

This ADDENDUM entered into on the \_\_\_ day of \_\_\_\_\_ 2020 at Mumbai between

BETWEEN

**MARCELLUS INVESTMENT MANAGERS PVT. LTD**, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at 602 Tower 1 Odyssey, Hiranandani Gardens, Powai Mumbai 400076 and its corporate office at 929, DBS Business Centre, Kanakia Wall Street, Andheri Kurla Road, Chakala, Andheri (E), Mumbai 400093 (hereinafter referred to as “**Portfolio Manager**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns) of the First Part;

**AND**

\_\_\_\_\_, a company incorporated under the provisions of the Companies Act, 1956/2013/ a partnership firm registered under the provision of the Indian Partnership Act, 1932/ Hindu Undivided family acting through its Karta/ others – please specify \_\_\_\_\_ and having its registered office at \_\_\_\_\_ (hereinafter referred to as the “**Distributor**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors, and assigns) of the Second Part;

The Portfolio Manager and the Distributor hereinafter collectively referred to as the “**Parties**”.

**WHEREAS:**

- A. The Parties have executed a Distribution Agreement dated [•] (“**Agreement**”).
- B. The Parties have agreed to make certain amendments to the Agreement.

**NOW THIS ADDENDUM WITNESSETH AS FOLLOWS AND IS MUTUALLY AGREED BETWEEN THE PARTIES HERETO AS UNDER:**

- 1. The Parties expressly agree that all other terms and conditions, except as expressly modified herein shall remain the same as provided in the Agreement.
- 2. Clause 8.1 ( Representation and Warranties) of the Agreement shall be replaced by the following:-

“Both Parties shall comply with all Applicable Laws, rules, and regulations of every jurisdiction that are or may be applicable to the performance of the respective obligations under this Agreement. The Distributor has represented to the Portfolio Manager that the Distributor has obtained all necessary consents from its client for the purposes of accessing the client’s investment portfolio and other details of the assets managed by the Portfolio Manager on behalf of the Distributors client; through its online platform.”

3. Clause 9.4 (Indemnification) shall be added in the Agreement:-

“The Distributor hereby agrees to indemnify the Portfolio Manager from all/any losses (which shall be deemed to include compensatory, exemplary or punitive damages, fines, penalties, attorney’s fees, experts’ fees, court costs, costs associates with investigating and defending against claims, settlement amounts, judgments, compensation for damages to either Party’s reputation and goodwill, and all other costs associated with any of the foregoing losses) that may be incurred by the Portfolio Manager as a consequence of:

- (a) any misuse or unauthorized use of the Client Data (defined hereinafter) by the Distributor and/or its employees, agents or representatives.
- (b) any unauthorized access to the Client Data through the access credentials supplied to Distributor or its employees or its representatives, by the Portfolio Manager.
- (c) a data breach of any kind as understood by the provisions of the Information Technology Act, 2000 & Information Technology (Amendment) Act, 2008 on the part of the Distributor, resulting in all or part of the Client Data becoming available to third parties or the public at large”

4. The following Clause 9.5 (Indemnification) shall be added in the Agreement:-

“No failure on the part of either Party to this Indemnity to exercise, and no delay on its part in exercising, any right or remedy under this Indemnity will operate as a waiver thereof, and any single or partial exercise of any right or remedy shall not preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights provided in this Indemnity are cumulative and not exclusive of any rights or remedies provided by applicable law. “

5. The following Clause 16.5 (Indemnification) shall be added in the Agreement:-

“The Distributor acknowledges that pursuant to the grant of such access to the Distributor by the Portfolio Manager, the Distributor shall become privy to sensitive confidential information of the client and sensitive financial information of the client (“**Client Data**”).”

6. The following Clause 16.6 (Confidentiality) shall be added in the Agreement:-

“The Distributor shall inform the Portfolio Manager in writing the email address to be registered in order to access the online platform. The email id to be registered would be [•]. Any change in the said E-mail address shall be notified by the Distributor to the Portfolio Manager immediately in writing.”

7. The following Clause 16.7 (Confidentiality) shall be added in the Agreement:-

“The Portfolio Manager shall provide one set of login credentials to the Distributor for accessing the online portal. The login credentials would be linked solely to the email address provided by the Distributor and registered by the Portfolio Manager in accordance with Clause 16.5 above.”

8. The following Clause 16.8 (Confidentiality) shall be added in the Agreement:-

“Both Parties, and its employees, agents and associates shall maintain the confidentiality of the details, and information relating to the Client Data.”

9. The following Clause 16.9 (Confidentiality) shall be added in the Agreement:-

“The Distributor or its employees, agents and associates shall not (except in exercise of or in the course of its duties hereunder or where required to comply with legal obligations or executive, judicial, quasi-judicial or regulatory or statutory requirements) disclose to any third party any Client data or any information relating the business or to the affairs of the Portfolio Manager unless authorized in writing by the Portfolio Manager, as the case may be, and shall use all reasonable endeavours to prevent any such prohibited disclosures as aforesaid whether by any of its officers, employees or agents or by anyone else.”

10. The following Clause 16.10 (Confidentiality) shall be added in the Agreement:-

“The Distributor undertakes to comply with all relevant data protection legislations in relation to the performance of its functions under this Agreement.”

**IN WITNESS WHEREOF** the Portfolio Manager and the Distributor have set and subscribed their respective hands, the day and year first hereinabove written.

**SIGNED AND DELIVERED  
BY DISTRIBUTOR**

\_\_\_\_\_  
through its authorized signatory

Name: \_\_\_\_\_  
Designation: Authorized Signatory  
Authorized vide board resolution  
dated: \_\_\_\_\_

\_\_\_\_\_  
Witnessed by:

**SIGNED AND DELIVERED  
BY PORTFOLIO MANAGERS**

\_\_\_\_\_  
through its authorized signatory

Name: \_\_\_\_\_  
Designation: Authorized Signatory  
Authorized vide board resolution  
dated: \_\_\_\_\_

\_\_\_\_\_  
Witness: