

## TERMS AND CONDITIONS

M/s Forty-Five Positive Tech Private Limited (“**Spalba**” or “**Us**” or “**We**”) owns and maintains the website <https://spalba.com/> (“**Site**”).

These Terms and Conditions (“**Terms**”) contain provisions that define your limits, legal rights, obligations and govern your access to and use of the Site.

By accessing or using this website, you agree to be bound by these terms and conditions and accept them in full, as may be modified by Spalba from time-to-time and posted on this Site.

This document/Agreement is an electronic record in terms of the provisions of the Information Technology Act, 2000 and generated by a computer system and does not require any physical or digital signatures. This document/Agreement is published in accordance with the provisions of the Information Technology (Intermediaries Guidelines) Rules, 2011 which provides for the due diligence to be exercised for the access or usage of this Site and its mobile application(s).

By using the Site, you are agreeing to these Terms. Please read them carefully.

The following Terms, together with our Privacy Policy, Security Policy and other policies, apply to your access to and use of our Site and the use of services over the Site. By entering your information and availing the services from our Site, you acknowledge that you have read, understood and agree to be bound by these Terms and the other documents referred thereto.

These terms and conditions apply to you whether you are:

- A legal entity, its representatives / affiliates / officers / successors / permitted assigns amongst others (“**you**” or “**User**”)
- A user of the Site (“**you**” or “**User**”)

These Terms and Conditions constitute an Agreement under the provisions of the Contract Act, 1872 and shall apply to all services made available by Spalba on the Site (“**Agreement**”).

The services may change from time to time, at the sole discretion of Spalba, and this Agreement will apply to your visit and your use of the Site to avail the services, as well as to all information provided by you on the Site at any given point in time.

### **ACCOUNT TERMS**

By registering with the Site, you can access or view the prices, services, details and other necessary information electronically. You are fully responsible for using the Site in a secure manner and for all activities that occur under your account. We will not be liable for any damage or loss caused from any unauthorized account access resulting from your actions, such as not logging out of the account or sharing your account password.

You shall ensure that the account information provided by you in the Site’s registration form is true, complete, accurate and up-to-date. Use of another user's account information for availing the services offered by Spalba is expressly prohibited. We reserve the right to refuse / revoke registration or cancel an account at any time.

### **USER/ SERVICE RECIPIENT**

You may avail for the services of our Site by submitting all the information over the forms and agreements available on our Site. To avail the services *via* our Site, you must be at least 18 years of age. While availing the services from our Site, you represent that you are of legal age, to form a binding contract and are not a person barred from receiving services under the laws as applicable in India. You

must register with our Site to be able to avail for any such services which may be available at any given point in time from our Site.

You agree to deal with us in good faith and in compliance with all applicable laws. We may cancel your enrolment /subscription in case we consider that you have not dealt with us in good faith or have otherwise violated the applicable laws, even if your services have been confirmed and a credit card has been charged.

## **PAYMENT**

Some of the features/services provisioned on the platform may entail a charge and accordingly You might be required to make a payment against the same. You may be required to pay for these services either via an online mechanism or through traditional offline processes. In case you make a payment using online method, the full payment for your services is deducted from your bank account/payment method on completion of your order. Details for the services will be confirmed once the payment has been processed /validated.

We utilise third-party payment gateway services for processing online payment transactions. You may be subject to other Terms & Conditions of the usage of the Payment Gateway. Please read carefully the terms & conditions of the usage of such third-party Payment Gateways. We shall not be held responsible for any payment lapses which may be done through such third-party payment gateways.

You agree, understand, undertake and confirm that the bank account transactional related details provided by you for making payments for service(s) availed through the Site, via the third-party on-line payment gateway mechanism will be correct, current, complete and accurate and you shall not use and provide any such information which is not lawfully owned by you. The aforesaid information shared by you is nowhere stored by Spalba as the same is provided by you directly to the third-party online payment gateway platforms. Spalba will not be responsible for any financial loss, inconvenience or mental agony resulting from misuse of the information provided by you in anyway.

