

**CONSULTANCY/SERVICE AGREEMENT**

THIS "Agreement" is entered into on December 08, 2022 between Royal Commonwealth Society for the Blind (Sightsavers India), a Trust registered with Maharashtra Public Trust Act, 1950, having its registered office located at A-3, Shivdham, New Link Road, Kanchpada, Malad (W), Mumbai and principal office at 45, Okhla Industrial Estate, Phase III, New Delhi-110020 represented herein by its Chief Executive Officer, **Mr. RN Mohanty** hereinafter referred also to as the "Sightsavers", which expression shall unless otherwise repugnant to the context or meaning thereof, mean and include, all its successors, administrators, and representatives

And

**Market Xcel Data Matrix Private Limited along with complete postal address 17, Okhla Industrial Estate, Okhla Phase III, New Delhi – 110020** hereinafter referred as Consultant/Service provider, which expression shall unless otherwise repugnant to the context or meaning thereof, mean and include, all its successors, administrators, and representatives

This agreement shall be effective as of **December 15, 2022** and will continue up to **February 15, 2023**.

WHEREAS, the Consultant/Service provider is engaged in providing end to end solutions on Learning Assessment of Children with Visual Impairment and Knowledge Attitude and Practices for Teachers under Sambalam Project

WHEREAS, Sightsavers wishes to utilize the services of the Consultant/Service provider to assess the learning level improvement of Children with Visual Impairment (CwVIs) and to measure change in teacher's knowledge, attitude, and practice on teaching children with disabilities.

WHEREAS the Consultant/Service provider and Sightsavers are jointly referred to as **Parties**

NOW, THEREFORE, the parties agree as follows:

**1. Scope of Services**

Consultant/Service provider will provide services to Sightsavers, in accordance with the Terms of Reference (ToR) which shall be deemed to be forming part of this Agreement in Annexure 1.

**2. Term of agreement**

This agreement shall be effective from **December 15, 2022 to February 15, 2023 unless terminated earlier in terms of the provision of the termination (clause 19) under this**

Royal Commonwealth Society for the Blind is registered under the Bombay Public Trusts Act 1950 (Regd #E4330) and uses Sightsavers with logo as depicted above as its brand name.

**Registered office**

A-3, Shivdham, New Link Road, Kanchpada,  
Malad (west) Mumbai - 400 064  
Phone: +91 22 28820808/1919

**Head office**

45, Second Floor, Okhla Industrial Estate-III,  
New Delhi – 110 020  
Telephone : +91 11 41017231



E-mail: [indiaweb@sightsaversindia.in](mailto:indiaweb@sightsaversindia.in) | Website: [www.sightsaversindia.in](http://www.sightsaversindia.in)

### 3. Price and Payment Terms

- a. Refer to **Annexure II** for details on Pricing and Payment terms
- b. All payments would be subject to Tax Deducted at Source (TDS) as per the provision of Section 194 of the Indian Income Tax Act, 1961. or any other laws as may be applicable from time to time.

### 4. No conflict:

In signing this agreement Consultant/Service provider is not aware of any matters or interests that might affect his/her ability to carry out his/her duties or the performances of the services in accordance with terms and conditions of this agreement.

### 5. Defective work:

- a. If any Goods/Services are defective in material or workmanship or otherwise do not conform to this Agreement, Sightsavers may:
- b. require service provider to repair or replace at service provider's cost any such nonconforming Goods/Services within 30 days of notification for the same;
- c. require service provider to refund the price of any such Goods/Services within 30days of notification for the same; or
- d. elect to retain and correct any such Goods/Services with an appropriate price reduction to offset Sightsavers's costs of making correction(s). Nothing, including any final inspection, shall relieve Service provider from its responsibility to correct or replace Goods/Services defective as a result of fraud, recklessness or latent defects.
- e. In case goods / services are not provided as per commitment, the vendor / service provider is liable to return cost on pro rata basis" and also any advance paid by Sightsavers within 30 days or any such other time frame as may be mutually agreed.
- f. All these remedies/actions are without prejudice to rights under clause 19 (Termination of Agreement) of this agreement and any other rights/ remedies available to Sightsavers under the law and under this agreement.

