

## **THIS IS JUST A FORMAT.**

**Kindly take proper Legal Advice for Drafting Document as per your requirements.**

### **Master Services Agreement**

THIS AGREEMENT IS MADE on this \_\_\_\_\_ date of \_\_\_\_\_  
BETWEEN,

M/s. \_\_\_\_\_ Pvt. Ltd., Co., a Company registered under the Indian Companies Act having its registered office at \_\_\_\_\_ hereinafter called the "COMPANY" (which expression shall unless repugnant to the context or meaning thereof shall mean & include its successors & assigns).

AND

M/s. \_\_\_\_\_ Pvt. Ltd., Co., a Company registered under the Indian Companies Act having its registered office at \_\_\_\_\_ hereinafter called the "CONSULTANT" (which expression shall unless repugnant to the context or meaning thereof shall mean & include its successors & assigns).

WHEREAS:

- (i) The Consultant has agreed to render certain services to the Company as stated in its technical support programs & Statement of the Work (SOW).
- (ii) The Company or its client has agreed to avail the services of the Company subject to certain terms & conditions enumerated herein below.

NOW THEREFORE PARTIES MUTUALLY COVENANT TO ABIDE BY THE FOLLOWING OBLIGATIONS & STIPULATIONS:

**DEFINITIONS:**

- (a) Intellectual property: Means all copyright, trade marks, service marks, patents, designs, trade secrets, semi-conductor topography rights whether registered or pending registration belonging to either party.
- (b) Software:- Means any software that may be developed by the Consultant during the course of this Agreement or in due performance of this Agreement including the documentation of the software.
- (c) Statement Of Work (SOW):- Means statement of work as prepared from time to time & approved by both the parties by executing the same. Annexure-I is the SOW approved & executed by both the parties.
- (d) Deliverables:- Means a deliverable, including any software that may be developed as a result of rendering of the services as per SOW.
- (e) Confidential Information:- Means any information, specifications, data, operating manuals, market information, know-how, designs, formulas, ideas, operating procedures, business details, financial information & techniques which is identified & marked as Confidential Information by the parties.

**GENERAL TERMS :**

1. The Consultant shall perform the support services as required & applicable to the Company or its client herein as per the service level se-

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lected by the Company & the statement of work (SOW) at Annexure-I. The Consultant at all times shall strictly adhere to the statement of work in case of any overlapping between the Technical Support Program & SOW.

2. The Company or its client will inform its requirement to the Consultant & provide the necessary support as the performance of the Consultant is dependant to certain extent on the Company or clients actions.

3. The Company hereby appoints the Consultant & the Consultant accepts the appointment to provide certain services to the Company / or its clients as per terms & conditions stated in this Agreement.

4. The Company & the Consultant hereby undertake to extend full support & co-operation to each other in order to perform all obligations undertaken & promises made by them in this Agreement.

### **5. SERVICE OBLIGATIONS :**

5.1 The Consultant agrees to provide services during the terms of this Agreement in accordance with the standards prevailing in the industry.

5.2 The Consultant shall provide services as per the statement of work (SOW). The SOW shall contain the details of the services, technical specifications, the deliverables, time within which the services should be completed, any information, Data or material to be supplied to the Consultant by the Company, the consideration payable and Intellectual Property if any that may be used by the Consultant.

5.3 It shall be obligatory for the Consultant to provide relevant reports, progress in service & its comparison with the key milestones as set out therein. It shall be obligatory for the Company to review the progress updates and promptly provide technical clarification to Consultant from time to time as may be required to give effect to this Agreement.

5.4 Both the parties may submit a Change Request as to the services to be rendered. If the Change Request is acceptable to the other then the said changes can be incorporated by adding a Change Note to the SOW duly signed by both the parties.

5.5 The SOW as agreed to from time to time shall clearly specify if the Deliverables need to be tested against the milestone acceptance criteria.

### **6. TERM :**

This Agreement shall commence on the date of its executions i.e. \_\_\_\_\_ (date) & shall remain in force for \_\_\_\_\_ duration. The said term can be further extended as mutually agreed upon.

### **7. PAYMENT :**

7.1 In consideration of the services that will be rendered by the Consultant to the Company, the Company agrees to pay the Consultant such sums of money as stated in the SOW. The Consultant shall be entitled to raise invoices as & when as per SOW the services are rendered.

7.2 The Company shall make payment against the invoices raised by the Consultant as per the statement of work (SOW) & the Company shall make payment within \_\_\_\_\_ days from the date of the invoice. In case of any delay thereon the Consultant may charge the interest on the invoiced amount at the rate of \_\_\_\_\_%.

### **8. RELATIONSHIP:**

8.1 The Consultant is not the employee, agent or representative of the Company or its clients but is an independent Consultant.

8.2 The Consultant's employees, sub-contractors agents etc are not the employees of the Company or its client.

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### **9. CONFIDENTIAL INFORMATION:**

9.1 The parties shall during the term of this Agreement & thereafter shall keep confidential all Confidential Information.

9.2 All the confidential information received by the parties under this Agreement from the other shall be used solely for the obligations under this Agreement & for no other purpose.

9.3 The confidential information in any form such as data, specification, programs, know-how, designs, operating manuals, market information, milestone criteria and all information defined as confidential information in the SOW shall not be disclosed by either party to any third party except its employees, advisors, assistants & directors.