## **PRICES**

All prices are in Indian Currency unless otherwise specified. Prices exclude any applicable deductions and other taxes, if applicable. All prices are subject to change without notice.

## **ERRORS**

From time-to-time there may be errors on our Site such as wrong pricing, wrong descriptions and offers for services that may not be available or are no longer available. Despite anything else in these Terms, to the extent legally permitted, we may decline or cancel any such services that are affected by the error, even if your order has been confirmed and even if you have been charged . If you have been charged for any such services which you have availed for and we cancel the order, we will notify you and relevant bank account/payment method with the amount which was charged from you.

## **DATA PROTECTION**

Spalba shall take all reasonable precautions to preserve the confidentiality and prevent any corruption or loss, damage or destruction of the data and information provided by you on the Site.

All Personal and Other Information will be kept confidential. It will only be disclosed to those involved in the particular proposed transaction or with persons or any organisation which may be involved in the process of evaluation of your information. However, Spalba reserves the right to perform statistical analyses on your personal data and information. If such data has been requisitioned by any government agency/department/body and/or any law enforcement agency, Spalba shall be entitled to share the same on receipt of a written notice, in this regard.

Certain services on the Site may require authentication procedures and enable you to access such services by using a user ID and password. Spalba shall take reasonable care to ensure the security of and to prevent unauthorized access to the services, which are part of the Site, however, you will be the sole and exclusive owner of user ID and the password. It is your responsibility to ensure the confidentiality and protection of your user ID and password and will not reveal to any third party. You are urged to change your password at regular intervals. In addition to user ID and password, Spalba may, at its discretion, require you to adopt such other means of authentication

Spalba may use “**Cookies**” for storing visitor preferences, profiling visitors and tracking visitor behavior on this Site. Cookies are small data files that a Site stores on computer. By visiting this Site, you acknowledge, accept and expressly authorize Spalba for the placement of Cookies on your computer.

You are cautioned that use of cyber-cafe/shared computer for payment transaction at a shared terminal is risky and you are urged not to use a cyber-cafe/shared computer terminal for any such transactions.

The Site may be linked to the website of third parties, affiliates, and business partners. You hereby acknowledge to use such websites at your own risk and Spalba states that it has no control over, and not liable or responsible for content, accuracy, validity, reliability, quality of such websites or made available by/through our Site. The inclusion of any link on the Site does not imply that Spalba endorses the linked site.

#### **CONTENT AND INFORMATION ON THE SITE**

Any User may at its own discretion discontinue the use of the Site, as Spalba assumes no liability or responsibility, whatsoever and shall not be held liable for, any damages to, or viruses that may infect your equipment on account of your access to, use of (in any manner), or browsing the Site.

Spalba collects, directly or indirectly, and displays on the Site, relevant information regarding the profile and information of its vendors or venue partners listed on the Site. Such display of information about the vendors or venue partners shall not be construed as advertising or soliciting their services. Spalba cannot be held liable for any inaccuracies or incompleteness represented from it, despite such reasonable efforts.

#### **INDEMNIFICATION AND LIMITATION OF LIABILITY**

You agree to indemnify, defend, and hold us, our officers, directors, employees, agents, contractors, licensors, vendors and / or suppliers harmless from and against all losses, expenses, claims, proceedings, damages and costs (including actual, special, direct, indirect, incidental, exemplary or consequential) of every kind and nature made by any other party due to or arising out of any violation of these Terms, any terms and policies it incorporates by reference, the rights of another party, any applicable law, statute, ordinance or regulation or due to or arising out of any activity related to services supplied by us.

Spalba or any its officers, directors, employees, agents, contractors, licensors, vendors or suppliers will not be liable for:

- breach or falsity of any representation, warranty, covenant, obligation from your end; and/ or
- any act or omission or omission on your part; and/ or
- non-performance or non-observance of the terms of this Agreement by you.

