



BIRLASOFT RESPONSE TO CROWN COMMERCIAL SERVICES

Terms & Conditions Document

Framework Reference: RM1557.14

May 2024



MASTER SERVICES AGREEMENT

THIS AGREEMENT ("AGREEMENT") is entered into _____ ("**Effective Date**") by and between _____, having its Principal office at _____ (hereinafter referred to as "**Customer**", which expression shall be, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors-in-interest and permitted assigns) on One Part; and **Birlasoft (UK) Limited** (hereinafter referred to as "**Birlasoft**"), having its Principal Office at 4th Floor, 53-54, Grosvenor Street, London, W1K 3HU, UK (hereinafter referred to as "**Birlasoft**", which expression shall be, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, successors-in-interest and permitted assigns) on the Other Part.

Customer and Birlasoft shall be individually referred to as "Party" and jointly as "Parties"

WHEREAS Birlasoft provides Information Technology services globally which includes computer programming, software development/ customization and maintenance assignments for organizations by assigning software engineers (Engineers) to execute such assignments.

AND WHEREAS Customer is, inter alia, in the business of _____.

AND WHEREAS Customer has specific service requirements and desires to have Birlasoft perform such services as may be mutually agreed to between Birlasoft and Customer from time to time and conditions as more particularly described in the Statement of Works (SOW).

NOW THEREFORE in consideration of the various covenants, promises, and conditions set forth below, the parties agree as follows:

ARTICLE 1. SERVICES TO BE PERFORMED

1.1 Customer hereby retains Birlasoft to provide services pursuant to one or more SOW which shall form an integral part of this Agreement. The description of any services or resources to be provided by Birlasoft hereunder shall be subject to mutual agreement in each case and will be set forth in the SOW to be executed by the Parties. Additional Services may be added to this Agreement by the issuing of one or more additional SOW(s). Each SOW, when executed by an authorized representative of both Parties, shall constitute a separate agreement and each such SOW shall incorporate therein all of the terms and conditions of this Agreement. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of any SOW, the terms and conditions of this Agreement shall govern. The SOW may be amended from time to time, but any such amendment shall be effective only when signed by the parties hereto.

ARTICLE 2. TERM

2.1 This Agreement shall be effective as of the effective date and will remain in effect for a period of two (2) years (the term). Thereafter the Agreement shall be renewed for further terms of one year each, upon mutual consent, until terminated.

2.2 Though the contract is initially valid for two years, the Customer acknowledges that the rates proposed by Birlasoft are subject to annual adjustments for cost escalations in line with Consumer Price Index of the Country from where the services are performed.

ARTICLE 3. COMPENSATION & PAYMENT TERMS

- 3.1 In consideration for the Services rendered by Birlasoft hereunder, Customer shall pay to Birlasoft the consideration equal to and agreed under each SOW.
- 3.2 Customer shall pay the consideration on the basis of invoices submitted by Birlasoft. Birlasoft shall issue an invoice to Customer in accordance with the schedule detailed in each SOW. All invoices shall be paid by the Customer within 30 days from the invoice date. Birlasoft shall charge 7% handling charge while invoicing all out of pocket expenses.
- 3.3 In case the invoice remains unpaid after 30 days, Birlasoft shall have the option to withdraw from the work till pending invoices are paid. Overdue invoices payable under this agreement shall bear interest from the original due date at the rate of 1.5 % per month or the maximum legal rate, whichever is less.
- 3.4 The amounts payable to Birlasoft under this Agreement are exclusive of any sales, service, ad valorem or other tax in force from time to time. Customer will indemnify, defend and hold harmless against claims for sales services, ad valorem or other tax, penalty and interest thereon due to any governmental authority based on transactions occurring herein other than taxes measured by the income of Birlasoft, payroll taxes attributable to Birlasoft's employees and agents and any associated penalties and interest.
- 3.5 Normal working hours for Birlasoft employees are 8.5 hours per day at offshore, India and 8 hours per day at onsite, other countries unless the applicable law specifies otherwise. In case of work contracted on time and material basis, any work required to be performed by Birlasoft beyond the normal working hours including working on holidays and weekends, will amount to overtime and would be payable by Customer at the rates as prescribed under applicable laws of the country from where the service will be provided. If there are no such provisions in the law, overtime shall be payable by Customer at 1.5 times of the normal rate.

ARTICLE 4. WARRANTY

- 4.1 Birlasoft warrants that the Services performed under this Agreement shall be performed in a professional manner by individuals well qualified and possessing the required skills and experience and will conform to any applicable requirements set forth in the SOW, including without limitation any performance standards. Birlasoft hereby represents and warrants to Customer that the Services provided by Birlasoft shall not violate any proprietary and intellectual property rights of any third party, including without limitation, confidential information, patent, trade secrets, and copyrights.
- 4.2 Birlasoft makes no warranties for the services other than as set forth in this section 4, and expressly disclaims all other warranties, whether express, implied, or statutory with regard to the deliverables and the services provided under this agreement and any statement of work, including, without limitation, all warranties of merchantability and fitness for a particular purpose.

