
MASTER SERVICES AGREEMENT

This Master Services Agreement (“Agreement”) is entered into as of, 20XX (“Effective Date”) between Birlasoft Solutions Limited, a company incorporated under the laws of England, with its registered business address at 4th Floor, 53-54, Grosvenor Street, London, W1K 3HU, UK (hereinafter referred to as “BIRLASOFT” which expression, unless it is contrary to the context or meaning thereof, shall mean to include its subsidiaries; affiliates; successors; assigns; and authorized representatives) and XXX, (hereinafter referred to as “-----” which expression, unless it is contrary to the context or meaning thereof, shall mean to include its subsidiaries; affiliates; successors; assigns; and authorized representatives) with its principal place of business at -----

WHEREAS BIRLASOFT is an information technology solution provider offering a range of services and products. Company is desirous of utilizing certain software implementation services, software development services, software maintenance services, consultancy services and associated services of BIRLASOFT on an ongoing basis and BIRLASOFT agrees to provide such services to the Company as per the terms and conditions described in this Agreement.

WHEREAS, parties desires to enter into this Agreement to set forth the terms and conditions under which parties will work on certain projects as set forth in individual Statement of Work to provide the services, and BIRLASOFT desires to be retained by Company to work on such Project(s).

In consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration which is hereby acknowledged, and intending to be legally bound, BIRLASOFT and Company agree as follows:

1. **Services:** BIRLASOFT shall provide Company with services described in a Statement of Work (“Services”). A Statement of Work, when signed by both parties, shall evidence the Services to be provided pursuant to this Agreement (“Statement of Work”). Each Statement of Work shall set forth, at a minimum, the following: (a) the effective date, (b) a description of the Services to be provided by BIRLASOFT, (c) the pricing and payment for the Services provided, (d) specifications (e) deliverables, acceptance testing criteria, (f) timelines and the estimated completion date and other particulars that shall govern the provision of Services rendered under such Statement of Work. Each Statement of Work shall form an integral part of this Agreement and shall be governed by the terms of this Agreement. In the event of a conflict between the terms of this Agreement and Statement of Work, precedence shall be given to this Agreement and then to Statement of Work.

Affiliates, subsidiaries, parent company, or fellow subsidiaries of BIRLASOFT may also provide services to the Company and its affiliates, subsidiaries, parent companies or fellow subsidiaries under the terms and conditions of a Statement of Work. In such event, the rights, obligations and liabilities of the parties under the Agreement shall be between such affiliates, subsidiaries, parent company or fellow subsidiaries. For the avoidance of the doubt such affiliates, subsidiaries, parent company and fellow subsidiary who are providing Services shall be solely responsible for their acts and omission under this Agreement.

2. **Fees and Payment:** Services shall be provided either on a fixed fee basis or on a time and materials basis as set forth in the applicable Statement of Work. Both parties agree that the fees/rates are subject to annual adjustments for cost escalation.

The fixed fee shall be payable by the Company as per the payment milestone dates agreed in the applicable Statement of Work. With respect to payments under time and material based Services, BIRLASOFT shall invoice Company on the 15th day and last day of each month. BIRLASOFT shall provide timesheets to the Company for approval. Upon submission if the Company within five (5) days does not raise any query or objections, the timesheet shall be deemed accepted. Unless otherwise specified in the applicable Statement of Work, the Company shall pay invoices without any set off and deductions within thirty (30) days from the date of invoice. Company shall communicate in writing any disputes in invoices submitted by BIRLASOFT within a period of fifteen (15) days from the date of invoice, failing which the invoices shall be deemed accepted by the Company. Any amount payable by the Company under this Agreement which remains unpaid after the due date shall be subject to late fees of 1.5% of the amount due per month from the due date until Company pays the amount due in full.

Company shall reimburse BIRLASOFT for travel, accommodation, living, administrative, out-of-pocket, expenses incurred in connection with the Services, unless otherwise specified in the applicable Statement of Work. Travel,

accommodation, living, administrative, and out-of-pocket, expenses shall be reimbursed as per the BIRLASOFT travel policy. Provided, all such travels are approved by the Company.