### 6. Confidentiality information

- a. All information relating to Sightsavers that is known to be confidential or proprietary, or which is clearly marked as such, shall be held in confidence by Consultant/Service provider and shall not be disclosed or used except to the extent that such disclosure or use is reasonably necessary to the discharge and performance of the work assigned.
- b. All information relating to Consultant/Service provider that is known to be confidential or proprietary, or which is clearly marked as such, shall be held in confidence by Sightsavers and shall not be disclosed or used by Sightsavers except to the extent that such disclosure or use is reasonably necessary to the performance of Sightsavers' duties and obligations under this Agreement.
- c. These obligations of confidentiality shall survive for a period of six months after the termination of this agreement but shall not apply with respect to information that is independently developed by the parties, lawfully becomes a part of the public domain, or of which the parties gained knowledge or possession free of any confidentiality obligation or is



required to be disclosed by Applicable Laws or judicial or administrative or arbitral process or by any governmental instrumentalities, provided that for any such disclosure, the disclosing party shall give the other prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment.

## **7. Warranty and Disclaimer**

Consultant/Service provider warrant that they will work in a workmanlike manner, and in conformity with generally prevailing industry standards. This warranty is exclusive and is in lieu of all other warranties, whether express or implied, including any warranties of merchantability or fitness for a particular purpose and any oral or written representations, proposals or statements made on or prior to the effective date of this agreement.

## **8. Dispute Resolution**

8.1 Amicable settlement: The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Agreement or the interpretation thereof.

8.2 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "Dispute") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 8.4.

8.3 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

8.4 Conciliation In the event of any Dispute between the Parties, either Party may call upon the head of the organization/ individual or a substitute thereof for amicable settlement, and upon such reference, the said persons shall meet no later than 10 (ten) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 10 (ten) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 8.3 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 8.5.

8.5 An Arbitrator to be agreed between the parties shall be appointed or failing such agreement, the President of the Indian Council of Arbitration shall nominate an Arbitrator on application by Either party. The Arbitration proceedings shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The place of arbitration shall be New Delhi. All disputes arising between the parties shall be subjected to the jurisdiction of the Courts in Delhi only and in no other courts.

## **9. Status of the Party**

9.1. Notwithstanding anything contrary under this agreement or elsewhere, it is made clear and agreed between the parties, that nothing here shall be deemed to construe any direct or indirect, employer-employee relationship between Sightsavers and any employee, independent





contractor, Consultant/Service provider employed/engaged /hired by the Consultant/Service provider party to discharge any and all of its obligations under this agreement. Consultant/Service provider shall be solely responsible for all such person/employees, to discharge statutory obligations, liabilities and entitlements, including but not limited all applicable labour laws. The Consultant/Service provider shall keep Sightsavers indemnify and harmless for claims of any nature, by any such person/employees of the Consultant/Service provider. The Consultant/Service provider will have no claims over any employment related benefits (Gratuity, Provident Fund, Leave encashment etc) from Sightsavers.

9.2 For all purpose hereof and in the performance of the obligations under this agreement, the Consultant/Service provider is and shall remain an independent contractor, and nothing in this agreement or the statement of work shall be deemed to construe to create joint venture, master agent, or partnership (subject to what is clearly agreed under this agreement) between the parties. Neither party shall have the authority to commit any obligations on behalf of other party to make any promise, representation nor contract of any nature on behalf of other party subject to what is clearly agreed in writing between the parties.

#### **10. The Consultant/Service provider Obligations**

10.1. Consultant/Service provider shall perform the services conscientiously and shall devote his best efforts and abilities thereto, at such time during the term thereof, in such manner as the Sightsavers and the Consultant/Service provider shall mutually agree.

10.2. Without prejudice to its general obligation of proper performance of the services, the Consultant/Service provider shall be able, with complete freedom and independence, to organize its activities and shall only have to render account of the specific duties or services accomplished under the present Agreement but shall not be required to account for his working methods. The Sightsavers shall never exert over the Consultant/Service provider any part of authority, which an employer is normally vested with. However, Consultant/Service provider shall also comply with Sightsavers policies when on Sightsavers premises.

#### **11. Non-Exclusivity**

This Consultancy Agreement is non-exclusive. Sightsavers is free to consult other experts in the Consultant/Service provider's field of specialization and the Consultant/Service provider retains the right to provide similar services to other parties. But in case such parties carry on any activities in competition or direct conflict with the activities of the Sightsavers, then Consultant/Service provider must take consent of Sightsavers.

#### **12. Prior agreements**

This Agreement constitutes the entire agreement between the parties relative to the matters referred to herein and supersedes any other agreement, whether oral or writing, which may have existed between the Sightsavers and the Consultant/Service provider. Any modification or amendments of this Agreement shall be in writing and shall become effective if and when signed by both parties.



