



MASTER SERVICE AGREEMENT

This Agreement is made and entered into on this ___ day of _____ (Effective Date) by and between ICSDC CONSULTANT LLP (here in after referred to as "ICSDC CONSULTANT LLP"), a company incorporated under the Companies Act, 1956, and having its registered office at C-220, Sector 48, Noida, Gautam Budh Nagar, Uttar Pradesh, Pincode-201301 India having datacentre at H223, Rasoolpur, Sector 63, Noida, Uttar Pradesh 201301 and CUSTOMER COMPANY (here in after referred to as the Customer), a company incorporated under the Companies Act, 1956/any other specify, and having its registered office at CUSTOMER ADDRESS

1. DEFINITIONS

In this Agreement, the following words and expressions, unless inconsistent with the context, shall bear the meanings assigned thereto:

"Customer Area": means the rack or any space provided by Service Provider to Customer where the server of Service Provider is located for the purpose of providing Services.

"Customer Agreement Form (CAF)" means the form prescribed by ICSDC CONSULTANT LLP, for provisioning of Services to the Customers and includes this MSA and SLA along with Annexure, as executed by the Customer.

"Facility": The facility is located at office of ICSDC CONSULTANT LLP Datacentre in New Delhi where Service Provider provides space, racks for placing the servers.

"Fees": means the amount invoiced by Service Provider other than the Initial Term fees to be paid to by the Customer for use of services provided by Service Provider.

"Master Service Agreement": means the agreement which the Customer had acknowledged and agreed to the terms mentioned herein.

"Network" means the portion internal computer network owned or operated on behalf of Service Provider that extends from the outbound port on a Customer's cabinet switch to the outbound port on the border router and includes all redundant internet connectivity, bandwidth, routers, cabling and switches.

"Representatives" means any person who is nominated or appointed by the Customer to visit the Facility centre.



“Service Catalogue” shall contain all or any of services/facilities viz., back up facility, dedicated firewall facility, hardware monitoring facility, help desk support, load balance server, network and power uptime, OS management, shared firewall service and Version Control described in Annexure A to this SLA which may be availed by the Customer along with the Services as mentioned in the of from Service Provider.

“Service Outage” shall mean an unscheduled disruption/failure in any Service offered by Service Provider as per this Agreement, due to which Customer’s server is un-accessible to Customer. The outage of Services due to, but not limited to the following shall be a Service Outage. Customer is unable to transmit to or receive information from his network equipment because Service Provider failed to provide facility services to its network equipment including, switch, router, firewall etc. Failure of Services like Internet connectivity, IDC LAN etc. shall also be treated as Service Outage.

“Space” The Portion of rack which is leased/licensed to Customer for placing their server.

“Setup Charges” means all charges which may be incurred by ICSDC CONSULTANT LLP for installing the server or any other expenses incurred for the commencement of Services to the Customer.

“Support Desk” shall be the location where the Customer should report a fault. Details of the same are mentioned in annexure or if changed, may be intimated from time to time by Service Provider to the Customer.

"Total Uptime Hours" shall mean 24 hours, 365 days a year. (Year is defined as period of 365 days)

“Trouble Ticket” means issuing a ticket with a unique identification number confirming the customer complaint logging in with Service Provider in relation to a Service Outage faced by the Customer.

2. Services

ICSDC CONSULTANT LLP will provide the service(s) as defined in ANNEXURE I.

3. Fees/Charges

a) Customer shall pay ICSDC CONSULTANT LLP all fees/charges including monthly/quarterly/annual, as the case may be data transfer fees and excess usage fees, if any indicated on sales order (“Order”) attached to as Annexure – II to this agreement. Customer acknowledges that in consideration of the discounted pricing set forth in the Order, if any, Customer commits to be liable for and pay the monthly fees set forth in an order for the term indicated in such order. (Including excess usage fees)



b) Customer shall be liable in case it utilizes bandwidth/data transfer in excess of what he has agreed for and shall reimburse ICSDC CONSULTANT LLP for such excess usage per GB (as per the excess usage charges indicated in the proposal). Bandwidth/data transfer usage shall only be monitored through MRTG (a bandwidth monitoring software, info of which is available on www.mrtg.com) using Simple Network Management Protocol (SNMP) to measure data transferred. The reports obtained from MRTG will be final and binding on Customer. ICSDC CONSULTANTS at its own discretion reserves the right to change the Bandwidth/data transfer usage-monitoring software an intimation of which shall be given to the Customer. Moreover, ICSDC CONSULTANT LLP shall not be responsible for any excess/normal usage if the traffic generated is due to some malfunction of hardware, software or due to configurations done by the customer. The customer also agrees that it will be paying for the excess usages generated by any virus/Trojans, etc.

c) All payments shall be made by Cheque or Demand Draft drawn in favour of "ICSDC CONSULTANT LLP" payable at New Delhi, and it is to be sent to the address indicated in this Agreement or at such other address as ICSDC CONSULTANT LLP may from time to time indicate by proper notice to customer. No Outstation Cheques shall be accepted. Customer shall pay payments in advance for the service period. ICSDC CONSULTANT LLP shall raise invoice at least 15 days before the start of the period and send the same to the customer. All invoices shall be due and payable within fifteen (15) days of ICSDC CONSULTANT LLP 's date of invoice. Customer shall be liable to pay interest at the rate of one and half percent (2%) per month on all overdue and unpaid invoices.

d) Customer shall pay, indemnify and hold ICSDC CONSULTANT LLP harmless from all sales, service, value-added or other taxes of any nature, other than taxes on ICSDC CONSULTANT LLP 's net income, including penalties and interest, and all government permit or license fees assessed upon or with respect to any fees (except to the extent Customer provides ICSDC CONSULTANT LLP with a valid tax exemption certificate). If any applicable statutory provision of law requires Customer to withhold amounts from any payments to ICSDC CONSULTANT LLP hereunder, then Customer shall affect such withholding, remit such amount to the appropriate taxing authorities and promptly furnish ICSDC CONSULTANT LLP with tax receipts evidencing the payments of such amounts.

