



MASTER SERVICE AGREEMENT

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This Agreement is made on the [redacted] day of [redacted] 2008 between: -

- (1) **Tech Talenta** having its offices at The Clock House, Frogmoor, High Wycombe HP13 5DL, United Kingdom, a division of Tech Mahindra Limited (“TechM”) registered No. 11- 41370 a company formed under the laws of India having its registered office at Gateway Building, Apollo Bunder, Mumbai – 400001, India; and
- (2) [redacted] (“Customer”) Registered No. _____ whose registered address is [redacted]

Now it is hereby agreed: -

1. DEFINITIONS:

- “Acceptance” shall have the meaning ascribed to it in Clause 15.
- “Background Intellectual Property” means any intellectual property created, controlled or owned by either party prior to the date of commencement of this Agreement or Intellectual Property Rights generated by either Party independently of the Services.
- “Customer Project Co-ordinator” the project co-ordinator appointed by the Customer pursuant to Clause 11 from time to time.
- “Deliverable” an item to be delivered to the Customer as part of a Project.
- “Fees” the fees to be paid for the Services pursuant to Clause 5.
- “Generated Material” shall mean any information, advice, description, know-how (whether written or oral), designs, inventions (whether patentable or not), drawings, reports, specifications, procedures, instructions, software and other information and data of any kind generated as a result of the Services performed under the Agreement;
- “Intellectual Property Rights” means patents, trade marks, service marks, trade names, design rights, copyright, database rights, semi-conductor topography rights, rights in know-how and other intellectual property rights (of whatever nature and wheresoever arising),

in each case whether registered or unregistered and including applications for the grant of any such rights;

“TechM Project Manager”	the Project Manager appointed by TechM pursuant to Clause 11 from time to time.
“TechM Property”	shall have the meaning set out in Section 6.3 of this Agreement.
“Project”	an agreed fixed fee based Statement of Work with defined Deliverables to be performed by TechM.
“Project Initiation Phase”	the phase when all the information necessary to complete the Project is agreed upon by the parties.
“Statement of Work”	refers to documents referencing this Agreement and specifying work to be accomplished by TechM and to be paid for by Customer in the format set forth in Appendix A and Appendix B. Statements of Work shall, once executed, form an integral part of this Agreement and shall define the scope of work to be accomplished for a specific Project and the associated charges to be paid. The Statement of Work shall contain details of the Project including as applicable project methodology, deliverables and project plans and the specific obligations of the Customer.
“Services”	the Services to be provided to the Customer by TechM as part of each Project and as listed in the relevant Statement of Work.

2. SCOPE OF AGREEMENT

2.1 This Agreement is the master services agreement between the parties and shall cover all Services agreed by the parties that shall be provided by TechM to the Customer under the applicable Statement(s) of Work that may be executed between the parties from time to time. Statement(s) of Work shall form integral part of this Agreement and all the terms of this Agreement are incorporated into each Statement of Work by reference. In the event that the conditions contained in the Statement of Work in contradiction with the terms of this Agreement, the conditions in the Statements of Work will prevail.

Customer hereby retains TechM and TechM hereby agrees to perform certain professional services as detailed in each Statement(s) of Work appended to this Agreement.

TechM shall provide adequate resources to complete designated projects within the timetables set forth in applicable Statement(s) of Work. TechM shall notify Customer of any circumstances, as and when they arise, that may reasonably lead to any material deviation (including but not limited to changes to the delivery date of a milestone and/or changes to fees) from the timetable set forth in the applicable Statement of Work.

3. DESCRIPTION AND SCHEDULE OF WORK

- 3.1 When the Customer requests TechM to deliver the Services (whether by way of a request for proposal, invitation to tender or otherwise), TechM will provide the Services as described in the Statement of Work subject to the terms of this Agreement.
- 3.2 The Customer shall then accept or decline such Statement of Work but upon acceptance the Statement of Work (together with any amendments agreed between the Customer and TechM in writing) shall constitute a Project for completion in accordance within such delivery dates(s) as are agreed between the parties.
- 3.3 If during the course of a Project either party wishes to change a Statement of Work, the change control procedure set out in the Statement of Work will apply.

4. DURATION

- 4.1 This Agreement shall continue in full force and effect for a period of 12 months ("the original term") or until its earlier termination in accordance with Clause 24. Each individual Project will continue until final Acceptance of that Project unless terminated in accordance with the terms of this Agreement notwithstanding the earlier termination of other Projects.
- 4.2 During the original term, this Agreement may be extended for any period agreed to in writing by the parties ("the renewal term"). The same process will deal with further extensions to the Agreement at the end of the then current renewal term.