You are informed that use of internet may be susceptible to several frauds, misuse, hacking and other actions that could affect payment instructions / other instructions to your bank through the payment gateway. Spalba shall aim to provide security to prevent the same, there cannot be any guarantee from such internet frauds, hacking and other actions that could affect payment instructions / other instructions including result in delay or failure in processing the instructions. Spalba shall not be held responsible for the same.

Spalba shall not be responsible for any such failed transaction, where the bank account of the user of the Site is debited for the transaction amount and the transaction is not completed, for any reason whatsoever. Such user should connect with his/her banker for any such failed transactions and the user of Site absolves Spalba of any liability, whatsoever, on this account.

## **EXCUSING EVENTS**

You acknowledge and agree that we are excused from performing our services and other obligations and will not be responsible for any delays where and so long as we are prevented from performing our obligations under these Terms by events or causes beyond our reasonable control. We will endeavour to notify you of any delay and its expected duration. If we are prevented from performing our obligations for longer than a reasonable time, we may elect to cancel your order and issue you a credit in the amount paid for the order without further liability to you.

## **ALTERATIONS**

We may alter these Terms from time to time by posting the altered version on our Site. You should visit the Site regularly to keep up to date with any alterations. In the case of an alteration, the altered Terms only apply to services ordered *via* the Site after the alteration takes effect.

## **REVIEWS, COMMENTS AND OTHER CONTENT**

Users of our Site may post reviews, comments and other content; as long as the content is not illegal, obscene, abusive, threatening, defamatory, invasive of privacy, infringing of intellectual property rights, or otherwise injurious to third parties, or objectionable and does not consist of or contain software viruses, political campaigning, commercial solicitation, chain letters, mass mailings, or any form of "spam".

In case of any feedback or other fraudulent, inaccurate, incomplete or false information, provided by you, Spalba reserves its right to immediately suspend / revoke your access to the Site or any of the accounts made with Spalba for the protection of its business and Site. You hereby agree and acknowledge to indemnify Spalba and hold Spalba harmless from any such claims / damages / losses incurred as a result of such misrepresentations or fraudulent feedback that has adversely affected the business of Spalba or any of its Users.

## **TYPOGRAPHICAL ERRORS**

In the event a service is listed at an incorrect price or with incorrect information due to typographical error or error in pricing or other information, we shall have the right to refuse or cancel the services for such services listed at the incorrect price. If your credit/debit card has already been charged for the services and your order is cancelled, we shall issue a credit to your credit/debit card account in the amount of the charge.

Before availing for the services, you are advised to check the relevant descriptions carefully. By placing an order for any services, you agree to be bound by the Terms of this Agreement and all other policies and regulations of Spalba in place.

## **PROHIBITED ACTIVITIES**

You agree that you shall not host, display, upload, modify, publish, transmit, update or share any information on the Site, that;

- belongs to another person and to which you do not have any right to;
- is grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic,
- invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner what so ever;

- harm minors in any way;
- infringes any patent, trademark, copyright or other proprietary rights;
- violates any law for the time being in force;
- deceives or misleads the addressee about the origin of such messages or communicates any information which is grossly offensive or menacing in nature;
- impersonate another person;
- contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer resource;
- Threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign states, or public order or causes incitement to the commission of any cognizable offence or prevents investigation of any offence or is insulting any other nation.

Any Content and or comment uploaded by you, shall be subject to relevant Indian laws and may be disabled, or and may be subject to investigation under appropriate laws. Furthermore, if you are found to be in non-compliance with the laws and regulations, these Terms, or the Privacy Policy of the Site, Spalba shall have the right to immediately terminate/block your access and usage of the Site and Spalba shall have the right to immediately remove any non-compliant content and or comment, uploaded by you and shall further have the right to take recourse to such remedies as would be available to Spalba under the applicable laws.

