

THIS IS JUST A FORMAT.

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Software Services and Maintenance Contract

Agreement made at .. this day of ... 20.... by and between M/s. ABC Co. Ltd. a company incorporated and registered under the Companies Act, 1956 having its registered office at ... hereinafter referred to as the "company" (which expression shall mean and include its successors and assignees) of the one part and M/s. a registered partnership firm consisting of (1) (2) (3) as partners having their office at hereinafter referred to as the Firm (which expression shall mean and include the partners for the time being of the said Firm, the survivor or survivors of them and the heirs, executors or administrators of the last surviving partner) of the other part.

Whereas,-

(1) the Company owns and carries on business in computers (hardware and software computers) and arranges computer programs for the benefit of its customers or clients.

(2) the Company has requested the Firm to arrange computer programs including rendering services and maintenance thereof which the Firm has agreed to undertake on the terms and conditions hereinafter referred and agreed to between the parties hereto. An outline of the said program is given in the First schedule hereunder written.

NOW IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS :-

(1) The Firm agrees to write the program by installing the same on the computer equipment belonging to the Company and located in the Company's offices at ... as and when required.

(2) The Firm shall supply all sufficient informations about the equipment and the operating system to enable the Company to write the program in accordance with operation specifications in accordance with which the program is to be written.

(3) The Firm agrees to write a series of application programs in English language as per operation specifications provided by the data base management system and shall fulfill the criteria which is intended to fulfill the programs as specified in the operative specifications subject to the tolerance limitations and exceptions stated in the operative specifications and shall successfully install the same on the equipment.

(4) If any changes are made in the program the Firm shall make necessary modifications to the operative specifications.

(5) The Company agrees to pay to the Firm in consideration of the services to be rendered and the maintenance work to be done as hereinafter mentioned the fees as mentioned in the Second Schedule hereunder written which includes mode of payment etc.

(6) The Firm shall deliver to the Company one copy of the object code of the program in readable form on the storage media as specified by the Company and shall also deliver copies of the data and results of the tests

SOFTWARE SERVICES AND MAINTENANCE CONTRACT

carried out by the Firm on all parts of the program before delivering as well as operating manuals.

(7) The Firm shall prepare and supply to the Company one or more copies as required for a set of operating manuals containing sufficient information to enable the Company to make full and proper use of the program alongwith the equipment and the operating system of the Company. Except for one copy of the operating manuals, the Firm shall be entitled to charge separate changes as may be agreed upon.

(8) The Firm shall maintain the program periodically as and when required by the Company. The maintenance will include corrections of errors, removal of corruption of the program or due to any other reason including the rectification of any damage done to the equipment caused by the employees of the Firm employed for the purpose of carrying out the maintenance work but however for the loss of any item of work the Firm shall not be entitled to charge the Company.

(9) The Company shall provide to the Firm all informations and documents reasonably required by the Firm to enable the Firm to prepare and write the program and the operating manuals.

(10) The Firm shall employ and delegate a competent staff to carry out the services and maintenance as herein contemplated and the Company shall be entitled to reject any member of the staff appointed by the Firm if his services or work is not found satisfactory to the Company. The Company shall also ensure that the members of the staff of the Firm are given proper treatment and all facilities for carrying out the services and maintenance work in the Company's premises.

(11) The Firm warrants (A) that (i) the program will, when accepted by the Company, perform as per the operative specifications provided they are properly used with the equipment and the Company's operating system, (ii) the operating manuals and the guidance plan will provide adequate instructions to enable the Company to make full and proper use of the program alongwith the equipment and the operating system without any need for reference to any other person or document, (iii) to remedy any defect or error pointed out by the Company by a notice in writing at its own expense and promptly, (iv) to remedy any breaches of any warranty under this agreement or by law by promptly providing with material and services required to remedy the breach, (v) that the software agreed to be part of the equipment to be supplied by the Firm under this agreement shall be genuine and not pirated, (B) the Company also warrants to the Firm that the program to be supplied by the Firm shall be used only for the purpose contemplated in this agreement and shall not be used for any other purpose.

(12) The Firm further warrants that the software shall not damage or destroy or corrupt any other software of the Company provided that it will be the obligation of the Company to implement the required measures and safeguards in respect thereof. In the event of the software being damaged, destroyed or corrupted as aforesaid the Firm shall replace the same by another similar program in good condition or repair in place of the damaged or corrupted program.

(13) The Firm agrees to indemnify and keep indemnified the company against all losses, damages, costs charges and expenses incurred or suffered by the Company due to or on account of any claim for infringement

SOFTWARE SERVICES AND MAINTENANCE CONTRACT

of copyright or any such right of any other person in the services or any material provided by the Firm.

(14) The Company also agrees to indemnify and keep indemnified the Firm against all losses, damages, costs, charges and expenses incurred or suffered by the Firm due to infringement of copyright or any such right of any other person in the material or information supplied by the Company to the Firm for the purpose of carrying out the functions of the Firm under this agreement.

(15) Each party hereto agrees that all information documents or other literature given by one to the other under this agreement shall be kept confidential and will not be disclosed to any other person without the consent in writing of the other party hereto. Each party hereto assures the other that its staff members maintain the same confidentiality and for breach thereof by any member of the party the party will be responsible and liable to the other party for the damages or loss suffered by the latter.

(16) The copyright and all other similar right of whatsoever nature in the program and operating manuals or specifications or documents supplied and belonging to the Firm shall remain vested with the Firm and the same shall be used by the Company as licensee of the Firm during the subsistence of this agreement.

(17) This agreement shall be terminated and deemed to be terminated in any of the following events :

(i) if the company is ordered to be wound up or passes a resolution for voluntary winding up,

(ii) if the Company's property including the computer equipment is attached by the Court or any other legal authority for recovery of any debt or other liability,

(iii) if the Firm is dissolved or if any partner thereof is adjudged insolvent or if the property of the Firm is attached for recovery of any debt or other liability by the Court or any other statutory authority,

(iv) if by any force majeure the agreement becomes impossible of performance.

(18) Any party hereto shall be entitled to terminate this agreement by giving fifteen days prior notice to the other party (i) if the other party has committed breach of any terms or conditions of this agreement or (ii) if the Company fails to pay the fees in terms of this agreement read with the second schedule hereto.

(19) This agreement can be modified only by mutual consent of the parties hereto given in writing.

(20) In implementing this agreement the Company and the Firm will be actually represented by their Representatives appointed by them respectively and their acts and omissions will be binding on the respective party.

(21) This agreement will be governed by the Indian Law and in the event of dispute arising hereunder the Court in alone will have jurisdiction to entertain and decide the same.

(22) Notwithstanding anything ... in clause (20) abovementioned if any dispute or difference arise between the parties the same shall be referred to arbitration of a common arbitrator if agreed upon, otherwise to two arbitrators one to be appointed by each party hereto and the arbitration will be governed by the Arbitration and Conciliation Act of 1996.

SOFTWARE SERVICES AND MAINTENANCE CONTRACT

(23) No party hereto shall assign or transfer in any way to any party any rights or benefit hereunder without the consent of the other party in writing.

In witness whereof the parties have put their hands the day and year first hereinabove written

Signed for and on behalf of
ABC Co. Ltd. by the)

Managing Director duly authorised
to do so in the presence of)

Signed for and on behalf of M/s. XYZ and Co.
(1) (2) (3))
partners in the presence of)

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