5. FEES

- 5.1. In consideration of the provision by TechM of the Services the Customer shall pay the Fees in the amounts payable laid out in Statement of Work.
- 5.2. Notwithstanding the contents of the relevant Statement of Work, the Fees together with any additional fees incurred pursuant to Clauses 9 and 10 shall be due and payable by the Customer within thirty (30) days of the date of issue of an invoice.
- 5.3. All amounts due hereunder to TechM by the Customer that are not paid when due shall accrue interest from the day on which payment was due until paid in full. Interest shall be computed at a rate of two percent (2%) per month or part thereof calculated from the date such payments were due until the date of realisation.
- 5.4. The Statement of Work will define the basis on which the Services are to be performed whether fixed price or on a 'time and materials' basis. Fees for fixed price Services shall include all of TechM's out-of-pocket costs for travel and ancillary costs associated with courier and telephone charges. .

6. CUSTOMER PROPERTY

- 6.1. All software, documentation and other material supplied by the Customer to TechM shall at all times remain the property of the Customer and shall be returned to the Customer by TechM on or before the completion of Services to be performed under this Agreement and where appropriate the Customer shall ensure that its property is suitably insured.
- 6.2. All notes, documents and data of whatsoever description (including the media upon which the aforesaid are stored) shall remain the property of the Customer.
- 6.3. Generated Material and Intellectual Property Rights therein shall be vested wholly in the ownership of the Customer upon the TechM receiving complete payments for all the Services rendered. The Customer shall have no title, ownership, interest or rights in TechM's Background Intellectual Property.



6.4. TechM shall make use of the property of the Customer or property that might or will become the property of the Customer only for the purposes of providing the Services, unless otherwise agreed in writing. .

7. CONFIDENTIAL INFORMATION

7.1. TechM and the Customer agree that they shall protect and keep confidential and shall not disclose to any person (save as hereinafter provided) any proprietary or confidential information, including documents, computer records, specifications, formulae, evaluations, methods, process, technical descriptions, reports and other data, records and information (together the “Confidential Information”) provided to or acquired by it under this Agreement.

7.2. It is understood that Confidential Information does not include:-

7.2.1. Information which is publicly known at the time of disclosure;

7.2.2. Information which, after disclosure by either party becomes publicly known other than through a breach of this Agreement;

7.2.3. Information which either party can show was known to it prior to its disclosure by the other apart from information gained by either party as a result of previous work by TechM for the Customer;

7.2.4. Information which either party can show was developed independently by members of its staff who were not aware of the content of the information disclosed by the other to the first party;

7.2.5. Information which either party can show was made available to it by a third party who had the right to do so and who has not imposed on that party any obligation of confidentiality or restricted use in respect thereof.

7.3. On the termination of this Agreement TechM and the Customer shall return to the other such Confidential Information within its possession or control as may belong to the other party except that any information, plans, layouts, specifications, description or other information belonging to TechM necessary for the continued operation and maintenance of the Services may be retained by the Customer.



- 7.4. Neither party shall use the name(s), trademark(s) or trade name(s), of the other, whether registered or not without first securing the prior written approval of the other party save that TechM shall be allowed to state -that it is performing the Services for the Customer.
- 7.5. All information supplied by either party to the other whether or not confidential shall be used by the reviewing party only for the furtherance of the operation of this Agreement.

8. COMPUTERS AND OFFICE FACILITIES

- 8.1. If TechM is performing any part of the Services at the Customer's premises then the Customer shall provide such facilities to include but not be limited to stationery, secretarial services, computers, terminals, desks and office accommodation, as may be agreed between the parties as necessary solely to perform the work within the agreed Statements of Work.

9. STAFF LOCATION

- 9.1. TechM staff will be located either at one of TechM's development centres or at the Customer's offices listed in a Statement of Work. If the Customer requires TechM staff to work at any other location this shall be agreed by TechM in advance of the transfer. Any additional expenses which are likely to be incurred by TechM as a result of any such Customer requested re-location must first be notified to the Customer in writing and will be subject to the payment provisions of Clause 5.