### **13. Entire Agreement**

This Agreement constitutes and contains the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all previous communications, negotiations, commitments, either oral or written between the Parties respecting the subject matter hereof.

### **14. Assignment**

The Parties shall not be entitled to, nor shall they purport to, assign transfer, charge or otherwise deal with all or any of its/ their rights and/ or obligations under this Agreement nor grant, declare, create or dispose of any right or interest in it, in whole or in part

### **15. Future Agreements and Amendments to this Agreement**

a. This Agreement may be amended or modified from time to time only by a written instrument executed by both the Parties. The Parties shall meet at mutually convenient places or communicate using suitable mode and at suitable times to discuss all such matters related to, coincidental and collateral to the rendering and availing of services, including but not limited to the territorial and periodic extent of service, service charges and manner of service.

b. No variation of this Agreement (or of any of the documents referred to in this Agreement) shall be valid unless it is made by an instrument in writing and signed by duly authorized representatives of each of the Parties hereto. The expression "variation" shall include any variation, amendment, supplement, deletion or replacement however effected.

### **16. COVID 19**

It is agreed that considering COVID 19 scenarios during the consultancy period, the Consultant/Service provider would be self-responsible to follow all norms as provided by the Government of India and State Governments during the travel period. It will be the Consultant/Service provider's responsibility to follow all social distancing norms as well as all protocols applicable during the service delivery period. The Consultant/Service provider agrees that Sightsavers will not be liable for any risk or liability which may arise out of COVID19 infections contracted at or during performance of the assignment. The Consultant/Service provider will indemnify Sightsavers and its respective personnel entirely harmless from and against any claims of any such nature.

### **17. Force Majeure**

17.1 Neither party shall be held responsible for any delay nor is failure in performance of any part of this Agreement to the extent such delay caused by force majeure events or circumstances beyond the delayed party's reasonable control.

17.2 Force Majeure definition (a) For the purposes of this Agreement, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood, pandemic or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or



other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.

17.3 Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement, and (B) avoid or overcome in the carrying out of its obligations hereunder.

17.4 Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

## **18. Fairness and Good Faith**

18.1. Both parties acknowledge that they have not been induced to enter into this Agreement by any representations or promises not specifically stated herein.

18.2. The Parties undertake to act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realization of the objectives of this Agreement.

## **19. Termination of Agreement**

### **A. By Sightsavers:**

a. Sightsavers may, terminate this agreement any time by giving 30 days prior notice to the Consultant/Service provider.

b. Notwithstanding anything hereinabove, Sightsavers may terminate this agreement without any prior notice if: (a) the Consultant/Service provider fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, within 15 (fifteen) days of receipt of such notice of remedy by Sightsavers.(b) the Consultant/Service provider becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary; (c) the Consultant/Service provider submits Sightsavers a statement which has a material effect on the rights, obligations or interests of Sightsavers and which the Consultant/Service provider knows to be false; (e) any document, information, data or statement submitted by the Consultant/Service provider in its Proposals, based on which the Consultant/Service provider was considered eligible or successful, is found to be false, incorrect or misleading; (f) as the result of Force Majeure, the Consultant/Service provider is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days.

### **B. By the Consultant/Service provider:**

The Consultant/Service provider may, by not less than 30 (thirty) days' written notice to Sightsavers may terminate this agreement at any time.

## **20. Cessation of rights and obligations Upon termination of this Agreement:**

Pursuant to termination of this agreement in terms of clause 19 , or upon expiration of this Agreement hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, or





which expressly survives such Termination; (ii) the obligation of confidentiality ; and (iii) any right or remedy which a Party may have under this Agreement or the Applicable Laws.

## **21. Cessation of Services:**

Upon termination of this Agreement by notice of either Party to the other pursuant to clauses 19 hereof, the Consultant/Service provider shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. Sightsavers may ask the Consultant/Service provider to complete any pending work at hand. Upon termination of this Agreement, Sightsavers shall make the payments to the Consultant/Service provider for Services satisfactorily performed prior to the date of termination (after offsetting against these payments any amount that may be due from the Consultant/Service provider to Sightsavers). In case any advance has been paid to the service provider, subject to adjustment of any agreed payment for such goods/services which are in complete conformity and in full satisfaction of Sightsavers, the service provider shall refund the remaining advance payment with immediate effect and without any delay or demur. Sightsavers reserves the right for recovery of any such unrefunded advance, apart from any other remedies available under the law or this contract. Upon termination of this Agreement, Sightsavers may request that Consultant/Service provider to return or destroy all Information of Sightsavers that may in the possession/control of Consultant/Service provider.

