TOPSOURCE PAYROLL, ACCOUNTANCY & ONLINE SERVICES

TERMS AND CONDITIONS

The TopSource Payroll Terms and Conditions are incorporated into and subject to the Agreement between TopSource Infotech Private Limited ("**TopSource**") and the Client entity that is a Party to the Agreement ("**the Client**").

TopSource and the Client are collectively referred to as the "**Parties**" and individually as a "**Party**".

All capitalized terms not defined in these Conditions shall have the meanings set forth in the Order for Services Form or the Data Protection Provisions (as applicable).

Recitals

a. TopSource is in the business of providing payroll, online and accounting services;
b. The Parties desire to enter into this Conditions, wherein TopSource agrees to provide Services to the Client as per the terms set forth in the Order for Service Form and the Conditions.

The Parties, intending to be legally bound, agree as follows:

Standard Terms and Conditions:

1. DEFINITIONS –

1.1. In this Conditions the following words and phrases shall, have the following meanings unless the context otherwise requires:

(a) **"Affiliate"** shall mean any corporation, association, or other entity that directly or indirectly controls or owns, is owned by, or is under common ownership with either Party, respectively, either currently or during the validity of these Conditions. As used in this definition, the terms "controls", "owns", "owned", or "ownership" mean the direct or indirect possession of more than 50% of the voting securities, or equity in such business entity.

(b) **"Agreement"** shall mean the agreement between TopSource and the Client for the supply of Services in accordance with:

- these Conditions; and
- the Order for Services Form; and
- the Data Protection Provisions.

(c) **"Applicable Laws"** shall mean such laws as apply to the provision of the Services by TopSource.

(d) **"Authorised Persons"** shall mean the persons or categories of persons that the Client authorises to give TopSource written personal data processing instructions as identified in the Order for Services Form and from whom TopSource agrees to accept such instructions.

(e) **"Authorised Usage Limit"** shall mean the limit (if applicable) of Authorised Users in the Initial Term or any Renewal Period, as set out in the Order for Services Form.

(f) **"Authorised Users**" shall mean those employees, agents and independent contractors of the Client who are authorised to use the Online Services.

(g) **"Business Day"** means a day other than a Saturday, Sunday, or public holiday in India, when banks in India are open for business.

(h) **"Charges"** means the charges for the supply of the Services detailed Order for Services Form and payable by the Client in accordance with Clause 4 (Charges and Payment).

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(i) **"Client Content"** shall mean an access required by TopSource, including but not limited to accurate information, data, hardware, software, telecommunication network and services, technical documentation, statements, credentials required from Client.

(j) **"Client Default"** has the meaning set out in clause 3.11

(k) **"Commencement Date**" as set out in the Order for Service Form.

(l) **"Conditions**" means these terms and conditions as amended from time to time as mutually agreed between Parties.

(m) **"Confidential Information"**, for the Recipient, shall mean technical, financial and commercial information and data relating to a Disclosing Party's respective businesses, finances, employee information, planning, facilities, products, techniques and processes and shall include, but not limited to, discoveries, ideas, concepts, know-how, techniques, designs, forms, formats, specifications, drawings, blueprints, tracings, diagrams, models, samples, flow charts, data, computer programs, disks, diskettes, tapes, marketing plans, customer names and other technical, financial or commercial information and intellectual properties, any other information including these Conditions, whether in written, oral or other tangible or intangible forms (which is identified as confidential within ten (10) days of its disclosure) or defined by the Disclosing Party as "Confidential" and/or "Proprietary". Confidential Information shall not include information which (i) was known to the party receiving the information (the **"Recipient** prior to the time of disclosure by the other party (the **"Disclosing Party"**); (ii) is/was publicly known or part of the public domain or becomes part of the public domain through no breach of these Conditions by the Recipient; or (ii) was lawfully received by the Recipient from a third party without any obligations of confidentiality or breach of these Conditions; or (iv) independently developed by the Recipient without use of Confidential Information; or (vi) is required to be disclosed by the Recipient pursuant to any order or requirement from court, administrative or governmental agency, provided that the Recipient shall give the Disclosing Party prompt written notice of such order or requirement and an opportunity to contest or seek an appropriate protective order.

(n) **"Data Protection Provisions ("DPP")"** means the data protection provisions which set out the terms on which personal data is processed by TopSource on the Client's behalf under the Agreement.