ARTICLE 5. CONFIDENTIAL INFORMATION

- 5.1 Confidential Information Defined: The parties contemplate that either Birlasoft or Customer may disclose to the other party information concerning its inventions, confidential knowledge, and trade secrets to further the performance of this Agreement. "Confidential Information" includes, but is not limited to, technical and business information relating to either party's inventions or products, research and development, production, manufacturing and engineering processes, computer software, costs, profit or margin information, finances, customers, marketing, and production and future business plans, which is identified in writing by the disclosing party to be confidential.
- 5.2 Rights in Confidential Information: All Confidential Information shall remain the sole property of the disclosing party. The receiving party shall have no right to the Confidential Information of the disclosing party, except as provided in this Agreement.
- 5.3 Confidentiality Agreement: Birlasoft and Customer each agree that it shall hold the Confidential Information of the other party in strict confidence. Each party further agrees that it will not make any disclosure of the Confidential Information (including methods or concepts utilized in the Confidential Information) to anyone without the express written consent of the other, except to employees, consultants, agents, external auditors, banks/financers to whom disclosure is necessary to the performance of this Agreement and complying with statutory obligations and availing credit facilities. Each party shall take all reasonable steps to ensure the confidentiality of all Confidential Information.
- 5.4 The confidential obligations shall not apply, however to any information that: a) is already in the public domain at the time of disclosure or later becomes available to the public through no breach of this Agreement by the Recipient or its employees; (b) is lawfully in the Recipient's possession, without an obligation of confidentiality, prior to receipt hereunder; (c) is received independently by the Recipient from a third party who was free to lawfully disclose such information to the Recipient; or (d) is independently developed by the Recipient without the use of Confidential Material as evidenced by the Recipient's business records; or(e) if made in response to a valid order of a court or authorized agency of government; provided, that notice is given promptly to the Disclosing Party so that it may seek a protective order and/or engage in other efforts to minimize the required disclosure.
- 5.5 The obligations of Parties respecting the Confidential Information shall survive for a period of three (3) years from the date of disclosure of the confidential information.
- 5.6 Injunction: Each Party acknowledges that the unauthorized disclosure or use of Confidential Information would amount to material breach and cause irreparable harm and significant injury to the disclosing party. Accordingly, each Party agrees that the disclosing Party shall have the right to obtain an immediate injunction and other equivalent relief for any threatened or actual breach of this provision, as well as the right to pursue any and all other rights and remedies available at law or in equity for such a breach.

ARTICLE 6. Data Processing Requirements

As a result of this Agreement, Birlasoft may have access to certain information relating to identified or identifiable individuals (the "Personal Data"). Birlasoft shall not be entitled to use Personal Data for its own purposes, and may only process Personal Data on behalf of Company or applicable Company Entity, for purposes of providing the Services.

Birlasoft shall:

- 6.1 Process the Personal Data only on the written instructions of Company in compliance with all applicable Laws;
- 6.2 implement appropriate technical and organizational measures to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing;
- 6.3 not permit the transmission or access of Personal Data outside the country of origin or the United States;
- 6.4 ensure that Personal Data is encrypted at all times, including at rest, and appropriately protected in transit and storage;
- 6.5 not disclose the Personal Data to any person unless Company has given its prior written consent to such disclosure and Birlasoft has procured that such person is bound by the same obligations as the BSL hereunder;
- 6.6 promptly notify Company of any facts known to the Birlasoft concerning any accidental or unauthorized disclosure or use, or accidental or unauthorized loss, damage or destruction of Personal Data by any current or former employee, Birlasoft or agent of the Birlasoft or by any other person or third party;
- 6.7 cooperate fully with Company in the event of any accidental or unauthorized disclosure or use, or accidental or unauthorized loss, damage or destruction of Personal Data by any current or former employee, Birlasoft or agent of Birlasoft or by any other person or third party, to limit the unauthorized disclosure or use, seek the return of any Personal Data, and assist in providing notice if requested by Company; and
- 6.8 upon termination or expiration of the Agreement for whatever reason, or upon request by Company, Birlasoft shall immediately cease to process the Personal Data and shall promptly return to Company all such Personal Data, or destroy the same, in accordance with such instructions as may be given by Company at that time. The obligations set forth in these data processing requirements shall remain in force notwithstanding termination or expiration of this Agreement.
- 6.9 Birlasoft acknowledges that it shall have no right, title or interest in any Personal Data obtained by it because of this Agreement and further acknowledges and agrees that as between the Parties, Company owns all rights, title and interest to and in all such Personal Data and that if requested Birlasoft will execute Company's Data Processing Agreement and EU Model Contract Terms.