9.4 These presents however do not prevent the parties hereto from disclosing any Confidential Information, if the same is required to be furnished or disclosed due to law or under the orders of the court or before any other Competent Authority.

9.5 The parties covenant to return all such confidential information to the other received during the term of this Agreement on termination.

### **10. GOVERNING LAW:**

This Agreement shall be governed & construed in accordance with the Laws of India.

### **11. SEVERABILITY:**

If any part of this agreement is illegal or may become illegal or unenforceable, it shall not affect the other provisions of this Agreement which shall remain valid & binding on the parties.

### **12. AUTHORITY TO SUB CONTRACT:**

12.1 The Consultant may with prior consent of the Company or its clients render the services with the assistance of any sub-contractor.

12.2 The Consultant shall not be absolved of its primary responsibilities and obligations under this Agreement which includes the performance of the services by the sub-contractors.

### **13. MODIFICATIONS & AMENDMENTS:**

13.1 The terms & conditions of this Agreement or the SOW may be modified or amended by mutual consent of the parties in writing.

### **14. INTELLECTUAL PROPERTY RIGHTS:**

14.1 All the intellectual property developed under this agreement shall be owned by the Company or its clients including the Deliverables developed by the Consultant.

14.2 The Consultant shall sign all the relevant documents & support the Company or its client for recording the ownership of the Intellectual Property Rights developed under this Agreement in favour of the Company.

14.3 The Company or its client may grant non-exclusive royalty free license to use, operate, copy & modify its Intellectual Property to Consultant as would be explicitly stated in the statement of work (SOW) from time to time.

### **15. WARRANTY:**

15.1 The parties hereby warrant that these presents are duly executed by their authorized representatives & they declare that the recitals, obligations & performance of the Agreement is not contrary to any law in force.

15.2 The Consultant warrants that it shall comply with the Company or its clients IT security & safety policies.

15.3 The Consultant warrants to provide & pass on or assign to the

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Company or its client warranty received from any manufacturer in connection with the Deliverable provided by the Consultant.

15.4 The Consultant shall not make any commitments, promises, warranties or guarantees on behalf of the Company or its clients without written consent.

15.5 The Consultant shall adhere to the general decorum, safety norms, & general discipline while executing its obligations.

### **16. TERMINATION:**

This Agreement can be terminated on the occurrence of any of the following:

16.1 In case of breach either party to the Agreement may terminate this Agreement by a written \_\_\_\_\_ days notice to the other.

16.2 The party in breach shall be given \_\_\_\_\_ days time to cure the same failing which the Agreement shall stand terminated. The breach has to be material breach of this Agreement.

16.3 On the occurrence of Force Majeure.

16.4 Either party goes into liquidation or insolvency.

### **17. ASSIGNMENT:**

Save as expressly provided hereinbefore, the parties shall not assign or otherwise transfer this Agreement or any of its rights & obligations hereunder whether in whole or in part without the written consent of the other.

### **18. DISPUTE RESOLUTION:**

18.1 The Parties shall use their best efforts to amicably settle all disputes arising out of or in connection with this Contract in the following manner:

- (i) The Party raising the dispute shall address to the other Party a notice requesting an amicable settlement of the dispute within ten (10) days of receipt of the notification.
- (ii) The matter will be referred for negotiation between Mr. \_\_\_\_\_ of Company and Mr. \_\_\_\_\_ of Consultant. The matter shall then be resolved by them and the agreed course of action documented within a further period of 30 days.

18.2 The Parties agree that any dispute between the Parties, which cannot be settled by negotiation in the manner, described in Clause 5.1 hereof, may be resolved exclusively by arbitration and such dispute may be submitted by either party to arbitration within 30 days of the failure of negotiations. Arbitration shall be held in \_\_\_\_\_ city, India and conducted in accordance with the provision of Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof. Each party to the dispute shall appoint 1 arbitrator each and the two arbitrators shall jointly appoint the third or the presiding arbitrator. The arbitration proceedings shall be conducted in the English language. Subject to the above, the courts of law at \_\_\_\_\_ city alone shall have the jurisdiction in respect of all matters connected with the Contract. The arbitration award shall be final and binding upon the Parties and judgment may be entered thereon, upon the application of either party to a court of competent jurisdiction. Each party shall bear the cost of preparing and presenting its case, and the cost of arbitration, including fees and expenses of the arbitrators, shall be shared equally by the Parties unless the award otherwise provides.

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18.3 Service Provider shall not be entitled to suspend the provision of the Services or the completion of the Job, pending resolution of any disputes between the Parties and shall continue to render the Services in accordance with the provisions of the Contract notwithstanding the existence of any dispute between the Parties or the subsistence of any arbitration or other proceedings.

19. NON SOLICITATION:

No Party shall provide employment, whether temporary or permanent, part-time or full-time, or any appointment resulting in financial gain, whether directly or otherwise, to any identified employee, agent, representative or nominee of the other Party involved in this Job during the term of this Agreement and for a period of \_\_\_\_\_( ) years following the termination hereof without the prior written approval of the other Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed.

SIGNED BY

For and on behalf of [Company] [Authorized Representative]

In the presence of :    )

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SIGNED BY

For and on behalf of [Customer] [Authorized Representative]

In the presence of:    )

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Annexure-I

SOW, List of Deliverables, Payments, Service levels, Milestone criteria etc.

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