(o) **"Data Protection Legislation"** shall mean as defined in the Data Protection Provisions which are applicable in India.

(p) **"Deliverables"** means the deliveries and/or work products, or other items specifically required to be developed or worked upon and delivered by TopSource to Client pursuant to the applicable Order for Services Form.

(q) **"Intellectual Property"** means property, whether tangible or intangible, in which intellectual property rights of whatever nature subsist or may subsist including but not limited to patents, trademarks, service marks, design rights, database rights, know-how rights, goodwill, reputation, get-up, logos, devices, plans, utility models, rights to inventions, neighbouring and related rights, data, diagrams, specifications, source and object code, materials, data and processes, design rights, trade or business name rights, rights in Confidential Information, present contingent and future copyright, rights to sue for passing-off, plus applications or rights to apply for any of the foregoing, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

(r) **"Know your Client Survey ("KYC")"** shall mean a form to be completed by the Client prior to the delivery of Services.

(s) **"Online Service"** shall mean TopSource's online platform "*Portico*" providing access to human resource data or supplier and customer data through an online portal accessed with User IDs and passwords, including without limitation any updates, upgrades, enhancements and new versions.

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(t) **"Order for Services Form (or "Order")"** shall mean the form on which the Client's Order for Services is made and which sets out the key commercial terms for the supply of Services from TopSource to the Client. For the avoidance of doubt, the Order for Services Form forms part of the Agreement.

(u) **"Registration Information"** the name and e-mail address of each Authorised User.

(v) **"Relevant Requirements"** means all applicable laws, regulations, codes, and sanctions relating to:

- anti-bribery and anti-corruption; and
- money laundering.

(w) **"Services"** means the services to be provided by TopSource to Client pursuant to the Order for Services Form as per Schedule A hereto.

(x) "**Service Commencement Date**" as set out in the Order for Service Form

(y) **"Service Fees"** means the fees payable by the Client to TopSource and as more particularly set out in the Order for Service Form.

(z) **"Special Terms"** means any special terms mutually agreed in writing between the Parties, as set out in the Order for Service Form.

(aa) **"Specification"** means the description or specification of the Services detailed in the Order for Service Form.

(bb) **"Taxes"** shall mean all applicable taxes, including without limitation Goods and Services Tax ("GST"), cess, fee, duty, rates, surcharge, imposts and/or levy imposed by any Governmental Authority (whether Central, State, Municipal or otherwise).

(cc) **"TopSource Materials"** has the meaning set out in clause 6.2

(dd) **"TopSource Policies"** means the policies set out at https://topsourceworldwide.com/legal-compliance-portal, as amended or updated from time to time.

(ee) **"Virus"** shall mean anything or device (including any software, code, file or program) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware, network, or any telecommunications service; or adversely affect the user experience.

1.2. In the case of conflict or ambiguity between any provision contained in the Conditions, any Special Terms provision contained in any Order, Order and Data Protection Provisions the order of precedence will be: (i) Special Terms provision in the Order; (ii) Data Protection Provisions; (iii) Conditions; and (iv) Order.

1.3. **Interpretation:** Unless expressly provided otherwise in the Agreement, a reference to legislation or a legislative provision:

a. is a reference to it as amended, extended, or re-enacted from time to time; and
b. shall include all subordinate legislation made from time to time under that legislation or legislative provision.
c. Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
d. Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.
e. Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
f. A reference to writing or written includes faxes and emails.

2. SERVICES

2.1. Subject to payment of Charges and completion of KYC, TopSource shall provide Services to Client as specified in each applicable Order for Service Form and as per the Specifications in accordance with the provisions of these Conditions. The Order constitutes an offer by the Client to purchase the Services in

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accordance with these Conditions and the Data Protection Provisions.. The Order shall only be deemed to be accepted when the Parties countersign the Order for Services Form at which point and on which date the Agreement shall take effect under the Services covered by the Order for Services Form (Commencement Date). Nothing contained herein shall create any obligation in favor of the TopSource or any right upon the Client, except as agreed under these Conditions and stated in the applicable Order for Service Form.

2.2. Parties agree that TopSource or TopSource's Affiliates may provide Services to the Affiliate(s) of Client. In such an event, TopSource, TopSource's Affiliates and the Client, and the Client's Affiliate shall execute separate Order for Service Form respectively, for Services as per the terms of these Conditions.

2.3. Any samples, drawings, descriptive matter, or advertising issued by TopSource, and any descriptions or illustrations contained in TopSource's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Agreement or have any contractual force.