ARTICLE 7. OWNERSHIP OF WORK PRODUCT

- 7.1 All Deliverables and other software documentation, system documentation along with all other information and documents ("Work Product") shall be the exclusive property of Customer. Birlasoft agrees that Customer owns the

entire right, title and interest to all rights to any inventions, designs, discoveries, writings and works of authorship, including all copyrights in any work deemed to be 'work made for hire'. Upon expiration or termination of the Agreement and upon payment in full, all Work Product, programs partially or wholly completed, or materials which are directly related to any project under the Agreement shall be delivered to Customer.

- 7.2 Customer acknowledges that all or part of the services may contain intellectual property rights in software, tools and methodology developed by Birlasoft outside the scope of the requirements specified in SOW ('Birlasoft IP'). Where any such Birlasoft IP is incorporated by Birlasoft in the deliverables provided by it to Customer, Birlasoft agrees to provide a non-exclusive, perpetual license to Customer to use such Birlasoft IP as part of the deliverables in which it is incorporated, provided that Customer shall not separate and use such Birlasoft IP independently from the deliverables in which they are incorporated.

ARTICLE 8. INDEMNIFICATION

- 8.1 Birlasoft shall assume responsibility and hold Customer harmless from losses, expenses or damage arising out of claims of personal injury or death or any claim arising out of alleged infringement of any claim of copyright, patent, trademark, or other proprietary right of any third party arising out of the Deliverables provided by Birlasoft to Customer. As a condition of this indemnity Customer shall (a) notify Birlasoft promptly in writing the details of any allegation of infringement or other claims upon becoming aware of it; (b) make no admission relating to the alleged infringement or claims; and (c) allow Birlasoft to conduct and settle all negotiations and proceedings and give Birlasoft all reasonable assistance in respect thereof.
- 8.2 Birlasoft indemnification shall not extend to any Intellectual property Rights claims by third parties if the infringement is occasioned by (a) modification to the Deliverables not authorized by Birlasoft; (b) use of the Deliverables in conjunction with other products or services not supplied by Birlasoft; and; (c) use of the Deliverables in conflict with SOW. In such an event Customer shall indemnify, defend and hold harmless Birlasoft, its directors, officers and employees from any claims by third parties.

ARTICLE 9. INSURANCE

- 9.1 Birlasoft shall procure and maintain appropriate insurance coverage for claims under Worker's Compensation Acts and Employer's Liability Acts in the State, and from other claims for damages which may arise directly under this Agreement.

ARTICLE 10. TERMINATION

- 10.1 This Agreement may be terminated in whole or in part, by a Party for convenience on ninety (90) days prior written notice to the other Party. In the event of termination of any part of this Agreement, at the convenience of the Customer, the Customer is obligated to pay the reasonable wind down / un-amortized costs, as mutually agreed, within thirty (30) days of such termination notice. Notwithstanding the foregoing, to the extent there are any SOW which remain active upon termination/expiration of this Agreement, this Agreement shall continue to apply on such SOW only until the completion thereof.
- 10.2 This agreement may be terminated in whole or in part, by either Party in the event of material breach by a Party which is not cured within thirty (30) days of notice of such breach, from the other Party.

- 10.3 In the event of any termination of any part of this Agreement, Customer is obligated to pay for Services rendered by Birlasoft prior to the effective date of termination.
- 10.4 On expiration or termination of the Agreement or an applicable SOW, Birlasoft shall, at Customer request, provide to Customer, its nominated Supplier all reasonable assistance requested by Customer to effect an orderly transition of Services from Birlasoft to Customer, or to a third party designated by Customer as the case may be. Birlasoft shall provide such Termination Assistance for a period as mutually agreed after expiration or the effective date of termination for the Agreement (the "Termination Transition Period"). The rates applicable during the Termination Transition Period shall be higher than the rates agreed for the services performed under the Agreement/SOW, based on the involvement of senior resources, as required. The Supplier shall share with Customer, transition schedule plan listing all the tasks to be accomplished during the Termination Transition Period. Customer shall reimburse any costs and expenses incurred outside of this Agreement as agreed upon by Birlasoft and Customer in writing prior to their incurrence.