Any other expenses in providing Services, incurred by BIRLASOFT with prior approval from the Company, shall be reimbursed by the Company.

The parties' rights and obligations under section shall survive for a period of one (1) year from the date of termination of this Agreement and/or any Statement of Work.

3. **Taxes:** All the amounts payable under this Agreement is exclusive of any sales, use, value-added, service, consumption, Goods and Service Tax (GST) or other taxes, duties, levies and other statutory charges, costs and fees (any increase or decrease in any such tax, payable from time to time) imposed on the supply/provision of goods/ services to Company by any taxing jurisdiction in which Company is receiving or utilizing the goods/ services and shall be paid by the Company. If the Company is required by law, to make any deduction or withholding from any payment due under an applicable Statement of Work, then, the Company shall deduct and pay such amounts to the statutory authority within the prescribed time and shall provide BIRLASOFT with a certificate to such effect.

The Company should also provide the details of the locations wherein the goods/ services supplied by BIRLASOFT are received and consumed.

4. **(a) Acceptance of Services (for Fixed Price Services):** Where BIRLASOFT is obligated to provide a deliverable(s), BIRLASOFT shall provide the deliverable to Company pursuant to the Statement of Work agreed between the parties. Unless a different procedure for acceptance is set forth in a Statement of Work, Company shall commence acceptance testing upon delivery of the deliverable. Upon completion of such acceptance testing within a period as may be set forth in the Statement of Work, but not exceeding Seven (07) calendar days from the date of delivery, Company shall issue to BIRLASOFT a notice of acceptance or non-conformities of the deliverable. In the event of non-conformance, Company shall give to BIRLASOFT reasonable details of non-conformities. BIRLASOFT shall correct such deficiencies or nonconformities and resubmit the deliverable as promptly as possible whereupon the acceptance test procedure set forth above shall repeat itself. If no notice of acceptance or non-conformance of the deliverable is received by BIRLASOFT within the period 7 days from the date of delivery, the deliverable shall be deemed to be accepted (Deemed Acceptance).

Where BIRLASOFT is obligated to provide resources in the form of personnel:

- i. The Company may reject a resource within the period of 15 days from the date such resource is first provided to the Company without any obligation to pay for such rejected resource. In case of such rejection BIRLASOFT shall also provide replacement for the rejected resource.
 - ii. The Company may also seek replacement of a resource, and BIRLASOFT shall provide such replacement within a period of 45 days from the date of such request.
 - iii. Company may also seek replacement of resource for reasons of misconduct in which case the Company may stop using the services of such resource immediately. BIRLASOFT shall provide a replacement for such resource in a period of 45 days from the date of such request.
5. **Term and Termination:** This Agreement shall commence on the Effective Date and shall remain in effect for the period of 3 years thereafter, unless terminated in accordance with this Section 5. On expiry this Agreement, may be renewed by the parties on mutually agreed terms.

Either party may terminate this Agreement upon written notice of 15 days to the other party (i) if such other party shall be in breach of this Agreement and such breach is not remedied for a period of thirty (30) days from receipt of written notice (ii) upon written notice to the other party, if the other party files for receivership or bankruptcy or liquidation or insolvency or has been adjudicated bankrupt, insolvent or liquidated by a court of competent jurisdiction. In the event of non-payment by Company, BIRLASOFT may suspend or terminated the Services by giving a 15 days' notice.

Notwithstanding anything contained in this Section, either party may terminate this Agreement or any Statement of Work (unless otherwise mentioned in such Statement of Work), without assigning any reason by giving ninety (90) days' prior written notice to the other party. For the purpose of clarity Parties agree that termination of this Agreement shall have no effect on the ongoing Statement of Works and the said Statement of Works shall remain valid for the period as mentioned under relevant Statement of Work unless such Statement of Work is also terminated. Where Statement of Works so survives the termination of this Agreement, the terms of this Agreement shall continue to apply to such Statement of Work.

Termination of this Agreement and/or any Statement of Work shall not limit either party from pursuing any other remedies available to it, including injunctive relief, nor shall termination relieve Company of its obligation to pay all charges that accrued prior to such termination. Upon termination of any Statement of Work, BIRLASOFT shall immediately deliver to the Company the results of Services upto date of termination and any other material provided by the Company to BIRLASOFT for performing the Services.