4. Term

The terms of this Agreement shall commence on the date of its execution by the Customer and shall be reviewed on an annual basis within the terms of this Agreement, and provided further, that with regard to any orders then outstanding, this Agreement shall continue to govern such Orders until such orders have been fully performed or terminated. The Agreement shall be deemed to be automatically renewed at the then current fees for additional periods, unless either party gives written notice otherwise to the other party, not less than thirty (30) days prior to the expiration of such order. This Agreement may be renewed for Additional Terms upon the mutual written consent of both parties.



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5. Termination

- a) Either party may terminate this Agreement or any order upon written notice: (a) for any material breach of this Agreement or any Order which the defaulting party fails to cure within fifteen (15) days following written notice by the non-defaulting party of such breach; or (b) upon either party's insolvency or liquidation as a result of which either party ceases to do business. Notwithstanding anything herein to the contrary, ICSDC CONSULTANTS may terminate this Agreement or any Order without notice immediately for any breach under this Agreement.
- b) Customer shall comply with all applicable procedures of ICSDC CONSULTANT LLP related to equipment removal upon termination. In the event of any expiration or earlier termination of this Agreement or any Order, Customer will be obligated to pay to ICSDC CONSULTANT LLP full contract period fees and charges unless such termination is the result of ICSDC CONSULTANT LLP's default, the payment of any waived or discounted installation fees, as well as monthly fees for each remaining month of the term of the affected Order(s).

In addition, if Customer fails to pay any invoice(s) for fifteen (15) days or more from the date of such invoice, Customer ICSDC CONSULTANT LLP shall deny access to the Space and the equipment of the customer placed with the ICSDC CONSULTANT LLP shall not be released until such time till the invoice(s) has been paid in full. If the default continues for further 15 days, then ICSDC CONSULTANT LLP shall be entitled to retain and sell the equipment of the customer placed with ICSDC CONSULTANT LLP and in case of any loss in selling the equipment, same shall be borne by the customer. ICSDC CONSULTANT LLP shall not be responsible if any loss incurs in the selling of the equipment and in case the equipment is sold for an amount higher than what is to be recovered, such excess amount shall be paid back to the customer.

- c) ICSDC CONSULTANT LLP can terminate the services to the Customer in its sole discretion, if it is established that the Customer has used the service fraudulently, unlawfully or abusively.
- d) On termination of Agreement, shall remove all of the Customer's electronically stored data from ICSDC CONSULTANT LLP's facilities without liability of any kind to the Customer.
- e) All provisions that by their nature are intended to survive any termination of this Agreement shall survive, including without limitation, Sections 2, 3, 4,5,6,8,9,10 & 11 of the Agreement.

6. Facilities

- a) **License to Occupy:** For purpose of this Agreement, "Space" means ICSDC CONSULTANT LLP's premises where Customer's hardware, software and data are stored and operated, meaning thereby that ICSDC CONSULTANT LLP grants to Customer a non-exclusive license to occupy the Space but Customer has not been granted any other right or interest in the Space.



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- b) Services shall not include services for problems arising out of: (a) modification, alteration or addition or attempted modification, alteration or addition of hardware undertaken by persons other than ICSDC CONSULTANTS INDIA or ICSDC CONSULTANT LLP's authorized representatives; or (b) hardware supplied by the Customer. ICSDC CONSULTANT LLP shall not be responsible for the non-availability of the site and/or application due to any "bugs" or application failure. ICSDC CONSULTANT LLP will also not be responsible for any changes done by the authorized representative of the customer, which leads to downtimes or application failures. ICSDC CONSULTANTS INDIA will not be responsible for outages/downtimes on the Internet Network. ICSDC CONSULTANT LLP's uptime guarantees are applicable only within its network upto the termination onto the Internet Backbone.
- c) **Material and Changes:** Customer shall comply with all applicable rules and regulations, including equipment installation or de-installation, and alteration of the Space. Customer shall not make any changes to the interior or exterior portions of the Space, including any cabling or power supplies for its hardware. Customer agrees not to erect any signs or devices on the exterior portion of the Space.
- d) **Damage:** Customer agrees to reimburse ICSDC CONSULTANT LLP for all reasonable repair or restoration costs associated with damage or destruction caused by Customer's personnel, Customer's agents, Customer's suppliers/contractors, or Customer's visitors during the term or as a consequence of Customer's removal of its hardware or property installed in the Space.
- e) **Monitoring Equipment:** ICSDC CONSULTANT LLP shall install the monitoring equipment to monitor the bandwidth usage, service usage, etc. The server can be affected by activities, which are not controllable, by ICSDC CONSULTANT LLP even after the installation of the equipment. (At present ICSDC CONSULTANT LLP is using MRTG Software) ICSDC CONSULTANT LLP's liability in the event of loss to the customer due to activities which are not controllable by ICSDC CONSULTANT LLP including without limitation, virus attack to the customer is NIL. ICSDC CONSULTANT LLP is not liable for any damages, if any loss occurs to the customer due to the activities, which are not controllable by ICSDC CONSULTANT LLP like virus attack, etc.
- f) **Data Transfer:** Data Transfer is used for the following traffic but not limited to: HTTP requests and response, incoming and outgoing email, mailing list distribution, both outbound and inbound data transfer from your account (network interface).
- g) **Insurance:** Unless otherwise agreed, Customer shall maintain at Customer's own expense, insurance covering equipment and personal property owned or leased by Customer and used or stored on ICSDC CONSULTANTS INDIA's premises. Such Insurance policy shall have an additional insured endorsement naming ICSDC CONSULTANTS INDIA, and shall be primary and



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non-contributing with any insurance policies carried by ICSDC CONSULTANT LLP. Customer shall also maintain insurance covering the equipment or property owned or leased by Customer against loss or physical damage. If so requested, Customer will provide ICSDC CONSULTANT LLP written evidence of insurance coverage consistent with the requirements of this subsection. ICSDC CONSULTANT LLP shall not be liable; in case the insurance is not taken for the equipment/s placed with ICSDC CONSULTANT LLP.