## **22. Notice**

That any notice required to be served upon by one Party hereto shall be sufficiently served upon if posted by Registered A/D or sent by Courier or left at the address of the other Party hereto first given. In the event of any change in the above addresses, the party whose address changes, shall inform the other party of such change ("Changed Address") by written notice, after which time the Changed Address will be that party's address for the service of notices.

## **23. Intellectual Property**

Consultant/Service provider certifies that all materials created hereunder for Sightsavers shall be original work and that no third party shall hold rights in or the services. Consultant/Service provider agrees a). All rights to the services shall belong to Sightsavers and be deemed work for hire; and b). On Sightsaver's request, Consultant/Service provider shall provide Sightsavers all materials containing the services, including deliverables, and any documentation required to show Sightsavers ownership of the services.

All Intellectual Property rights in the deliverables will constitute work made for hire under the applicable copyright laws and will be owned exclusively by Sightsavers. To the extent that title to any deliverable does not vest in Sightsavers as a matter of law, or to the extent the deliverables is not deemed a 'work made for hire' under applicable law, Consultant/Service provider hereby assigns and agrees to assign all right, title and interest in and to the deliverable to Sightsavers immediately upon payment for the same. The Consultant/Service provider agrees to take all necessary steps and execute all documents reasonably required by Sightsavers, to effectuate the vesting of such title and ownership.



## 24. Governing law

This agreement shall be governed by and constructed and enforced in all respects in accordance with the law in force in India, including its statutes of limitation. The courts in Delhi shall have the exclusive jurisdiction in this regard. To the extent any provision of this Agreement is prohibited or ineffective under the Act, this Agreement shall be considered amended to the least degree possible in order to make the agreement effective under the Act.

## 25. Miscellaneous Provisions:

- a. Parties will respect and protect the Intellectual Property rights and Trademark rights of other and Consultant/Service provider shall use the same only to the extent as required for the performance of their services and in accordance with the Sightsavers policies in this regard.
- b. Consultant/Service provider shall be independently responsible to comply with all laws, regulations, licensing requirements and other compliance requirements in relations to the services being provided and will keep Sightsavers indemnified and harmless in this regard.
- c. Each party will agree to defend, hold harmless, and indemnify the other from any cost, loss, or damages of any type, including attorney fees, to the extent that they arise from the breach of the Agreement, and/or willful misconduct or negligence. Consultant/Service provider shall indemnify and keep indemnified and hold harmless Sightsavers from all damages, claims, penalties, fines, costs and expenses and/or from any actions, claims, litigations, notices resulting from or related to any omissions or commissions by Consultant/Service provider with respect to any transactions or activities undertaken by Consultant/Service provider pursuant to the scope of service under this agreement, from anyone including any third party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

For Royal Commonwealth Society for the Blind (Sightsavers India)	Market Xcel Data Matrix Private Limited
  <b>Name: Mr RN Mohanty</b> <b>Designation: CEO, Sightsavers India</b>	  <b>Name: Raja Vishal Oberoi</b> <b>Designation: Chief Executive Officer</b>



## Annexure 1

### Terms of Reference (ToR)

Sightsavers is a development organization that works with partners in more than 30 countries to eliminate avoidable blindness and fight for the rights and needs of people with disabilities. Since 1966, Sightsavers' work in India has enabled thousands of people to lead lives of independence and dignity. Sightsavers works with local partners to strengthen organizations and communities and has supported the treatment of millions of people with eye disorders. It works for lasting change through strengthening existing health and education systems, advocating to governments, demonstrating good practices which can be scaled up, and creating or participating in networks and strategic alliances for greater impact. Sightsavers has educated, counselled, trained, and rehabilitated people who live with visual impairments and other disabilities, and helped extend the reach of eye services to the least served areas of India.

#### **Background:**

The Inclusive Education (IE) programme of Sightsavers has a goal to mainstream all Children with Visual Impairment (CwVI) so that they can receive a quality education within the universal education system. It prioritizes two core areas: improving the quality of learning outcomes and facilitating enablement that supports pro-disability education decisions. Under Sambalam Project on Inclusive Education, the approaches adopted are as follows-

1. To train and work with teachers at developing a conducive environment CwVI to undergo quality in-class learning
2. To assess and systematically work towards enhancing the learning levels of CwVI to grade specific learning levels
3. To use technology and ICT as a critical medium in bridging the learning gap between the sighted and blind children in the schools

#### **Rationale:**

Under Inclusive Education Programme, training of children with Visual Impairment (CwVI) was conducted on ICT devices (Laptops and Smart phones). to find out the learning level of CwVI studying in Government schools where Sightsavers' Inclusive Education Programme is being implemented. And concurrently, Knowledge Attitude and Practice (KAP) Training of teachers was conducted on Inclusive Pedagogy and ICT with the help of Exemplar module. During the training programme KAP Assessment was conducted in 5 districts (Jhalawar, Udaipur, Bhagalpur, Jehanabad and Howrah. This present study assessing the endline assessment of Sambalam project.