The parties' rights and obligations under sections 5, 6, 9, 12, 13 and 19 shall survive termination of this Agreement and/or any Statement of Work for a further term of one (1) year from the date of termination of this Agreement and/or any Statement of Work.

6. Representations and Warranties:

Customer represents and warrants:

- i. it has all requisite power and authority to execute, perform its obligations under this Agreement
- ii. it shall, at all times during the Term, procure, maintain and remain in compliance with all applicable laws, including any required licenses, permits, or registrations, necessary for receiving the Services;
- iii. this Agreement and the Statements of Work are executed by a duly authorised representative of the Customer
- iv. there are no actions, suits or proceedings or regulatory investigations pending or, threatened against or affecting the Customer before any court or administrative body or arbitration tribunal that might affect the ability of the Customer to meet and carry out its obligations under this Agreement

BIRLASOFT represents that it has the right to enter into and perform its obligations under this Agreement. BIRLASOFT warrants, represents and undertakes that all BIRLASOFT personnel who perform Services under this Agreement will have the qualifications and experience that are reasonably necessary and appropriate for the performance of such Services. BIRLASOFT warrants that the Services shall be performed by BIRLASOFT personnel with skills, setout in the applicable Statement of Work and will be performed in a timely and workman like manner.

For a period of 30 days after delivery, the deliverable shall substantially conform with the specifications provided in the relevant Statement of Work. Where a deliverable has to be rectified for any non-conformance, the period between the reporting of the defect and its rectification shall not be taken into account for counting the warranty period.

BIRLASOFT shall not have any obligation to correct the deficiencies or nonconformities in the Services to the extent such deficiencies or nonconformities are resulting from (i) modification of the deliverable by or on behalf of the Company, or (ii) use of deliverables or services in an environment for which it was not designed or contemplated under this Agreement. Where BIRLASOFT is required to use a third party software or an open source software, BIRLASOFT will provide the same on "as is" basis, subject to any warranties provided by such third party.

EXCEPT AS WARRANTED ABOVE, BIRLASOFT EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE.

- 7. Limitation of Liability:** In no event shall either party be liable to the other for any loss of profits, loss of revenue, loss of data, loss of use, any indirect, incidental, special, exemplary, punitive or consequential damages, incurred by either party or any third party, whether in an action in contract or tort, strict liability or other legal or equitable theory regardless of whether such damages were foreseeable or if the other party or any other person has been advised of the possibility of such damages.

BIRLASOFT's aggregate liability under this Agreement shall in no event exceed the amount of fees actually paid by the Company (excluding reimbursement of expenses and applicable taxes), in applicable Statement of Work in the twelve (12) months preceding the last act or omission giving rise to such liability.

- 8. Nondisclosure of Confidential Information:** Either party may disclose its Confidential Information (as defined hereinafter) to the other party and the party disclosing the Confidential Information is referred as "Discloser" and the party receiving such information is referred as "Recipient".

"Confidential Information" shall mean and include software, deliverables, BIRLASOFT proprietary technologies, all information and trade secrets exchanged by the parties hereto, including without limitation, technical or non technical data, metrics, results, formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, know-how, hardware or system designs, specifications, documentation, architecture, structure, protocols, business plans, forecasts, ideas, concepts, projections or analyses, financial plans, financial data, , , requests for proposals, proposals,

terms and pricing, and non-public financial and business information, parties' proprietary information and data, information about each party's employees, clients, and vendors and all other information, whether as a whole or any part thereof, that a reasonable person would deem confidential.

Recipient will not use or disclose any Confidential Information of the Discloser other than for purposes of Recipient's involvement with Discloser pursuant to the terms of this Agreement, or as may be authorized in writing by the Discloser. Recipient agrees that any dissemination of Confidential Information to its employees or agents shall be only for the limited purpose of its involvement with Discloser. Recipient further agrees that it will disclose Confidential Information of the Discloser only to such of its employees who have a need to know the said Confidential Information in order to carry out the responsibilities of the Recipient, and only to those employees who have been advised of the confidential nature of such information and have executed an undertaking (general or specific) to keep the said information confidential.