h) **Customers Duties:** Customer shall document and promptly report all errors or malfunctions of the hardware to ICSDC CONSULTANT LLP. Customer is responsible for the provisioning of all necessary spare parts and/or other hardware to maintain its servers. Customer shall maintain a current back up copy of all programs and data. Customer shall ensure that all legal compliances or formalities as per the Cyber laws and other applicable laws/regulatory framework are fulfilled. Customer shall be responsible for the security of its equipment/s and at no point of time, ICSDC CONSULTANT LLP can be held responsible if the security is breached.

i) **Request of Service:** Server On/Off by ICSDC CONSULTANT LLP will not be done unless and until either it receives a written confirmation from the Customer or an email from its designated/responsible official. Further, ICSDC CONSULTANT LLP owes no responsibility for hardware/software crash or corruption of data due to Server On/Off at the request of Customer or such other reasons, which are uncontrollable from ICSDC CONSULTANTS INDIA 's end. ICSDC CONSULTANT LLP 's liabilities in such circumstances are nil, and Customer shall indemnify and hold ICSDC CONSULTANT LLP harmless against any such claim, action, suit or proceeding.

j) **Regulations:** Customer shall comply with all applicable operational rules and regulations while on ICSDC CONSULTANT LLP 's premises. Two (2) of the customer's employees or representatives can be named for the purpose of entering ICSDC CONSULTANT LLP 's space, the persons named shall only be entitled to enter the Space. Customer shall not interfere with the space(s) of any other Customers of ICSDC CONSULTANT LLP or such other Customers' use of ICSDC CONSULTANT LLP 's data centre.

k) **Assumption of Risk:** Customer hereby assumes any and all risks associated with Customer's, its agents' (including contractors and sub-contractors) or employees' use of the Space and shall indemnify, defend, and hold harmless ICSDC CONSULTANT LLP from any and all claims, liabilities, judgments, causes of action, damages, costs and expenses (including reasonable attorneys and expert's fees), caused by or arising in connection with such use.

l) **Prohibited items:** Customers and its representatives shall keep the Customer Area clean at all times. It is the responsibility of the Customer to keep its area clean and free and clear of debris and refuse. Customer shall not, except as otherwise agreed to in writing by ICSDC CONSULTANT



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LLP: (1) place any computer hardware or other equipment in the Customer area that has not been identified in writing by ICSDC CONSULTANT LLP, (2) store any paper products or other combustible materials of any kind in Customer area and (3) bring any prohibited materials (as defined below) into any Internet Data Centre. Prohibited Material shall include, but are not limited to the following and any similar items:

- Food & Drink
- Tobacco products
- Explosive and weapons
- Hazardous materials
- Alcohol, illegal drugs and other intoxicants
- Electro-magnetic devices, which could unreasonably interface with computer and telecommunication equipment.
- Radioactive materials and
- Photographs or recording equipment of any kind (other than tape backup equipment).

m) Online Conduct: (1) Customer content: Customer must acknowledge that ICSDC CONSULTANT LLP exercises no control whatsoever over the content of the information passing through Customer's site(s), and that it is the sole responsibility of Customer to ensure that the information it and its users transmit and receive complies with all applicable laws and regulation and these rules and regulations. (2) Prohibited activities: Customer will not permit any person (Users) using Customer's online facilities and/or services, including but not limited to, Customer's web site(s) and transmission capabilities to do any of the following (Prohibited activities):

- Send unsolicited commercial messages of communications in any form (SPAM)
- Engage in any activities or actions that infringe or misappropriate the intellectual property rights of others, including, but not limited to, using third party trademarks without appropriate permission or attribution, and using or distributing third party information protected as trade secret information in violation of a duty of confidentiality.
- Engage in any activities or actions that would violate the personal privacy rights of others, including but not limited to, collecting and distributing information about Internet users without their permission, except as permitted by applicable law.
- Send, post, or host harassing, abusive, libellous or obscene materials or assist in any similar activities related thereto.
- Intentionally omit, delete, forge or misrepresent transmission information, including headers, return mailing and Internet protocol addresses.
- Use the ICSDC CONSULTANT LLP connectivity services for any illegal purpose, in violation of any applicable laws or regulations or in violation of the rules of any other service provider's websites, chat rooms or the like.



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- Assist or permit any person in arranging any of the activities described above. If Customer becomes aware of any prohibited activities, Customer will use all efforts to remedy such prohibited activities immediately, including, if necessary, limiting or terminating user's access to Customer's online facilities.

n) Third party complaint process: In the event ICSDC CONSULTANT LLP receive(s) complaints from third parties regarding prohibited activities allegedly being conducted by a Customer or its Users, due to the nature of the business in ICSDC CONSULTANT LLP 's experience, most legitimate complaints and actual prohibited activity is conducted by Customers and users of ICSDC CONSULTANT LLP 's Customers, not by ICSDC CONSULTANT LLP 's Customer themselves. ICSDC CONSULTANT LLP requires its Customer to use policies similar to these rules and regulations. ICSDC CONSULTANT LLP may take the following actions to document and resolve each complaint received by ICSDC CONSULTANT LLP related to Customer or its Users.

First Complaint: Upon receipt of the initial complaint from a third party regarding prohibited activity by a Customer or its users, ICSDC CONSULTANT LLP will send notice of the complaint to customer and request the Customer to stop the prohibited activity.

Second Complaint: Upon receipt of a second complaint after the date of first complaint relating to prohibited activity of Customer described in the first complaint that clearly indicates that the prohibited activity continued after the date of first complaint, ICSDC CONSULTANT LLP will send a letter/Email to Customer and request that customer respond in writing to ICSDC CONSULTANT LLP with an explanation and timeline of the actions to be taken by Customer to remedy prohibited activity. In the event that Customer does not respond to the ICSDC CONSULTANTS INDIA letter/email and remedy the Prohibited activity within five (5) business days, ICSDC CONSULTANT LLP will bill Customer in the following month a minimum sum of five thousand five hundred rupees only (Rs. 5,500/-) per instance of prohibited activity to cover ICSDC CONSULTANT LLP 's administrative cost associated with the Prohibited Activities of Customer.