## **Purpose and objectives of the study:**

The overall objective of the study is to assess the learning level improvement of CwVIs and to measure change in teacher's knowledge, attitude, and practice on teaching children with disabilities

This study will capture both learning assessment of the children and KAP among the service providers. Following are the specific objectives:

### **Specific Objective:**

#### **LA**

(a) To assess systematically, whether the concerned students have acquired skills in the following areas:

- I. Reading English (Braille/ print),
- II. Reading Hindi (Braille/ print),
- III. Arithmetic sums (Braille / Taylor's Frame / Abacus),
- IV. Arithmetic sums in print wherever necessary.
- V. To put forward recommendations based on the findings.

#### **Knowledge Attitude and Practices among service providers**

- To assess the effectiveness of the teacher's training programme
- (a) To identify knowledge gaps, beliefs, and behavioral patterns (Prospective) that may obstruct delivery of quality education to the children with visual impairment and children with other disabilities.
  - (b) To explore the existing barriers prevailing in education system to help improving the systemic challenges.
  - (c) To assess the knowledge base of the teachers to make important decisions and support system in school system for delivery of quality education to the CwSN.

## **Methodology and Approach**

The study will used mixed method approach using both quantitative and qualitative methods. Systematic Random Sampling method used to select the CVIs and Teachers in the study area.

**Study area:** Bihar (Bhagalpur & Jehanabad), Rajasthan (Jhalawar & Udaipur), West Bengal (Howrah)



## Major Deliverables:

This study is proposed to complete in 9 weeks' time and having following broad themes:

- a) An Inception Report with the detailed work plan, conceptual framework, methodologies (sampling, data collection methods, data quality assurance, data processing and analysis, etc.)
- b) Insights report contains detail analysis, findings, case studies, recommendations, and policy implication.
- c) Presentation to the senior management summarizing key findings from this study
- d) Submission of final report

For Royal Commonwealth Society for the Blind (Sightsavers India)	Market Xcel Data Matrix Private Limited
  <b>Name: Mr RN Mohanty</b> <b>Designation: CEO, Sightsavers India</b>	  <b>Name: Raja Vishal Oberoi</b> <b>Designation: Chief Executive Officer</b>



**ANNEXURE II****PRICE AND PAYMENT TERMS**

S. No.	Heading	Details
1.	Pricing	<p>1. Sightsavers shall pay a total of <b>Rs 5,71,200 based on deliverables as follows:</b></p> <p>(a) 1<sup>st</sup> Instalment - 30% Advance prior to start.</p> <p>(b) 2<sup>nd</sup> Instalment - 30% on completion of Data Collection.</p> <p>(c) 3<sup>rd</sup> instalment - 40% on submission of final report after the approval of Sightsavers.</p> <p>2. The above charges stated in clause 1 (a) are exclusive of GST which will be paid as per the applicable rates.</p> <p>3. Travel expenses will be incurred on the actuals.</p>
	Invoicing and Acceptance Procedure	<p>A. Invoicing will be done deliverable based</p> <p>B. All travel, food and incidental costs (during outstation travel) related expenditure on account of this assignment done by the service provider will be reimbursed by Sightsavers on submission of original bills.</p> <p>C. Sightsavers shall make the payment within Thirty (30) working days from the date of receipt of original Invoice, for all the undisputed invoices.</p> <p>D. In the event Sightsavers disputes, in good faith, any particular charges in an invoice issued by Consultant/SERVICE PROVIDER, it shall notify Consultant/SERVICE PROVIDER of the reasons for disputing such charges whereupon the parties shall promptly seek to resolve the dispute by mutual discussion.</p>
	Payment Modes	All amounts designated in this Agreement are in INR and all payments hereunder shall be INR and made by cheque or electronic fund transfer
	Taxes	Statutory levies and taxes, if any, will be deducted from the payments made, for which necessary forms will be furnished.

For Royal Commonwealth Society for the Blind (Sightsavers India)	Market Xcel Data Matrix Private Limited
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