10. RESPONSIBILITIES OF THE PARTIES

- 10.1. Both parties shall fully co-operate with each other in order to facilitate the provision of the Services under the terms of this Agreement in accordance with the Project plan contained in each Statement of Work. Both parties will provide such assistance to the other as may be agreed by the parties to be necessary from time to time and in accordance with the provisions of Statement of Work. Both parties will comply with the timing of the stages of any Project plan as specified in any Statement of Work. If any delay shall occur to the Project Plan because either party cannot or does not meet its obligations then the other party shall be entitled to notify the defaulting party Project Co-ordinator of the defaulting party's non-compliance and if such non-compliance persists for more than three working days from the date of formal notification in writing of the non-compliance to charge the defaulting party for its increased costs (in regard to which reasonable evidence will be



submitted to justify such increased costs) in accordance with Clause 5. In addition, all time parameters set out in any Statement of Work will be extended by the period of the non-compliance or the period by which the party has actually been delayed, whichever is the greater.

11. PROJECT ADMINISTRATION

11.1. The Customer will designate one of its employees as Customer Project Co-ordinator to whom all pertinent communications will be addressed. In particular, the Customer Project Co-ordinator will be responsible for providing the assistance to TechM described in Clause 10. TechM will in turn designate one of its employees as its TechM Project Manager. The Customer Project Co-ordinator and the TechM Project Manager shall be the persons specified in Statement of Work.

12. PROJECT STANDARDS

12.1. TechM will carry out all Projects in accordance with Statement of Work or the established standards and procedures of the Customer provided that such standards have been supplied by the Customer in advance of starting a particular Project as part of the Statement of Work. TechM will require the co-operation of the Customer at an early stage in the Project to facilitate an understanding of those standards and procedures.

12.2. Modifications to the standards required by TechM will be subject to the Change Control Procedure as contained in Statement of Work.

12.3. In the absence of clear standards and procedures being agreed TechM will carry out any Project in a professional and good and workmanlike manner.

13. PROJECT PROGRESS AND REPORTING PROCEDURE

13.1. TechM will produce reports indicating progress against the schedule at intervals to be agreed between the parties and as stated in the Statement of Work. Meetings will be held between the Customer Project Co-ordinator, and the TechM Project Manager from time to time at an interval to be agreed between the parties and recorded in the Statement of Work but in any event at least once in every four weeks. Such meetings will produce a progress report and agreed actions for both parties.

14. PROJECT AMENDMENTS

14.1. The fees quoted by TechM in the Statement(s) of Work will be based upon the effort required to complete the Project as described in such schedule. No change to the specification will be undertaken unless both parties agree in writing. The parties shall make any departure from an agreed specification by using the change control procedure set out in Statement of Work.

15. PROJECT ACCEPTANCE

15.1. Following completion by TechM of the Services in whole or in part as specified in the Statement of Work and upon their delivery to the Customer, the Customer shall within any agreed testing timetable provided for in such schedule carry out any applicable testing or assessment of the Deliverables.

15.2. Notwithstanding the contents of the relevant Statement of Work, the Deliverables shall be deemed to have been accepted by the Customer after ten (10) working days of delivery thereof unless the Customer satisfactorily demonstrates any material failure or deficiency in the Deliverables within the said period of ten (10) working days.

15.3. In accordance with Clause 15.1 above, should the Deliverables fail the tests or assessments to such material extent, TechM at its own cost shall perform such re-work of the Services so as to ensure that the Deliverables pass such test or assessment.

15.4. Following re-submission by TechM to the Customer for acceptance testing, the Customer will repeat the acceptance tests or assessments within a revised testing timetable as agreed between the parties and shall notify TechM in writing if they pass the tests or assessments.

15.5. If at the end of the said acceptance tests or assessments following re-submission, the Deliverables fail the tests the procedure set out in Clause 15.2 and 15.3 will be repeated. If at the end of those acceptance tests or assessments following re-submission the Deliverables fail the tests, the Customer shall have the right to invoke a further period of correction as specified above.

16. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

16.1. TechM shall, at its own expense, defend or cause to be defended or, at its option, settle any claim or action (“the Claim”) brought against the Customer by a third party alleging that the use of the Deliverables by the Customer infringes any patent, design right, trade secret or copyright of that third party. Subject to the other conditions of this Clause, TechM shall pay any compromise, settlement or final judgement entered against the Customer with respect to any Claim and fully indemnify the Customer in respect of all costs and expenses relating to the Claim provided that the Customer: -

16.1.1 notifies TechM in writing of the Claim immediately on becoming aware of it;

16.1.2 grants sole control of the defence of the Claim to TechM; and

16.1.3 gives TechM complete and accurate information and full assistance to enable TechM to settle or defend the Claim.