2.4. Client acknowledges and agrees that TopSource's performance of Services under an Order for Service Form in a timely manner is dependent on the Client's performance of its obligations as per the terms set out in Clause 3 of the these Conditions. For the purpose of clarity, TopSource will not be liable for any delays caused on account of: (a) dependency delays such as delays in providing inputs, sign-offs, confirmations and approvals which are attributable to Client; (b) force majeure event; and (c) any reasons which are not attributable to TopSource.

2.5. Any quotation given by TopSource shall not constitute an offer and is only valid for a period of 30 Business Days from its date of issue.

3. **CLIENT'S OBLIGATIONS –**

Client undertakes and ensures that:

3.1. the terms of the Order and any information the Client provides in the Specification are complete and accurate;

3.2. prior to receipt of the Services, Client will submit a KYC to TopSource which the Client shall ensure: (a) is signed by an officer of the Client; and (b) contains accurate and up to date information completed to the satisfaction of TopSource and the Client shall indemnify TopSource for all costs, losses, expenses, liabilities and damages TopSource may incur as a result of its reliance on the information provided;

3.3. it will provide TopSource with all Client Content which is complete and accurate and necessary for the performance of the Services by TopSource under these Conditions. Further, the Client will provide reasonable technical, administrative and commercial support to TopSource. In addition thereto, Client will ensure that the inputs, statements, documentation and credentials and any access as required is made available to TopSource in a timely manner for the performance of these Conditions;

3.4. it will ensure that all personnel assigned by it to provide assistance to TopSource will have the requisite skill, qualification and experience to perform the tasks assigned to them;

3.5. It will provide sufficient working conditions for the employees or contractors of TopSource who are performing Services on the premises of the Client and will bear the responsibility for any bodily or personal injury or accident (including death) suffered by the employee or contractor of TopSource working at the

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premises of the Client. The Client agrees to indemnify and hold TopSource harmless against any claims whatsoever on account of breach or violation of this obligation under Clause 3 of these Conditions.

3.6. It will obtain and maintain all necessary licenses, permissions and consents which may be required for the Services before the date on which the Services are to start and comply with all Applicable Laws and regulations with respect to the Client's activities under these Conditions, including the Relevant Requirements (and if reasonably requested by TopSource shall provide such evidence as TopSource may require this to demonstrate compliance with the Relevant Requirements);

3.7. It will keep all TopSource Material at the Client's premises in safe custody at its own risk, maintain the TopSource Material in good condition until returned to TopSource, and not dispose of or use TopSource Material other than in accordance with TopSource's written instructions or authorisation;

3.8. It will comply with the TopSource Policies, and any other additional obligations as set out in the Specification or elsewhere in these Conditions.

3.9. It is wholly responsible for verifying and validating the final payroll prior to giving approval to TopSource for processing. Any errors and omissions, regardless of source of such errors or omissions, that are processed by TopSource thereafter are solely the Client's responsibilities. By approving the payroll, the Client is confirming that they have reviewed, at minimum that: (a) no former employees are included in the payroll; (b) all employees' bank details are correct; (c) all new employees are included in the payroll; (d) gross pay amounts for each employee are in line with expectations; (e) total company pay is in line with the Client expectations; (f) any adjustments have been completed as requested; and (g) any change to such information is promptly notified to TopSource and its employees, agents, consultants and subcontractor;

3.10. Online Services:

(a) The Online Service, the Client will: (i) ensure that the Client's network and systems comply with the relevant specifications provided by TopSource from time to time, including the provision of reliable internet access and adequate bandwidth for use of the Online Service; (ii) be solely responsible for procuring and maintaining its network connections and telecommunications links for the Client's systems to the access the Online Service, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet; (iii) not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Online Service that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive or causes damage or injury to any person or property and TopSource reserves the right, without liability to the Client, to disable the Client's access to any material that breaches the provisions of this Clause.

(b) Client will not, except as may be allowed by any applicable law which is incapable of exclusion by Conditions between the Parties: (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Online Service in any form or media or by any means; or (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of Online Service; (iii) access all or any part of the Online Service in order to build a product or service which competes with the Online Service; (iv) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Online Service available to any third party except the Authorised Users; (v) attempt to obtain, or assist third parties in obtaining, access to the Online Service,

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other than as provided herein. Further, the Client agrees that: (i) use all reasonable endeavours to prevent any unauthorised access to, or use of, the Online Service and, in the event of any such unauthorised access or use, promptly notify TopSource; and (ii) the Online Service is provided to the Client only and shall not be considered provided to any subsidiary or holding company of the Client, unless stated otherwise in the Order.