ARTICLE 11. LIMITATION OF LIABILITY

- 11.1 Notwithstanding anything to the contrary in this agreement, any SOW or any other document signed between the parties regarding the subject matter of this agreement, either prior or subsequent to this agreement, in no event shall either Party be liable for any loss of profits or revenue, loss of business or loss or inaccuracy of data or for any indirect, incidental, special or consequential damages incurred by the other Party. Birlasoft liability for claims/damages, if any, whether in an action in contract or based on warranty, in law or equity, will in no event exceed the total collected amount by Birlasoft in the twelve (12) months period preceding the event pursuant to the SOW to which the claim relates provided that Customer provides Birlasoft with (i) prompt written notice of such claim or action, (ii) sole control and authority over the defense or settlement of such claim or action and (iii) proper and full information and reasonable assistance to defend and/ or settle any such claim or action.

ARTICLE 12. NON SOLICITATION OF EMPLOYEES

- 12.1 Neither party shall, during and for one year after the termination of this Agreement, Hire, solicit, offer or in any way encourage any employee, consultant or agent of the other party (either directly or indirectly through third party) who works on the SOWs and transactions covered by this Agreement to leave the other party to work for the soliciting, offering or encouraging party or aid any third person to do so, without the specific written consent of the other party. The party so desirous of employing other party's employee/ sub-contractor shall do so only upon payment of an agreed upon compensation to the other party.

ARTICLE 13. GENERAL PROVISIONS

- 13.1 If any provision of this Agreement is found by any court of competent jurisdiction to be invalid or unenforceable, the invalidity of such provision shall not affect the other provisions of this Agreement, and all provisions not affected by such invalidity shall remain in full force and effect.
- 13.2 The waiver by either party of a breach or default in any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions; nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

- 13.3 This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties, whether written or oral, relating to the same subject matter. No modification, amendment or supplement to this Agreement shall be effective for any purpose unless in writing, signed by each party.
- 13.4 The relationship of customer and Birlasoft established by this Agreement is of independent contractors, and nothing in this Agreement shall be construed: (1) to give either party the power to direct or control the daily activities of the other party; (2) to constitute the parties as employer and employee, principal and agent, partners, joint ventures, co-owners or otherwise as participant in a joint undertaking; or (3) to allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever.
- 13.5 Force Majeure: Notwithstanding anything in this Agreement to the contrary, neither party shall be liable to the other party for any failure to perform or delay in the performance of, that party's obligations hereunder, when such failure to perform or delay in performance is caused by an event of force majeure; provided, however, that the party whose performance is prevented or delayed by such event of force majeure shall give prompt notice thereof to the other party. For purposes of this Article, the term "force majeure" shall include war, rebellion, civil disturbance, earthquake, fire, flood, strike, lockout, labor unrest, acts of governmental authorities whether by regulation, administrative action or otherwise, shortage of materials, acts of God, acts of the public enemy and, in general, any other causes or conditions beyond the reasonable control of the parties. Force Majeure shall not affect Company's obligation to pay Birlasoft for the services rendered until the date of Force Majeure.
- 13.6 Any notice or other communication in connection with this Agreement must be in writing and by personal delivery, by mail, certified, return receipt requested, by electronic facsimile transmission confirmed by telephone, or by guaranteed overnight courier service, and shall be effective when delivered to the addressee at the address listed above or such other addresses as the addressee shall have specified in a notice actually received by the addresser. In case there is any change in the address of one Party, it shall be communicated in writing to the other Party.
- 13.7 The rights and obligations of the Parties under this Agreement may not be transferred or assigned directly or indirectly, without the prior written consent of other Party.
- 13.8 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- 13.9 Modification: No modification of this Agreement shall be valid unless in writing and signed by each of the parties hereto and specifically stated to be a modification of this Agreement.
- 13.10 The parties agree that Client shall consider issuing a press release about signing of contract and/or renewals thereof. Birlasoft may also issue the press release about signing of contract and/or renewals thereof or use the same for marketing purposes.
- 13.11 Each of the undersigned hereby represents to the other that she/ he is authorised to enter into this agreement and bind the respective parties to this agreement.

ARTICLE 14. DISPUTE RESOLUTION

- 14.1 In the event that any dispute arises between the parties in connection with this Agreement, the construction of any provision of this Agreement or the rights, duties or liabilities of the parties hereto under this Agreement, the parties shall conduct negotiations in good faith to solve such dispute. If mutual resolution cannot be reached within thirty (30) days after the commencement of such negotiations, such dispute shall be governed by and construed in accordance with the British Laws. The courts of England & Wales shall have exclusive jurisdiction to adjudicate any disputes arising out of or in connection with this Agreement and each party consents to the personal jurisdiction of

such courts. The prevailing party in any legal proceeding brought by one party against the other party and arising out of or in connection with this Agreement shall be entitled to recover its legal expenses, including court costs and reasonable attorneys' fees.

IN WITNESS WHEREOF, the parties hereto cause this agreement to be executed by their duly authorized representatives.

BIRLASOFT (UK) Limited

Customer Name

By:.....

By

Name:.....

Name:

Title: -----

Title:.....