

KNOW HOW ASSIGNMENT AGREEMENT

This KNOW HOW ASSIGNMENT AGREEMENT has been entered into this day of(name of month)

BETWEEN

Alpha, an existing company under the Companies Act, 1956 and having its registered office at..... (hereinafter called “ ABC” which expression unless repugnant to the context shall mean and include its subsidiaries, and its successors and assigns)

AND

Beta, an Indian firm having its registered offices at (hereinafter called “ Beta” which expression unless repugnant to the context shall mean and include its subsidiaries, and its successors and assigns)

1. Definitions

Intellectual Property: Includes all existing Intellectual Property in the nature of unregistered or registered rights to any and all copyrights, trademarks and other confidential/propriety information not limited to that forming part of the subject matter transfer, and inclusive of all intellectual property that is the subject of ownership by Alpha and its subsidiaries, venture partners and predecessors in Interest, business and Title and Beta and/or its subsidiaries, venture partners and predecessors in interest business and title.

Product: means the preparation either as manufactured and packaged by by virtue of its agreement with Beta or as served in Beta’s select restaurants.

Copyrights: means works of authorship whether artistic, literary or otherwise fixed in a tangible medium of expression (including corresponding rights under international agreements and conventions, inclusive of the non-registration and/or registrations, renewal and extensions of any of the foregoing) whether or not containing a copyright notice, which work (s) was/were created before the expiration or prior termination of this agreement.

Trademarks: The trademark and other variants thereof, inclusive of any domain names in respect of the said trademarks.

Know how: means confidential/propriety information, trade secrets, recipe, formulation, and preparation information fixed in any medium or otherwise, quality control specifications, inspection and testing protocols, all data (irrespective of whether human or machine-readable) inclusive of marketing, cost, financial, survey data that Beta has ownership off and will be used by Alpha and the general and specific information not limited to processes, compositions, methods, techniques, documentation, pertaining to the recipe/formulation, packaging and sale of products envisaged by the recipe and or formulation as provided in but not limited to ANNEXURE A.

Improved Know How: shall be included in the term know how being the subject matter of assignment in this agreement inclusive of the improvements and customizations to the recipe and or formulation (effected by Beta and its subsidiaries, venture partners, and other manufacturing parties inclusive of but not limited to , or any other authorized entity) developed by Beta and or

any other authorized entity prior to this agreement.

Confidential Information: means the know how as defined above. In addition to the following: (i) the terms and conditions of this Agreement; (ii) Beta's trade secrets, business plans, strategies, methods and/or practices; and (iii) any other information relating to Beta or its business that is not generally known to the public, including but not limited to information about Beta's personnel, products, customers, marketing strategies, services or future business plans.

Territory: The Territory referred to in this Agreement shall include the whole of the world.

WHEREAS,

- a. Alpha Hotels Ltd., (Beta), a subsidiary of Alpha, operates a well-known chain of hotels in India under the name and style of and has under the overall supervision of Alpha, developed a specialized cuisine which is served in its(name of restaurant) restaurants. One such culinary delight that has gained immense popularity is the, a (name of preparation) preparation from the cuisine of the North West Frontier region (herein after referred to as the product); Access to the recipe/formulation information of the product is controlled by Alpha and Beta. The recipe/formulation of the product is in the nature of confidential information and hence protectible as such. Beta is also the owner of certain valuable trademarks and copyrights relating to such product.
- b. With a view to successfully leverage internal competencies in order to establish a packaged foods business, Alpha and Beta have decided to make available the cuisine across the country and abroad.
- c. In this regard Beta warrants that it has a subsisting agreement dated, with The Fruit & Vegetable Products (India) Private Limited, a company incorporated under the Companies Act, 1956 and having its registered office at....to manufacture and package the said product for sale at Beta's select Hotel outlets
- d. With such intent to consolidate and rationalize marketing and logistical requirements in order to effect widespread marketing of the product, Alpha is now entering into this Know How Assignment agreement with Beta to acquire the said proprietary rights from Beta in respect of the recipe, and method of preparation.
- e. Alpha represents that it has all of the required approvals, licenses and other rights, as well as the requisite existing level of training, knowledge, expertise by virtue of its subsidiary Beta and relationship within the Territory, to permit it to enter into this Agreement.

Now therefore, in consideration of the mutual covenants herein contained, the Parties agree as follows:

2. Preliminary Undertakings

- a. Beta hereby undertakes to assign to Alpha, all ownership rights in the Confidential Information pertaining to the recipe/formulation with regard to the product inclusive of all improvements/modifications effected to the said Confidential Information and inclusive of but not limited to those effected to the product and its constituent elements as well as its packaging during the course of its agreement for manufacture with dated
- b. Beta shall cease to cause the manufacture of the said product,under the aegis of its said agreement with and shall cause to hand over rights to all improvements/modification effected to the said recipe/Confidential Information as well as its product packaging during the term of its agreement to manufacture with Alpha shall also enter into a manufacturing agreement with which shall supersede all prior discussions and agreements specifically but not limited to the agreement for

manufacture dated between Beta and with respect to the subject-matter hereof.

c. Alpha shall continue to cause the said to be served at any of its Hotel outlets. In this regard Alpha hereby gives Beta a non-exclusive license to Beta to manufacture and serve the said product at its select Hotel outlets.

3. Transfer of Recipe

Beta hereby assigns to Alpha all ownership rights in and to the know-how comprising of the recipe/Confidential Information whether affixed on any medium or otherwise (inclusive of electronic media) upon which the said Confidential Information may be stored inclusive of but not limited to the Intellectual Property along with any publicity material generated towards the promotion and sale of the said product. The said documentation shall also include any and all methods/ processes relating to the improvement/modification of the said recipe as well as any publicity material, in any media, relating to the promotion of the product aforementioned.

4. Confidentiality and Non-compete

Beta covenants that the said recipe/Confidential Information is confidential in nature and has been strictly treated as such. In furtherance of the said transfer Beta hereby undertakes to bind all its employees, principal officers, contractors, sub-contractors, consultants etc., that have had, in the normal course of business, access to the said Confidential Information, to terms relating to preserving the confidentiality/non-disclosure of the said recipe/Confidential Information, in conformation with the standard confidentiality/non-compete agreement marked as ANNEXURE B. Beta inclusive of its board of directors and their direct beneficiaries, employees, ex-employees, consultants, and any descendants in business, interest and title in recognition of the transfer of confidential and proprietary information to Alpha hereby agrees not to directly or indirectly compete with the business of Alpha and its successors and assigns in business in relation to the subject matter of this agreement except as provided in clause 2 (c) or as authorized by Alpha by virtue of any subsequent written authorization.

5. Consideration for Transfer

The consideration for the transfer of the Confidential Information and all appertuant Intellectual Property rights thereto shall amount to Rs., the receipt of which is hereby acknowledged by Beta.

6. Warranty

- a. Beta represents and warrants to Alpha that Beta is the sole owner of all rights, title and interest in the Intellectual Property and the know how thereto.
- b. Beta further represents that it has not assigned, transferred, licensed, pledged or otherwise encumbered the know-how forming the subject matter of this agreement as well as appertuant Intellectual Property or agreed to do so.
- c. Beta also represents that it has full power and authority and is thus competent to enter into this Agreement and to make the assignment as provided in clause 3 of this agreement.
- d. Beta is also not aware of any violation, infringement or misappropriation of any third party's rights (or any claim thereof) by the Intellectual Property or the know-how forming the subject-matter of this agreement.

7. Construction, Enforcement and Assignability

The parties hereto agree that this agreement contains the entire understanding between them. The parties further agree that this agreement may not be assigned by either party. The section titles used in this agreement are for reference purposes only and are not intended to add or to limit or in any other way change the meaning of the language of the agreement.

8. Governing Jurisdiction

Any dispute/difference arising from this Agreement shall be subject to the exclusive jurisdiction of the courts in (place).

9. Notice of Parties

a. The parties hereto agree that all notices which may be given by one party to the other under the terms of this agreement, shall be in writing and shall be addressed,

in case of Beta to the following address:

.....and

in case of Alpha, to the following address:

.....

b. Provided, however, that any notice deposited in the post as a registered letter, acknowledgement due shall be considered to have been effective when so deposited, and provided further that either of the parties may change the address herein given by express written notice to the other party.

10. Waiver

The failure of the Parties at any time to enforce any if the provisions of this agreement or to exercise any right herein provided, shall not be considered a waiver of such or any other provision or in any way effect the validity of this agreement.

11. Severability

a. It is hereby expressly agreed by both parties that no portion of this agreement is intended to be in violation of any law of India or of any other country which may, at any time, have jurisdiction over either party hereto, or the agreement itself.

b. Should any portion of this agreement be contrary to, or in violation of any such law, said portion shall be void and of no effect. The reminder of this agreement shall be valid and remain in force notwithstanding the invalidity of such offending portion.

12. Covenant of secrecy

Beta as well as Alpha shall exercise and shall require its employees or consultants to exercise the requisite amount of due diligence not to make known, divulge or communicate at any time before or after the termination of this agreement, unless it is necessary for the execution of the Agreement, to any person (except as necessary to its selected trustworthy employees) the know-how and Confidential Information and/or know-how disclosed and/or recommended to it by Beta hereunder, not to do nor suffer to be done or omitted any act or thing in relation to the subject matter of this agreement whereby said Confidential Information and know-how may become known to any unauthorized person, provided, however, that such information shall not be considered confidential, and this paragraph shall not apply, if such information can be demonstrated to have been in the public domain prior to its disclosure or recommendation by Beta, or to have become part of the public domain by any means, except an unauthorized act or omission on the party of Alpha or any of its employees.

13. Force Majeure

Neither party shall be in default under this Agreement by reason of its failure or delay in the performance of its obligations, if such failure or delay is caused by actions of God, Government laws and regulations, strikes, lock-outs, war or any other cause beyond its reasonable control.

14. Miscellaneous

- a. The present Agreement is subject to approval of Government of India and all its regulatory bodies whether statutory or otherwise.
- b. All know-how and appertuant Intellectual property shall be delivered by Beta to the postal address previously indicated in writing by Alpha.
- c. This instrument may not be waived, released, discharged, abandoned, changed or modified in any manner, orally or otherwise except by an instrument in writing signed by duly authorized officers or representatives of the parties hereto.

Date.....

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