Third Complaint: Upon receipt of a third complaint after the date of second complaint related to the prohibited activity of Customer described in the second complaint that clearly indicates that the prohibited activity continued after the date of the first complaint, ICSDC CONSULTANT LLP will send a final letter/email with a copy of the third complaint to the Customer and request again that the prohibited activity cease immediately. In the event that the prohibited activity does not cease within five (5) business days, ICSDC CONSULTANT LLP will terminate or suspend its connectivity service to its Customer, and will resume providing services only when it is informed in writing that the prohibited activity has been stopped by him or his user. ICSDC CONSULTANT LLP also reserves the right to bill its Customer fifty thousand rupees only (Rs. 50,000/-) per instance of prohibited activity towards ICSDC CONSULTANT LLP 's administrative costs associated with the prohibited activity.



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Notwithstanding the above, Further, ICSDC CONSULTANT LLP, seeing the gravity of the prohibited activity, may discontinue its service even after the first complaint at its sole discretion and ICSDC CONSULTANT LLP can also vary the minimum charges as specified in the preceding clauses at any time by displaying the same on its web site and the Customer accepts the same and shall be binding on him.

- o) **Customer Equipment:** Each piece of equipment installed in the Customer Area (the Customer equipment) must be clearly labelled with code name provided in writing to ICSDC CONSULTANT LLP and individual component identification. Each connection to and from a piece of Customer Equipment shall be clearly labelled with Customer's name (or code name provided in writing to ICSDC CONSULTANT LLP) at the starting and ending point of the connection. Customer equipment must be configured and run at times in compliance with manufacturer specification. Customer must use the best effort to provide ICSDC CONSULTANT LLP with at least 48 hours' prior written notice any time it intends to connect or disconnect any Customer equipment or other equipment.
- p) **Scheduled Maintenance:** ICSDC CONSULTANT LLP will conduct routine scheduled maintenance of its Internet Data Centre Services according to the maintenance schedule posted on ICSDC CONSULTANT LLP's World Wide Web sites. In the event that a mission critical maintenance situation arises, ICSDC CONSULTANT LLP may have to perform emergency maintenance at any time. During these scheduled and emergency maintenance periods, Customers equipment may be unable to transmit and receive data and Customer may be unable to access Customer equipment. Customer agrees to co-operate with ICSDC CONSULTANT LLP during the scheduled and emergency maintenance periods.
- q) **Support:** ICSDC CONSULTANT LLP gives the Customer round the clock support, monitoring, fault reporting and maintenance of the networks and systems at ICSDC CONSULTANT LLP. ICSDC CONSULTANT LLP provides warranty support to the equipment supplied by ICSDC CONSULTANT LLP as per the terms and conditions of the manufacturers. ICSDC CONSULTANT LLP will not perform maintenance of any hardware problem of the equipment's, which are not sold by ICSDC CONSULTANT LLP.
- r) **Use of Material:** As provided by national law and by international treaties, copyrighted materials (e.g. Images, text and program) shall not be uploaded using ICSDC CONSULTANT LLP's Internet services without the permission of the copyright holder.
- s) **Use of Internet Data Centre Facility: Conduct at Internet Data Centres:** Customer and its representatives agree to adhere to and abide by all security and safety measures established by ICSDC CONSULTANT LLP and set forth in the customer guide provided by ICSDC CONSULTANT LLP to customer. Customer and its representatives shall also not do or participate in any of the following:
- **Misuse or abuse any ICSDC CONSULTANT LLP property or equipment or third party equipment.**



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- Make any unauthorised use of or interface with any property or equipment of any other ICSDC CONSULTANT LLP customer,
- Harass any individual, including ICSDC CONSULTANT LLP personnel and representatives of other ICSDC CONSULTANT LLP Customers, and
- Engage in any activity that is in violation of the law or aids assists any criminal activity while on ICSDC CONSULTANT LLP property or in connection with the Internet Data Centre Services.

t) Abuse of Service: Any use of ICSDC CONSULTANT LLP system resource that disrupts the normal use of the system for other ICSDC CONSULTANT LLP 's Customers shall be considered to be abuse of system resources and is grounds for administrative intervention. Spamming is one example of system abuse.

Depending on the nature of and the severity of the abuse, the user/Customer may receive an e-mail warning or have their account suspended by ICSDC CONSULTANT LLP Technical Support. If the misuse is unintentional, the suspension may be rescinded at the discretion of the Operations Manager of ICSDC CONSULTANT LLP, and may require the payment of a service re-activation charge, which shall be at least Rupees Ten Thousand (Rs. 10,000) per server. Occasionally, unintentional misuse is mis-classified as intentional misuse. Customers who believe their activity has been mis-classified may appeal to the Operations Manager of ICSDC CONSULTANT LLP.

Violations of any of the ICSDC CONSULTANT LLP conditions of use are unethical and may be criminal offences. Customer shall to report to ICSDC CONSULTANT LLP any information that it may have concerning instances in which the conditions of use have been or are being violated. When ICSDC CONSULTANT LLP becomes aware of possible violations, it will initiate an investigation. At the same time, in order to prevent further possible unauthorised activity, ICSDC CONSULTANT LLP may suspend access to services to the individual account in question. Confirmation of violations may result in cancellation of the individual account and/or criminal prosecution. The account suspension may be rescinded at the discretion of the Operations Manager, following payment of a reactivation charge.

7. Software License

Software provided with the services is provided by third parties. All such third party provided software is licensed to Customer subject to terms and conditions of an End-User License Agreement ("EULA") provided as either a document accompanying such software or as a pop-up screen during initial use of such software. Customer hereby accepts and agrees to abide by the terms and conditions of EULA associated with any third party software provided to Customer with any of the Services. Customers agree that he shall not use any pirated software.