16.2. If any Deliverable becomes the subject of any Claim or if a Court judgement is made that any Deliverable does infringe, or if the use of licensing of any part of any Deliverable is restricted, TechM at its option and expense will: -

16.2.1 obtain for the Customer the right under the patent, design right, trade secret or copyright to continue to use the Deliverable; or

16.2.2 replace or modify the Deliverable so that it becomes non-infringing.

16.3. TechM will have no liability under this Clause for:

16.3.1 any infringement arising from the combination of Customer software with other products not supplied by TechM; or

16.3.2 the modification of the Deliverable(s) unless the modification was made or approved expressly by TechM; or

16.3.3 supplying the Customer with any information, data, service or applications assistance not associated with the Services.

17. NON-SOLICITATION AND RECRUITMENT

17.1 During the term of this Agreement and for a period of one (1) year following the termination of this Agreement, Customer shall not directly or indirectly solicit, hire or entice away the employees or personnel of TechM.

18. ASSIGNMENT

18.1. Neither party shall assign or subcontract this Agreement or any interest therein to any other party other than its own affiliates without obtaining prior written consent from the other party but any such delegation or sub-contracting shall not affect TechM's liability to the Customer in respect of such obligations and TechM shall accordingly remain liable to the Customer as though such obligations had been carried out by TechM.

19. LIMITATION OF LIABILITY

19.1. Notwithstanding anything else contained in this Agreement, neither party shall be liable to the other for any indirect or consequential loss, damage, cost or expense of any kind, whether arising from tort (including negligence), breach of contract or howsoever, including without limitation loss of profits or of contracts, loss of operation time and loss of goodwill or anticipated savings.

19.2 Nothing in this Agreement shall exclude or limit either party's liability in respect of:-

(a) death or personal injury caused by its (or its agent's) negligence;

(b) negligence, fraud or misrepresentation;

(c) Breach of Confidentiality;

(d) Intellectual Property Right infringement.

19.3 In no event, each party's aggregate liability (whether in contract, tort, including negligence, or otherwise) under or in connection with this Agreement or based on any claim for indemnity or contribution shall not exceed the total sums received by TechM from the Customer under the relevant Statement of Work during the three (3) month period preceding the first date to which the claim relates.



20. PARTIES AND AFFILIATES

The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement. Accordingly any affiliate or other legal person who is not a party to this Agreement shall have no right to enforce or otherwise rely upon any of its terms.

21. FORCE MAJEURE

- 21.1 Neither party shall be liable for any breach of this Agreement due to any unforeseeable cause including war, rebellion, sabotage, riots, floods, fires or explosions or any other cause which is beyond the reasonable control and without the fault or negligence of the party affected. TechM shall immediately notify the Customer of the occurrence of or upon reasonably anticipating the occurrence of such an event.
- 21.2 Costs incurred by either party as a result of such an event shall be borne by the party incurring the cost. If such an event causes an increase in the time required for the performance of any part of the Work TechM may request an extension of time. Such request shall be processed as a change to this Agreement.
- 21.3 Either party may terminate this Agreement by written notice where a force majeure event persists for a period greater than forty five (45) days.

22. WARRANTIES

- 22.1 TechM warrants that where agreed by the parties in the relevant Statement of Work the Services to be performed under this Agreement shall in the case of the Deliverables be free from materially significant programming errors and from defects in workmanship and materials and shall conform substantially in accordance with the functions, specifications and other descriptions and standards set out in the relevant Statement of Work for an agreed number of calendar days commencing on Acceptance.
- 22.2 In the event of breach of the warranty of clause 22.1 above, TechM's sole obligation hereunder shall be to remedy such defects at no additional charge.
- 22.34 If required by the Customer, TechM shall provide additional on-going support services pursuant to a separate support agreement. The fees for such maintenance services shall be as set out in any Statement of Work or as negotiated between the parties.



22.4 TechM warrants that all Services shall be carried out with reasonable skill and care commensurate with the normal industry standards for such services.

22.5 The Customer agrees that any specified response times to be met by the TechM are contingent upon the Customer providing full and accurate specifications and responding in a timely manner to all reasonable requests made by TechM for further information.

