidential Information only in connection with the participation in the Program or as otherwise expressly permitted by the Disclosing Party in writing. Unless otherwise expressly permitted by the Disclosing Party in writing or required by applicable law, the Receiving Party will not disclose the Disclosing Party's Confidential Information during the Term or at any time during the three-year period following the end of the Term. The Receiving Party will take all reasonable, technical, and organisational measures to avoid disclosure, dissemination or unauthorised use of the Disclosing

Party's Confidential Information, including, at a minimum, those measures the Receiving Party takes to protect their own confidential information of a similar nature. The Receiving Party will restrict the possession, knowledge and use of Confidential Information to its directors, officers, employees, contractors, agents, legal and accounting advisers, and entities controlled by the Receiving Party who have a need to know Confidential Information in connection with the Program. Nothing in these Terms prohibit a Receiving Party from: (a) possessing, developing, or receiving information that is the same as, or similar to, a Disclosing Party's Confidential Information; or (b) using, for any purpose and without compensating the Disclosing Party, information retained in the unaided memory of the Receiving Party's personnel who have had access to Confidential Information. A person's memory is unaided if the person is: (x) able to remember without reference to any tangible or electronic materials comprising or referring to Confidential Information; and (y) has not intentionally memorised the relevant information for the purposes of retaining and subsequently using it for purposes unrelated to the Program.

The 1<sup>st</sup> party will not issue any press release or make any other public communication regarding the participation in the Program without the 2<sup>nd</sup> party's prior written consent. Nothing in these Terms modifies or supersedes any nondisclosure agreement between the parties herein.

## 9. MISCELLANEOUS:

9.1.Assignment: Except as specifically provided by this Agreement, this Agreement, or any of the rights or obligations created herein, may not be assigned, in whole or in part, by either party without the written consent of the other party; provided, however, that the parties may freely assign its rights and obligations hereunder to its successors in interest.

9.2.Force Majeure: If either party fails to fulfil its obligations hereunder (other than payment obligations) when such failure is due to a cause beyond its control, including an act of God, or other action such as fire, flood, civil commotion, riot, war (declared and undeclared), revolution, labor disputes or other industrial disturbances, action by government including delays in obtaining government approvals, embargoes, then the said failure shall be excused for the duration of said event.

9.3.Notice: Any notice or communication required or permitted to be given by either party hereunder shall be in writing, and shall be e-mailed, or mailed by registered or certified mail, and addressed to the party to whom notice is given as follows:

1<sup>st</sup> Party Address:

2<sup>nd</sup> Party Address:

Novanta Minutes Pvt Ltd 2/46A, Sreejesh Road,  
Kumarapuram.P.O, Kizhakkambalam-683562,

9.4.Arbitration Clause: All disputes between the parties to this agreement arising under or which are related to this Agreement upon which an amicable understanding cannot be reached within thirty (30) days shall be settled by arbitration in accordance with Arbitration and conciliation act 1996. The arbitrator shall be selected by application of the rules of the act or by mutual agreement of the parties, preferably that such arbitrator shall be an advocate admitted to practice law in India. No party to this agreement will challenge the jurisdiction or venue provisions as provided in this section. Nothing contained herein shall prevent the party from obtaining an injunction.

9.5.Governing Law: The validity, interpretation and effect of this Agreement shall be determined under Indian law. All actions arising directly or indirectly as a result or in consequence of this Agreement shall be instituted and litigated only in courts having jurisdiction in the District of Ernakulam, Kerala State, India.

9.6.Complete Agreement: As of the Effective Date, this Agreement herein represent the entire agreement between the parties hereto with respect to the subject matter hereof. There are no understandings, representations or warranties of any kind except as expressly set forth herein.

9.7.Severability: If any of the provisions of this Agreement are held void or unenforceable, the remaining provisions shall nevertheless

be effective, the intent being to effectuate this Agreement to the fullest extent possible.

9.8.Survival: Notwithstanding anything else in this Agreement to the contrary, the parties agree that Confidentiality Clause shall survive the termination or expiration of this Agreement, as the case may be.

9.9.Headings: Any headings contained herein are for directory purposes only, do not constitute a part of this Agreement, and shall not be employed in interpreting this Agreement.

9.10.Waiver: A waiver of any breach of any provision of this Agreement shall not be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement.

9.11.Independent Contractors; Non-Exclusive Rights: The parties hereto are independent contractors. Nothing herein contained shall be deemed to create a joint venture, agency or partnership relationship between the parties hereto. Neither party shall have any power to enter into any contracts or commitments in the name of, or on behalf of, the other party, or to bind the other party in any respect whatsoever.

9.12.Good Faith: The parties commit themselves to cooperate in good faith and to omit all that, in letter and in spirit, are in contravention of this Agreement.

9.13.Language: All communications and notices made or given pursuant to these Terms must be in the English language. If we provide a translation of the English language version of these Terms or any applicable Additional Terms, the English language version will control if there is any conflict.

9.14.Effective Date: The effective date of this Agreement shall be the date first written above regardless of the date when the Agreement is actually signed by the parties.

**IN WITNESS WHEREOF**, the parties have caused their duly authorised representatives to sign this **PROGRAM PARTICIPATION AGREEMENT** as of the date first written above

First Party (Program Partner)

Second Party (Program Provider)

Name:

Name:

Designation:

Designation:

Signature:

Signature and Seal