Damage caused by such ICSDC CONSULTANT LLP shall not be responsible for any third party software neither shall it be responsible for software. Further ICSDC CONSULTANT LLP for a charge at the request of the customer may configure the third party software with the Customer's equipment, the configuration of the software shall be done as per the instructions of the third party, ICSDC CONSULTANT LLP shall not be liable for any damages arising due to configuration of the third party software with the customer's equipment

8. Representations and warranties

- a) Each party represents and warrants that it has the right and authority to enter into this Agreement, and that by entering into this Agreement, it will not violate, conflict with, or result in a material default under any other contract, agreement, indenture, decree, judgment, undertaking, conveyance, lien or encumbrance to which it is a party or by which it or any of its property is or may become subject or bound. Each party shall not grant any rights under any future Agreement, nor will it permit or suffer any lien, obligation or encumbrances that would prevent it from performing under this Agreement.
- b) Customer represents and warrants that it will, at its own expense, make, obtain and maintain in force at all times during the term of this Agreement, all applicable filings, registrations, reports, licenses, permits and authorizations in order for Customer to perform its obligations under this Agreement. ICSDC CONSULTANT LLP represents and warrants that it will, at its own expense, make, obtain and maintain in force at all times during the term of this Agreement, all applicable filings, registrations, reports, licenses, permits and authorizations in order for ICSDC CONSULTANT LLP to provide the services, and to perform its obligations under this Agreement.
- c) Both parties represent and warrant that they will, at their own expense, comply with all laws, regulations and other legal requirements that apply to them with respect to this Agreement, including copyright, privacy and communication decency laws.
- d) Customer represents and warrants that it will: (a) not utilize (or allow utilization of) the services in a manner that: (i) is prohibited by any law or regulation or ICSDC CONSULTANT LLP policy or to facilitate the violation of any law or regulation or such policy; or (ii) will disrupt third party's use or enjoyment of any communications or outlet; (b) not violate or tamper with the security of any ICSDC CONSULTANT LLP computer equipment or program; and (c) have an Agreement with each Customer and end user sufficient to comply with the terms herein.



e) THE WARRANTIES SET FORTH IN THIS CLAUSE ARE THE ONLY WARRANTIES MADE BY ICSDC CONSULTANT LLP. ICSDC CONSULTANT LLP IS PROVIDING SERVICES ON AN “AS IS”, “AS AVAILABLE” BASIS AND IT EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ITS SERVICES, ANY RELATED SERVICE OR SOFTWARE OR THE FITNESS OF THE SPACE FOR CUSTOMER’S USE. ICSDC CONSULTANT LLP HEREBY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT OR IMPLIED WARRANTIES ARISING FROM A COURSE OF DEALING OR COURSE OF PERFORMANCE. ICSDC CONSULTANT LLP MAKES NO WARRANTY THAT THE SERVICES WILL MEET CUSTOMER’S REQUIREMENT OR THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE; NOR DO IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE(S). ICSDC CONSULTANT LLP DO NOT GUARANTEE THAT THE SERVICE PROVIDED BY IT WOULD MEET CUSTOMER’S REQUIREMENT. NO ORAL OR WRITTEN INFORMATION GIVEN BY ICSDC CONSULTANT LLP, ITS EMPLOYEES, LICENSORS OR THE LIKE WILL CREATE A WARRANTY.

9. Limitation of liability

In no event shall ICSDC CONSULTANT LLP be liable for special, incidental, consequential damages of any nature, for any reason, including without limitation the breach of this Agreement or any termination of this Agreement, whether such liability is asserted on the basis of contract, tort (including negligence or strict liability) or otherwise, even if ICSDC CONSULTANT LLP has been warned of the possibility of such damages, and notwithstanding any failure of essential purpose of any limited remedy. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, ICSDC CONSULTANT LLP’S ENTIRE LIABILITY TO CUSTOMER CONCERNING PERFORMANCE OR NON PERFORMANCE BY ICSDC CONSULTANT LLP OR IN ANY WAY RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, AND REGARDLESS OF WHETHER A CLAIM IS BASED IN CONTRACT, NEGLIGENCE OR IN TORT, SHALL NOT EXCEED THE AMOUNT RECEIVED BY ICSDC CONSULTANT LLP FROM CUSTOMER DURING THE PREVIOUS TWELVE (12) MONTHS ONLY.

10. Network abuse

Customer acknowledges that Customer has read and understands, and agrees to comply with, all applicable provisions of ICSDC CONSULTANT LLP’S then current Acceptable User policy incorporated herein by this reference.

a) Customer expressly agrees that ICSDC CONSULTANT LLP shall not be liable to Customer for any action ICSDC CONSULTANT LLP takes to remove or restrict access to obscene, indecent or offensive content made available by Customer, nor for any action taken to restrict access to material made available in violation of any law, regulation or rights of a third party, including but limited to rights under the copyright law and prohibitions on libel, slander and invasion of privacy.



- b) Customer agrees not to use any of ICSDC CONSULTANT LLP 's services to access or attempt to access other user's network without their express permission. These access attempts include but are not limited to, sending of virus/Trojan/worms via any electronic media.
- c) Upon written or electronic request of ICSDC CONSULTANT LLP, Customer agrees to defend, indemnify and hold harmless ICSDC CONSULTANT LLP, its affiliates, its officers, directors, employees, agents and licensees, from any claims, liabilities, losses, damages and expenses, including reasonable attorney's fees, arising out of or relating to Customer's or its end users' use of any of the services provided hereunder.
- d) Use of ICSDC CONSULTANT LLP system resource that disrupts the normal use of the system for other ICSDC CONSULTANT LLP Customers is considered to be abuse of system resource and is ground for administrative intervention. Violations of any of the ICSDC CONSULTANT LLP conditions of use are unethical and may be deemed criminal offences.

11. Confidential Information

- a) Each party agrees to maintain all Confidential Information of the other party in confidence to the same extent that it protects its own similar Confidential Information and to use such Confidential Information only as permitted under this Agreement. For the purpose of this, Confidential Information shall mean information including, without limitation, Customer information, computer programs, code, algorithms, names and expertise of employees and consultants, know how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical, business, financial and product development plans, forecasts, strategies and information which are marked confidential, or if disclosed verbally, are identified as confidential on or before the time of disclosure. Each party agrees to take all reasonable precautions to prevent any unauthorized disclosure or use of Confidential Information of the other party including, without limitation, disclosing such Confidential Information only to its employees: (a) with a need to know to further permitted uses of such information; (b) who are parties to appropriate Agreements sufficient to comply with this Clause and (c) who are informed of the nondisclosure/non-use obligations imposed by this clause; and both parties shall take appropriate steps to implement and enforce such non-disclosure/non-use obligations. The foregoing restrictions on disclosure and use shall survive for two (2) years following termination of this Agreement but shall not apply with respect to any confidential information which: (i) was or becomes publicly known through no fault of the receiving party; (ii) was rightfully known or becomes rightfully known to the receiving party without confidential or proprietary restriction from a source other than the disclosing party; (iii) is independently developed by the receiving party without the participation of individuals who have had access to the Confidential Information; (iv) is approved by the disclosing party for disclosure without restriction in a written document which is signed by a duly authorized officer of such disclosing party; and



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(v) the receiving party is legally compelled to disclose; provided, however, that prior to any such compelled disclosure, the receiving party will (a) assert the privileged and confidential nature of the Confidential Information against the third party seeking disclosure and (b) cooperate fully with the disclosing party in protecting against any such disclosure and/or use of the Confidential Information. In the event that such protection against disclosure is not obtained, the receiving party will be entitled to disclose the Confidential Information, but only as, and to the extent, necessary to legally comply with such compelled disclosure. Each of the parties hereto agrees not to disclose to any third party the terms of this Agreement without the prior written consent of the other party hereto, except to advisors, investors and others on a need to-know basis under circumstances that reasonably ensure the confidentiality thereof, or to the extent required by law.

b) Each of the parties agrees not to disclose to any third party the terms of this Agreement, including pricing, without the prior written consent of the other party hereto, except to advisors, investors and others on a need to-know basis under circumstances that reasonably ensure the confidentiality thereof, or to the extent required by law.

c) In the event of an actual or threatened breach of the above confidentiality provisions, the non-breaching party will have no adequate remedy at law and will be entitled to immediate injunctive and other equitable relief, without bond and without the necessity of showing actual money damages.

d) Within ten (10) days after the termination of this Agreement, Customer shall return to the disclosing party all originals and copies of all Confidential Information which has been fixed in any tangible medium of expression. If return of digital copies is impractical, Customer may destroy the digital copies and send the disclosing party written certification of such destruction.

12. Non Assignment

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. Notwithstanding the above, this Agreement may not be assigned in whole or in part by a party, without the written consent of the other party, which shall not be unreasonably withheld, provided, however, that this Agreement may be assigned to the successor to the whole of a party's business without such consent. Any assignment in violation of this paragraph shall be null and void.

13. Independent Contractors

The parties are independent contractors, and nothing in this Agreement shall be deemed to place the parties in the relationship of employer-employee, principal-agent, or partners or in a joint venture.

14. Non-Waiver

Failure of either party to enforce any of its rights hereunder shall not be deemed to constitute a waiver of its future enforcement of such rights or any other rights.

15. Severability

If any provision of this Agreement is held to be invalid, illegal or unenforceable under present or future laws, such provision shall be struck from the Agreement; however, such invalidity or enforceability shall not affect the remaining provisions or conditions of this Agreement. The parties shall remain legally bound by the remaining terms of this Agreement and shall strive to reform the Agreement in a manner consistent with the original intent of the parties.

16. Force Majeure

Either party shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its reasonable control, including but not limited to, acts of God (e.g. earthquake), labour disputes, strikes, riots, war or other unanticipated occurrences or problems and governmental requirements. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the period of time equal to that of the underlying cause of the delay as long as such delay remains beyond such party's reasonable control.

17. Governing law

This Agreement shall be deemed to have been made in the Union of India and the provisions and conditions of this Agreement shall be governed by and interpreted in accordance with the law of the Union of India. Both parties agree to submit to the jurisdiction of National Capital Territory of Delhi.

18. Arbitration

Any dispute or claim arising out of or in connection with this Agreement or the performance, breach or termination hereof, shall be finally settled by binding arbitration conducted in National Capital Territory of Delhi by an arbitrator appointed by the management of the ICSDC CONSULTANT LLP. The award of arbitration shall be binding and final.

19. Non-Agency

Nothing contained in this Agreement shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties.

20. Annexure

All the Annexure form part of this Agreement and must be read along with this Agreement. Further, in the instance of any conflict between the terms of this agreement and any of the annexure, the terms of this agreement shall prevail, if any.

21. Heading

Headings used in this Agreement are for reference purpose only and in no way define, limit, construe or describe the scope or extent of such clause or in any way affects this Agreement.

22. Entirety

This Agreement expresses the complete and final understanding of the parties with respect to the subject matter hereof, and supersedes all prior communications between the parties, whether written or oral with respect to the subject matter hereof. No modification of this Agreement shall be binding upon the parties hereto, unless evidenced by a written statement duly signed by authorized representatives of the respective parties hereto.

23. Notices

Any required notices hereunder shall be given in writing by registered post or courier at the address of each party abovementioned or to such other address as either party may from time to time substitute notice. Notice shall be deemed served when delivered.

IN WITNESS WHEREOF, the undersigned do hereby execute this Agreement y duly authorized officials as of the date set forth below:

For ICSDC CONSULTANT LLP FOR

PERSON NAME

Authorised Signatory

1.

2.



ANNEXURES ATTACHED TO THE AGREEMENT

ANNEXURE I: SERVICES TO BE PROVIDED

ANNEXURE II: ORDER FORM INDICATING THE PRICE.

ANNEXURE III: SERVICE LEVEL AGREEMENT

Annexure III

Service Level Agreement ('SLA')

Service Hosting at ICSDC CONSULTANT LLP 's Data Centre

SERVICE LEVEL AGREEMENT

This Agreement is effective the date on which Order Form (OF) is placed and Customer accepts the terms as mentioned in the Master Service Agreement (MSA) and this Service Level Agreement (SLA) which forms part of the MSA.

This Agreement is executed at New Delhi between ICSDC CONSULTANT LLP hereinafter referred to as "Service Provider" and the Customer, and is valid for a term as stated in the.

The terms of this Agreement shall apply only to those Services which are referred in the OF and any Supplemental Services agreed by both the Parties. This Agreement provides the right - under certain circumstances specified below, for a Customer to receive Services Credits in the event of failure to provide Services by the Service Provider to the Customer as mentioned in OF in accordance with (i) the MSA, and (ii) this SLA, each of which is incorporated herein by reference and made a part hereof (collectively the "Documents") Service Provider and the Customer shall be referred collectively as "Parties". Unless the context otherwise requires, all capitalized terms used but not otherwise defined herein shall have the meanings as found in MSA. Other terms may be defined elsewhere in the text of this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement. All capitalized terms used in this Agreement defined in the MSA and the OF and not defined hereunder shall have the same meaning as defined in the MSA or the OF. The Service Provider reserves the right to change the terms and conditions of this Agreement with respect to the Services to be provided by Service Provider to Customer.



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1. DEFINITIONS

In this Agreement, the following words and expressions, unless inconsistent with the context, shall bear the meanings assigned thereto:

Downtime shall mean the duration of the Service Outage, calculated in aggregate number of hours in any year. The time period is calculated on the basis of the Trouble Ticket initiated by the Customer and ending when the Trouble Ticket is closed by Service Provider subject to due confirmation from the Customer on resolution of the outage. The time periods are calculated on basis on the number of outages per year and excluding the events covered under headings Exceptions to this SLA which shall not for the purposes of this SLA be included while measuring Downtime.

Exceptions All the events as mentioned in clause 3 herein and shall mean either an event or a set of events, any occurrence and the duration of occurrence of which shall not constitute a Service Outage or Downtime for the purposes of this SLA.

Emergency Maintenance shall mean maintenance carried out under a condition or situation which poses danger to the system, equipment, network, facilities required for rendering the Service etc. as the case may be and has to be attended immediately. Service Provider shall try to notify the Customer about the emergency maintenance in advance, whenever feasible.

Facility The facility is located at office of ICSDC CONSULTANT LLP Datacentre in New Delhi where Service Provider provides space, racks for placing the servers.

Actual Uptime is the aggregate percentage of Total Uptime Hours in a year during which the Services is actually made available for use by Customer.

Service Credits shall mean services which the Customer would be entitled on account of failure of the Service Provider to provide Services as per the standards mentioned in this Agreement.

Service Catalogue shall contain all or any of services/facilities viz., back up facility, dedicated firewall facility, hardware monitoring facility, help desk support, load balance server, network and power uptime, OS management, shared firewall service and Version Control described in Annexure A to this SLA which may be availed by the Customer along with the Services as mentioned in the OF from Service Provider.



Service Outage shall mean an unscheduled disruption/failure in any Service offered by Service Provider as per this Agreement, due to which Customer's server is un-accessible to Customer. The outage of Services due to, but not limited to the following shall be a Service Outage. Customer is unable to transmit to or receive information from his network equipment because Service Provider failed to provide facility services to its network equipment including, switch, router, firewall etc. Failure of Services like Internet connectivity, IDC LAN etc. shall also be treated as Service Outage.

Space The Portion of rack which is leased/licensed to Customer for placing their server.

Support Desk shall be the location where the Customer should report a fault. Details of the same are mentioned in the annexure of this SLA, or if changed, may be intimated from time to time by Service Provider to the Customer.

Total Uptime Hours shall mean 24 hours, 365 days a year. (Year is defined as period of 365 days) "Trouble Ticket" means issuing a ticket with a unique identification number confirming the customer complaint logging in with Service Provider in relation to a Service Outage faced by the Customer.

2. SCOPE OF THE SERVICES

2.1 Service Provider agrees to provide the services to Customer as detailed in OF for an Initial Period as mentioned in OF and for said period the Customer has agreed to pay the amount as agreed in the OF.

2.2 Service Provider will provide the Services as per the services opted by the Customer in the OF, details of all the services are provided in the Service Catalogue which is provided in Annexure A along with this SLA.

2.3 Service Provider assures that it shall provide its immediate support and assistance in the event of any disruption in the Services being provided by ICSDC CONSULTANT LLP. The manner and time frame for troubleshooting and the timelines for the resolution of the problems are mentioned in the Annexure A of this Agreement.

2.4 Services will be provided to the Customer by the Service Provider with the infrastructure available at its data centre which consists of the following:

- Dual active power sources from two different power generation plants.
- Capability to provide 99.95 % SLA
- Carrier Neutral Datacentre
- ISO 27001 Certified

2.5 Service Provider assures the Customer 99.95 % uptime availability of the Infrastructure including Power* and Cooling** covered by this SLA. Hardware Uptimes SLA would be 4 hours' response from the time of detection of hardware problem either by the service provider help desk or by the customer. Subject to clause 3 of this Agreement, in the event the Service Provider fails to provide the Customer with the Services required by the Customer in accordance with the Agreement, such failure resulting from complete unavailability of Service Provider Network, such events will be treated as "Qualified Network Downtime Event" for which Service Provider will issue the Customer a Service Credit.

Exclusions

- I. Servers without Redundant Power Supply (RPS)
- II. Servers without Redundant Power Supply (RPS) would carry 99% Uptime SLA. The Service credit calculation method and Service credits remains the same as mentioned in the Clause 2.6.
- III. Software Crashes affecting hardware.

Service provider assures to provide cooling @ 21°C (+/-) 2°C and Humidity levels @ 45 % (+/-) 5%.

2.6 If the Actual Uptime (A) calculated is less than 99.9%, the following Credits shall be due to Customer:

A >= 99.9% No Credits

A = 99.9% < 98.00% 1 day's equivalent service credit for the Service period affected calculated on a prorate basis.

A = 98% < 2 days' equivalent service credit for the Service period affected calculated on a prorate basis

3. EXCEPTIONS

3.1 The following events do not constitute a Downtime and shall not be eligible to be considered for any Service Credit:

- a) Interruption due to scheduled maintenance, alteration, or implementation, where the Service Provider provides at least one day's prior notice;
- b) Failure of the Customer links, internet connectivity or end user software, access circuits, local loop or any network not owned or managed by Service Provider.