(c) In relation to Authorised Users, the Client: (a) shall provide TopSource with the Registration Information (and the Client warrants that prior to providing such Registration Information to TopSource, the Client has obtained such consents from the relevant Authorised Users as are necessary to ensure compliance with applicable Data Protection Legislation), such Registration Information to be correct at all times during the Term.

(d) Client acknowledge and agree that: (a) access to the Online Service shall be granted to individual Authorised Users only and shall be limited by reference to the Authorised Usage Limit; such access and relevant passwords may only be used by the individual Authorised User to whom they were assigned and shall not be transferred, assigned or otherwise loaned (whether for temporary use or otherwise) in any manner whatsoever; (b) when an Authorised User's employment with the Client ceases or is re-assigned (or is otherwise no longer to be granted access to the Online Service), the Client shall notify TopSource immediately in writing in order that the corresponding access and password can be disabled; (c) it will ensure that the Authorised Users use the Online Service in accordance with the terms and conditions of these Conditions and shall be responsible for any Authorised User's breach of these Conditions; (d) it will maintain a written list of current Authorised Users and shall provide such list to TopSource as may be reasonably requested by TopSource from time to time; and (e) acknowledge and agrees that TopSource may audit compliance with this clause 3.10 on reasonable prior notice, in such a manner as not to substantially interfere with the Client's normal conduct of business.

(e) Client shall not have any authority or power to make any changes in such licensed software and shall use it only for the purpose for which the license has been provided. It is confirmed and clarified that Client shall ensure that any of the software is not mis-used or abused in any manner whatsoever and shall indemnify and hold TopSource harmless against any claims for damages, compensation, costs and or any other liability whatsoever and howsoever arising, whether civil or criminal. It shall be the responsibility of the Client to make its employees and/or Authorised Users aware about the usage restrictions herein indicated.

3.11. If TopSource's performance of any of its obligations under these Conditions is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation ("**Client Default"):** (a) without limiting or affecting any other right or remedy available to it, TopSource shall have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays TopSource's performance of any of its obligations; (b) TopSource shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from TopSource's failure or delay to perform any of its obligations as set out in this Clause 3.11; and (c) the Client shall reimburse TopSource on written demand for any costs or losses sustained or incurred by TopSource arising directly or indirectly from the Client Default.

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4. CHARGES AND PAYMENT –

4.1 In consideration of the provision of the Services by TopSource, Client shall pay to TopSource the Service Fees as agreed upon in Order for Service Form, as amended from time to time.

4.2 All amounts due under the Order for Service Form shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

4.3 In the event of any discrepancies in the invoice, the Client shall notify TopSource within seven (7) days from the date of receipt of the invoice, failing which the invoice shall be deemed to be accepted by the Client. Upon receipt of such notification, TopSource will examine the issue and clarify the position to the Client, post which the Client shall make the payment within the agreed credit period as mentioned in Order for Service Form.

4.4 The Client acknowledges and agrees that all Charges are subject to amendment if there are changes to the Client's requirements for the Services (such changes to requirements and the amended Charges to be subject to prior written agreement, such agreement not to be unreasonably withheld or delayed).

4.5 All Charges shall be invoiced in Indian National Rupee (INR), unless otherwise is stated in the Order for Services Form.

4.6 TopSource shall invoice the Client, and the Client shall pay each invoice submitted by TopSource, as detailed in the Order for Services Form. Time for payment shall be of the essence of the Agreement on a monthly basis during the Term. The Client shall indemnify TopSource against all loss or damage that results from any failure and / or late payment of any invoice under the Agreement.

4.7 **Remedies for late payment**. In the event the Client defaults in payment of the Fees, TopSource reserves its right to charge a delayed payment interest in the form of penalty at the rate of 1.5% per month, from the due date for payment of Fees until the date of receipt of payment. In addition to other remedies available to TopSource, in case of non-payment of Fees by the Client under these Conditions, TopSource shall be relieved of its obligations under these Conditions and shall have the right to suspend provision of Services with or without any notice to the Client, until receipt of payment from the Client

4.8 **Taxes.** All Service Fees payable by the Client under these Conditions are exclusive of all applicable Taxes as required by law, which shall additionally be paid by Client, where relevant, at the rate and from time to time in the manner prescribed by law. However, payments shall be made after deduction of withholding tax, as applicable. Client shall provide to TopSource such information and documents as may be reasonably required by the Client to enable TopSource to claim an input tax credit under the Applicable Laws. TopSource shall not be liable for any claims or losses incurred by the Client due to any non-compliance(s) by Client of the applicable law and the same shall be recoverable from Client by the TopSource.