The nondisclosure obligations of the Recipient provided for this Section with respect to Confidential Information do not apply to information which: (a) is or becomes a part of the public domain through no act or omission of the Recipient; (b) can be shown to be already possessed by the Recipient as of the date of disclosure; (c) is made available to the Recipient on a non-confidential basis by a third party having a right to do so; or (d) is disclosed by order of a court of competent jurisdiction.

The obligation to maintain confidentiality shall survive this Agreement for a period of two (2) years from the date of disclosure.

9. **Non-Solicitation:** During the term of this Agreement and for a period of twelve (12) months from the date of termination of this Agreement, Company and its affiliates shall not, directly or indirectly or through some third party solicit, recruit, hire, retain or engage or attempt to solicit, recruit, hire, retain or engage the services of BIRLASOFT's employees, subcontractors, agents or representatives who have provided Services to the Company under this Agreement, without the express prior written consent of BIRLASOFT., In respect of BIRLASOFT's employees, subcontractors, agents or representatives whose employment or engagement with BIRLASOFT has ceased, this obligation of the Company shall not apply beyond a period of 12 months after such cessation.
10. **Ownership Rights:** The intellectual property rights ("IPR") to the deliverables and the related documentation provided by BIRLASOFT to the Company shall be owned by the Company upon full payment for such deliverables and documentation.

The IPR and the ownership in all the tools, processes, software, utilities, and methodology including any BIRLASOFT proprietary products or components, know-how and concepts thereof which were developed independent of the Services (whether pre-existing or not) and either incorporated in the deliverables or otherwise required for the use of the deliverables or Services shall remain the sole and absolute property of BIRLASOFT, with full ownership rights therein ("BIRLASOFT Property"). BIRLASOFT shall grant in favor of the Company a non-exclusive, non-transferable, license to use the BIRLASOFT Property provided that the rights of Company to use such BIRLASOFT Property does not include the rights to (a) sell, lease, exchange, mortgage, pledge, license, sub license, assign or in any other way convey, transfer or alienate BIRLASOFT Property in favor of any person (either for commercial consideration or not (including by way of transmission), and/or (b) reverse compile or in any other way arrive at or attempt to arrive at the algorithm or source code of BIRLASOFT Property. Similarly all IPR in any third party software either incorporated in the deliverables or otherwise required for the use of the deliverables or Services shall remain with the respective third party owners. Company agrees that they will directly enter into the agreement with third party for such third party software and Company shall have user rights in accordance with end user license agreement (EULA) as applicable to use of such software.

Company acknowledges that BIRLASOFT provides consulting, implementation and development services to other clients/customers and agrees that nothing in this Agreement shall be deemed or construed to prevent BIRLASOFT from performing same or similar services or to develop, use and distribute works that perform functions the same as or similar to the deliverables or work products developed hereunder, either for itself or for its other clients subject to BIRLASOFT complying with obligations under Section 8 relating to Confidential Information.

If BIRLASOFT proposes to use any BIRLASOFT Property or third-party software in the deliverables or for the provision of Services, BIRLASOFT shall specify the same in the applicable Statement of Work.

11. **Indemnification:** 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.

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.

12. **Change Request:** At any time after the commencement of Services BIRLASOFT or the Company may recommend a change to the deliverables or Services, in writing.

BIRLASOFT will submit a proposal in writing to the Company, within seven (7) working days of the making or receiving the change recommendation, containing the impact of the change on the Services including, but not limited to the number of resources, total project efforts, project schedule, fees for the Services .

If the Company wishes to proceed with the proposed change, it will inform BIRLASOFT not later than fourteen (14) days of receipt of the proposal. If the Company fails to communicate acceptance of the proposal within fourteen (14) days, the proposed change(s) shall be deemed rejected. If the Company communicates acceptance of the proposed change(s), the parties shall execute a change request ("Change Request"). Each Change Request shall have the effect of amending the corresponding Statement of Work.

Neither BIRLASOFT nor the Company will be obliged to act of any recommendation of change until a Change Request has been executed in respect of such change.