## **INTELLECTUAL PROPERTY RIGHTS**

The Site and the processes, and their selection and arrangement, including but not limited to all text, graphics, user interfaces, visual interfaces, sounds and music (if any), artwork and computer code (collectively, the “**Content**”) on the Site is owned and controlled by Spalba and the design, structure, selection, coordination, expression, look and feel and arrangement of such Content is protected by copyright, patent and trademark laws, and various other intellectual property rights.

The trademarks, logos and service marks displayed on the Site (“**Marks**”) are the property of Spalba or their vendors or respective third parties. You are not permitted to use the Marks without the prior consent of Spalba, the relevant vendor or the third party that may own the Marks.

Unless otherwise indicated or anything contained to the contrary or any proprietary material owned by a third party and so expressly mentioned, Spalba owns all intellectual property rights to and into the trademark, <https://spalba.com/>, and the Site, including, without limitation, any and all rights, title and interest in and to copyright, related rights, patents, utility models, designs, know-how, trade secrets and inventions (patent pending), goodwill, source code, meta tags, databases, text, content, graphics, icons, and hyperlinks.

Except as expressly provided herein, you agree that you shall not copy, republish, post, display, translate, transmit, reproduce or distribute any Content through any medium without obtaining the necessary authorization from Spalba or third-party owner of such Content.

## **NOTICE OF COPYRIGHT INFRINGEMENT**

Spalba is not liable for any infringement of copyright arising out of materials posted on or transmitted through the Site, or items advertised on the Site, by end users or any other third parties. Any complaints, abuse or concerns with regards to content and or comment or breach of these terms shall be immediately informed to the designated Grievance Officer in writing or through email signed with the electronic signature addressed to Grievance Officer.

## **RELATIONSHIP**

None of the provisions of these Terms or the right to use the Site by you, contained herein or any other section or pages of the Site and/or the linked sites, shall be deemed to constitute a partnership between you and Spalba and no party shall have any authority to bind or shall be deemed to be the agent of the other in any way. It may be noted, however, that if by using the Site, you hereby authorize Spalba and

its agents to access third party sites designated by them or on your behalf. For the purposes of retrieving the requested information, you shall be deemed to have appointed Spalba and its agents as their agent for this purpose.

## **ENTIRE AGREEMENT**

These Terms, together with any terms and conditions incorporated herein or referred to herein constitute the entire agreement between us relating to the subject matter hereof, and supersedes any prior understandings or agreements (whether oral or written) regarding the subject matter, and may not be amended or modified except in writing or by making such amendments or modifications available on this Site.

## **COMMUNICATION WITH USERS**

Spalba reserves the right to communicate with Users regarding this Site and User's use of this Site or any service as availed for by the User on this Site.

## **VIOLATION OF THE TERMS**

You agree that Spalba may, in its sole discretion and without prior notice, terminate your access to the Site and block your future access to the Site, if Spalba determines that you have violated these Terms. You also agree that any violation by you of these Terms will constitute an unlawful and unfair business practice, and will cause irreparable harm to Spalba, for which monetary damages would be inadequate, and you consent to Spalba obtaining any injunctive or equitable relief that it deems necessary or appropriate in such circumstances. These remedies are in addition to any other remedies Spalba may have under law or in equity.

## **GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION**

These Terms and all transactions entered into on or through the Site and the relationship between you and Spalba shall be governed in accordance with the laws of India without reference to conflict of laws principles.

You agree that all claims, differences and disputes arising under or in connection with or in relation hereto the Site, the Terms or any transactions entered into on or through the Site or the relationship between you and Spalba shall be subject to the exclusive jurisdiction of the courts at Delhi and you, hereby accede to and accept the jurisdiction of such courts.

Any disputes, claims or difference arising from this Agreement shall be settled by arbitration in accordance with the Arbitration & Conciliation Act, 1996 and rules framed thereunder, as amended upto date, by a panel of five arbitrators appointed by Spalba. The decision of the arbitral tribunal shall be final and binding upon the Parties. The seat of arbitration shall be at Delhi and the language of the proceedings shall be English. The cost of the proceedings shall be equally borne by the Parties unless otherwise awarded by the Parties.