5. ACCEPTANCE PROCEDURE FOR SERVICES

On completion of fifteen (15) days from the Effective Date of the Conditions, the Client will conduct an acceptance process to confirm if the Services provided by TopSource under these Conditions materially conform with its specifications and requirements as set out in the Order for Service Form ("**Acceptance Process**") and provide its approval/ rejection within five (5) days of commencement of Acceptance Process, failing which approval is deemed to be provided. If there are any non-conformities revealed during the

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Acceptance Process, the same will be highlighted to TopSource and TopSource will rectify the same within mutually agreed timelines. On completion of the above, the Services are deemed to be accepted by the Client and any deviations will be treated as a Change Request Process which will be mutually agreed between the Parties.

6. OWNERSHIP

6.1 All Intellectual Property Rights belonging to a Party prior to execution of Agreement shall remain vested in Party. Client shall grant or shall procure the grant of a license to the TopSource a fully paid up, non-exclusive, royalty free, non-transferable license to copy or modify any to utilise such Client Content for the term of this Conditions and the provision of Services. Client agrees and acknowledges that all original challans, receipts and records will be kept with Client and photocopy will be kept with Topsource, where and when required. The Client shall not sub-license, assign or otherwise transfer the rights granted herein.

6.2 Client acknowledges that the Deliverables may contain TopSource's Intellectual Property Rights, certain generic processes, data formats, methodologies, or other materials developed by TopSource, including but not limited to the [accounting and/or payroll data entry and reporting formats] supplied or utilized by TopSource in the course of performing the Services, including any modifications or derivate works, which may have been and/or will be used by TopSource for other customers (collectively referred to as "**TopSource Materials**"). TopSource retains exclusive right to TopSource Materials at all times, and grants Client a personal, non-exclusive, non-transferable, non-sublicensable royalty-free license to use, reproduce, modify and prepare derivative works of such TopSource Materials during the term of this Agreement, to the extent that it is embedded in the Deliverables.

6.3 Client agrees and acknowledges that TopSource owns intellectual property in the Online Services. TopSource agrees to provide license as per terms of Order for Service Form to the extent it is required as per the terms of this Agreement. It is agreed that TopSource shall retain right, title and interest to Portico and nothing in this Agreement shall be deemed to transfer any rights, licenses, interest and title in Portico, except as otherwise granted by TopSource.

6.4 The Client shall defend at its own expense (and shall indemnify TopSource in respect of all losses, costs and damages resulting from or in connection with) any claim brought against TopSource alleging that any aspect of the Services infringes a third-party patent, copyright, or similar right.

7. DATA PROTECTION

The Parties agree to comply with the provisions in the Data Protection Provisions.

8. CONFIDENTIALITY

8.1 Parties acknowledge that, in the course of these Conditions, the Recipient may receive Confidential Information of the Disclosing Party. Any and all Confidential Information in any form obtained by a Recipient shall be held in confidence and, without prior permission in writing, shall not be copied, reproduced, or disclosed to third parties for any purpose whatsoever except as necessary in connection with the Services provided under these Conditions. The Recipient further acknowledges that it shall not use such Confidential Information for any purposes other than performance of duties and obligations in connection with these Conditions.

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8.2 Each party to these Conditions shall promptly notify the other Party if it becomes aware of any breach of confidentiality by any person, including employees, to whom it has divulged all or any part of the Confidential Information and shall give the other Party all reasonable assistance in connection with any proceedings which the other Party may institute against such person for breach of confidence.

8.3 Use of the Confidential Information:

(a) Recipient shall only release Confidential Information to its employees, advisors, consultants and contractors on "need to know" basis, provided that such employees, advisors, consultants and contractors are sufficiently bound by confidentiality agreements. Each Recipient shall treat Confidential Information with the same degree of care and apply no lesser security measures than it affords to its own Confidential Information, which the Recipient warrants as providing adequate protection against unauthorised disclosure, copying or use.