13. **Relationship between the parties:** BIRLASOFT is an independent contractor; nothing in this Agreement shall be construed to create a partnership, joint venture, or agency relationship between the parties. Company shall not be responsible for payment of any amounts that is in the nature of an employer's obligation for BIRLASOFT personnel, including but not limited to employment related taxes, maintenance of appropriate worker's compensation or general liability insurance.
14. **Governing Law and Jurisdiction:** This Agreement, and all matters arising out of or relating to this Agreement, shall be governed by the laws of England and Wales.
15. **Dispute Resolution and Arbitration** Any dispute arising out of or in connection with this Agreement shall be referred by written notice first to the authorized representative of each Party who shall meet and endeavor to resolve the dispute between them within five (5) business days of such notice. Failing resolution of the dispute, the matter shall be referred to a Senior Representative of the BIRLASOFT and a Senior Representative of Company (together the "Senior Representatives"), who shall meet and endeavor to resolve the dispute between them within ten (10) business days of such notice. Such a dispute shall first be resolved amicably by the parties through negotiations involving their senior management, failing which the same shall be submitted to arbitration. Such arbitration proceedings shall be conducted in English Language at London in accordance with English Laws. The arbitration shall be conducted by an arbitral tribunal consisting of three arbitrators. Each party shall appoint an arbitrator and the two arbitrators appointed by the parties shall jointly appoint a third arbitrator. The award passed by such arbitral tribunal in pursuance of such arbitration proceedings shall be final and binding on both parties.
16. **Notice:** All notices, including notices of address change, required to be sent under this Agreement shall be in writing and shall be deemed to have been given when sent through post or electronic mail to the addresses set forth in this Agreement for Company and BIRLASOFT.
17. **Severability:** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain unimpaired and in full force. Further, the parties shall make attempts to replace the invalid or unenforceable provision with a valid or enforceable provision, that comes as close as legally possible, to reflect the intention of the parties behind the provision, that is held to be invalid or unenforceable.
18. **Waiver:** The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach. All waivers, to be valid, have to be in writing and signed by the authorized representative

of the party granting the waiver. Except for actions for nonpayment or breach of either party's intellectual property rights, no action, regardless of form, arising out of this Agreement may be brought by either party more than one year after the cause of action has arisen.

19. **Force Majeure:** Neither party shall be in default or otherwise liable (except for payment obligations) for any delay in or failure of its performance under this Agreement or a Statement of Work where such delay or failure arises by reason of any Act of God, or any government or any governmental body, pandemic, strikes or labor disputes, acts of war, terrorism, epidemics, civil disturbances, governmental regulations, political situation/unrest, security threat perception or such similar cause beyond the control of such party. The obligation of the party whose performance is affected by such events or causes shall remain suspended during the period of those events or causes. However, if such events or causes continue for a period of more than thirty (30) days, the other party (the party other than the one whose performance is subject to such events or causes) may terminate the Statement of Work whose performance has been affected by such events or causes by giving a notice to that effect.
20. **Entire Agreement:** This Agreement and the Statements of Work executed pursuant to the terms of this Agreement contain the entire agreement between the parties with respect to the provision of Services and supersedes all previous agreements, promises, proposals, representations and understandings whether written or oral, between the parties respecting the subject matter hereof. Company acknowledges that it is entering into this Agreement solely on the basis of the promises and representations contained in this Agreement.. This Agreement may not be modified in any way except in writing signed by authorized representatives of both parties and stating expressly that it constitutes a modification of this Agreement; for purposes of this Section.
21. **Publicity:** The Company agrees that BIRLASOFT may at any time publicly refer to the Company as a client of BIRLASOFT orally and in writing, in any advertising, publicity and promotional materials and may use the Company's name and logo in relation thereto. Provided, however, that no right shall accrue to BIRLASOFT in Company's name and logo from such use.
22. **Counterparts and Facsimile:** The parties agree that this Agreement may be signed in counterparts which together shall constitute one instrument, and that signatures exchanged by facsimile are legal and binding.

IN WITNESS WHEREOF THE PARTIES THROUGH THEIR DULY AUTHORISED REPRESENTATIVES HAVE SIGNED THIS AGREEMENT.

Executed by Company:

Authorized
Signature

Name

Title

Date

Executed by BIRLASOFT:

Authorized
Signature

Name

Title

Date