23. WAIVER

No failure, neglect or delay by either party in exercising any right or enforcing any obligation under this Agreement shall be construed as a waiver of or in any way prejudice any rights of such a party.

24. TERMINATION

24.1 Either party may terminate this Agreement forthwith on giving notice in writing to the other party if that other party:

24.1.1 commits any material breach of any term of this Agreement and, in the case of a breach capable of being remedied, shall have failed within thirty (30) calendar days after the receipt of a request in writing from the first party to do so, to remedy the breach,

24.1.2 shall convene any meeting of creditors or pass a resolution for winding up or suffer a petition for winding up; or

24.1.3 shall have an administrative receiver or receiver appointed over the whole or part of its assets or suffer the appointment of an administrator; or

24.2 On termination of this Agreement any sums owed by the defaulting party to the other party shall be paid forthwith to that other party and if requested by the other party shall return within reasonable period from the date of termination, all property belonging to that other party. The defaulting party shall certify in writing within thirty (30) calendar days of termination to the other party through a director or other officer of the company that the obligations imposed by this Clause have been complied with.

24.3 Termination of this Agreement howsoever caused shall not affect the rights of either party under this Agreement which may have accrued up to the date of termination.

25. NOTICES

25.1 All notices which are required to be given hereunder shall be in writing and shall be sent to the address set out as under or such other address as the recipient may designate by notice given in accordance with the provisions of this Clause.

TECH MAHINDRA LIMITED	CUSTOMER
Name: Deepak Korpak	Name:
Phone:+91-20-6601-8100	Phone:
Address: Sharda Centre, Off Karve Road, Erandwane, Pune – 411004.	Address:
CC: Legal Department, Tech Mahindra Limited FAO: Atanu Sarkar, Chief Legal Officer Sharda Centre, Off Karve Road, Erandwane, Pune – 411004. Phone No: +91 20 6601 8592 Fax No: +91 20 6601 8313	

25.2 Any such notice may be delivered by hand or by first class pre-paid letter or fax and e-mail and shall be deemed to have been served if by hand when delivered, if by first-class post five (5) days after posting, and if by fax when confirmation of proper transmission has been received.

26. HEADING

The headings to the Clauses of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement.



27. INDEPENDENT CONTRACTORS

This Agreement will not create a joint venture, partnership or other formal business relationship or entity of any kind, or an obligation to form any such entity relationship or entity. Each party will act as an independent contractor and not as an agent of the other party for any purpose, and neither will have the authority to bind the other by virtue of this Agreement.

28. DISPUTE RESOLUTION

28.1 Disputes between the Parties arising out of or in connection with this Agreement (a "Dispute") shall be determined in the following manner:

- (a) The Parties shall refer the dispute in writing for settlement to the Customer's _____ and TechM's _____. The Parties shall ensure that their respective representatives shall, for a period of ten (10) days from the date of the written reference, use reasonable endeavour to reach an amicable solution of the Dispute;
- (b) If the individuals to whom the matter is referred under Sub-Clause (a) above, do not resolve the dispute within the stated time, the Parties shall refer the Dispute in writing for settlement to a higher executive of the Customer and to a higher executive of TechM respectively. The Parties shall ensure that their representatives shall, for a period of fifteen (15) days from the date of the written reference made pursuant to this Clause (b) use reasonable endeavors to reach an amicable solution of the Dispute.

28.2 If the Parties are not able to settle the Dispute, pursuant to Clause 28.1 above, the Dispute shall be referred to the competent courts in accordance with the provisions of section 30 hereunder.

29. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and the terms and conditions contained herein shall apply to every contract made between TechM and the Customer for the delivery of Services carrying out of and Projects. No modification of these terms and conditions shall be effective unless in writing and signed by a duly authorised representative of TechM.



30. APPLICABLE LAW

This Agreement shall be governed by laws of England. The courts at London, England will have exclusive jurisdiction to settle any disputes or claims which may arise out of or in connection with the Agreement for which purpose all parties agree to submit to such jurisdiction.

IN WITNESS WHEREOF, the parties have entered into this Agreement and do each hereby warrant and represent that their respective signatory whose signature appears below has been and is on the date of this Agreement duly authorised by all necessary and appropriate corporate action to sign this Agreement.

For and on behalf of Tech Mahindra Limited

Name

Title

Signed

Date

For and on behalf of -----

Name

Title

Signed

Date

Appendix A

STATEMENT OF WORK

[To be completed as appropriate]