- c) Anything inside Client's internal network including, but not limited to, firewall configuration and bandwidth to internet, local area workstations, servers, Software, and configuration
- d) Time taken during offline backups.
- e) DNS issues not in scope and control of Service Provider.
- f) Negligence or other conduct of Customer or its Authorized Persons, including a failure or malfunction resulting from applications or services provided by Customer or its Authorized Persons;
- g) A shut down due to circumstances reasonably believed by Service Provider to be a significant threat to the normal operation of the Services, the Service Provider's facility, or access to or integrity of Customer data (e.g., hacker or virus attack);
- h) Failure or malfunction of any equipment or services not provided by Service Provider;
- i) Failure of Customer to purchase minimum redundant systems necessary to support this warranty; or
- j) Failure in notifying the Service Desk about service outage within 15 minutes of the outage as mentioned in clause 6.1 (a)
- k) Any abuse or fraud failure to comply with the Acceptable User Policy on the part of Customer and its Authorized Persons.
- l) Any utilized Scheduled Service Downtime.
- m) Any problems outside the Service Provider Facility Network.
- n) Any interruptions, delays or failures caused by Client or Client's employees, agents, or subcontractors, such as, but not limited to, the following:
 - I. Inaccurate configuration.
 - II. Non-compliant use of any software installed on the server.
 - III. Client initiated server over-utilization.
 - IV. Any problems related to the attacks on the machine such as hacking, attacks, and exploits.
- o) Any specific services not in customer opted plan.
- p) Force Majeure event

4. SERVICE CREDIT

4.1 Service Provider agrees that it shall provide for the requisite service credits to the Customer in the event of it not being able to provide the Services for which it had already received the payments.

4.2 Service Provider agrees that on occurrence of any event as mentioned in clause 2.2 the Customer would be eligible to request a Service Credit on compliance of the terms as mentioned in clause 6.1. (a) of this SLA. Any delay by the Customer or any acts contrary to the clause 6.1(a) will result in an automatic waiver of Service Credit under this SLA.

4.3 Customer shall be eligible for Service Credit for only those Downtime which has occurred a year prior to the date of claim and the maximum Service Credit to which Customer shall be entitled is as mentioned in clause 6.1. (c). The Customer shall not be entitled to any other Service Credits in respect of such Downtime for other years during the pendency of such Service Credit.

5. PAYMENT TERMS

5.1 The Customer shall pay all the charges for the term as opted by him in the OF in advance which includes setup charges, yearly recurring charges and other supplemental charges for any Supplemental Services provided during the Initial Term on or before the Service Commencement Date.

5.2 The details of the charges are mentioned in the OF which forms part of this Agreement.

5.3 All the payments terms mentioned in this Agreement and the obligations of the Parties detailed in MSA shall be followed in true spirit.

6. PROCEDURE FOR AVAILING SERVICE CREDITS

6.1 Whenever the Customer Encounters Service Outage, the following procedure should be followed;

- a) The Customer should contact the Service Provider "Support Desk" within 15 minutes of the outage and shall request for a Trouble Ticket number immediately and track the Trouble Ticket number till the Trouble Ticket is closed on resolution of the outage.
- b) The Service Provider on the receipt of the issue of Trouble Ticket to the Customer shall have a background check to verify if the Customer is eligible for the Service Credit.
- c) If Service Provider in its reasonable commercial judgment believes that it has failed to provide the Services as per the scope mentioned in clause 2.2, the Service Provider shall credit the customer's account the prorated base charges from the day the Trouble Ticket is issued to Customer till the Trouble Ticket is closed on resolution of the outage.

6.2 Service Credit will issue on the first day of the following Service Outage year.



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7. WARRANTIES OF SERVICE PROVIDER

7.1 Warranties of Service Provider

7.1.1 Service Provider warrants that it shall perform and provide Services in a professional and workmanlike manner in accordance with this Agreement.

7.1.2 No other warranties are expressed or implied, including but not limited to, any warranties of merchantability or fitness for a particular purpose.

7.2 Warranties of Customer.

7.2.1 Customer warrants that it has unrestricted right to use the Services provided by Service Provider and shall be used for legal purpose and not for any illegal purposes against the policy mentioned in AUP.

7.2.2 The Customer will not do any voice communication from anywhere to anywhere by means of dealing a telephone number (PSTN/ISDN/PLMN) as defined in National Numbering plan. The customer will not originate the voice communication service from a Telephone in India and/or terminate the voice communication to any Telephone within India.

7.2.3 The Customer will not establish any connection to any public switched Network in India and/or established gateway between Internet & PSTN/ISDN/PLMN in India and will not use any dial up lines with outward dealing facility from Nodes.

7.2.4 Customer acknowledges and will not establish any interconnectivity between ISPs who are permitted to offer Internet Telephony Services and the ISPs who are not permitted to offer Internet Telephony Services

8. LIABILITY

8.1 Customer agrees that the Service Provider shall not be deemed negligent, at fault or liable in any respect for any delay, interruption or failure in performance hereunder resulting from fire, flood, water, the elements, explosions, acts of God, war, accidents, labour disputes, strikes, shortages of equipment or suppliers or other causes beyond the reasonable control of the Parties delayed or prevented from performing.

8.2 Customer shall indemnify and hold harmless Service Provider, its agents, contractors and employees from and against any and all claims, liability, damage, loss or expenses of whatever nature which may arise out of the negligent or intentional acts or omissions of Customer, its agents, employees, contractors or Authorized Persons.



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8.3 The Customer agrees that notwithstanding anything contained in this Agreement the liability of the Service Provider on account of any claim or cause of action arising on account of breach any of the terms of this agreement shall be limited to the amount of fees paid by the Customer. The limitation set forth in this clause shall apply to all causes of actions or claims in the aggregate, breach of contract, breach of warranty, negligence, strict liability, misrepresentation and other torts. Further, the Customer shall enforce any such claim on, referred to in this clause within one year of the alleged breach having taken place. The Service Provider and the Customer expressly acknowledge and agree that the limitations and exclusions contained herein represent agreement of the Parties as to the allocation of risk between the Parties in connection with Service Provider's obligations under this Agreement.

Authorized Representative of customer and ICSDC CONSULTANT LLP have read the foregoing and all documents incorporated there in and agree and accept such terms effective as of the date written below.



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