(b) The Recipient shall make no commercial use of the Disclosing Party's Confidential Information.

(c) The Recipient shall keep separate all documents and other records of the Recipient from all Confidential Information received and/or all Confidential Information generated by the Recipient based on it.

(d) The Recipient shall wherever reasonably practicable, obtain a written statement from each of its employees having access to the Confidential Information which shall, inter-alia, include undertaking to keep the same confidential, and shall take such steps as may be reasonably desirable to enforce such obligations.

8.4 The Recipient shall at the request of the Disclosing Party:

(a) Return to the Disclosing Party all the Confidential Information in the possession or under control of the Recipient, and all documents and other material (including all electronically generated or stored data) containing or embodying the Confidential Information (or any part of it) together with all copies, analyses, memoranda or other notes made by the Recipient and which are in its possession custody or control that bear or incorporate any part of the Confidential Information; and/or

(b) Destroy or completely remove all the Confidential Information in the possession or under control of the Recipient, and all documents and other material (including all electronically generated or stored data) containing or embodying the Confidential Information (or any part of it) together with all copies, analyses, memoranda or other notes made by the Recipient and which are in its possession custody or control that bear or incorporate any part of the Confidential Information.

8.5 The confidentiality obligations of the Parties under this shall survive for period of two (2) years post termination or expiration of these Conditions.

9. <u>WARRANTIES –</u>

9.1 Either Party represents and warrants to the other Party:–

(a) it is an existing company under the applicable laws;

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(b) that the execution of these Conditions do not and will not violate any applicable law, rule or regulation or any proprietary or other rights of any third party,

(c) that it will not use in the performance of its responsibilities under these Conditions any Confidential Information or trade secrets of any other person or entity,

(d) that it has the right to enter into these Conditions and that same is a valid and binding obligation of the Party;

10. WARRANTY DISCLAIMER –

10.1 EXCEPT AS OTHERWISE STATED IN THESE CONDITIONS, TOPSOURCE MAKES NO WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, OR WARRANTIES OF ANY DELIVERABLES OR SERVICES, OR THE APPROPRIATENESS OF THE CLIENT'S OR ANY THIRD-PARTY SPECIFICATIONS. IN ADDITION, TOPSOURCE EXPRESSLY DISCLAIMS ANY WARRANTY OR LIABILITY WITH RESPECT TO SECURITY OF DATA, OR COMPLIANCE WITH LAWS, REGULATIONS, OR OTHER OFFICIAL GOVERNMENT RELEASES APPLICABLE TO THE CLIENT, WHICH SHALL BE THE SOLE RESPONSIBILITY OF THE CLIENT.

11. LIMITATION OF LIABILITY –

11.1 TOPSOURCE SHALL NOT BE LIABLE TO CLIENT OR TO ANY OTHER PARTY FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF BUSINESS OPPORTUNITIES, LOSS OF SAVINGS, LOSS OF ANTICIPATED SAVINGS, PUNITIVE DAMAGES, LOSS OF GOODWILL OR INJURY TO REPUTATION, OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL LOSSES OR DAMAGES PURSUANT TO THESE CONDITIONS REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, STRICT LIABILITY OR TORT (INCLUDING NEGLIGENCE), AND REGARDLESS OF WHETHER TOPSOURCE WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES.

11.2 THE CLIENT AGREES THAT TOPSOURCE' MAXIMUM AGGREGATE LIABILITY (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE)) HEREUNDER FOR ALL DAMAGES, UNDER OR IN CONNECTION WITH THESE CONDITIONS, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED THE TOTAL AMOUNT PAID FOR SERVICES UNDER THE APPLICABLE ORDER FOR SERVICE FORM FOR IMMEDIATELY PRECEDING TWELVE (12) MONTHS UNDER WHICH THE CLAIM AROSE. THE FOREGOING LIMITATION OF LIABILITY WILL APPLY IN EVENT OF THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN.

12. TERM AND TERMINATION –

12.1 From the Execution Date of these Conditions or of the relevant Order or any other day as may be mutually agreed in writing by the Parties, these Conditions shall remain in effect for an initial term as specified under the relevant Order (hereinafter referred to as the "Initial Term") with 12 months lock-in period (the "Lock-in Period"). Upon the expiry of the Lock-in Period or of the Initial Term (if the latter is longer) these Conditions and any relevant Order shall be automatically renewed for consecutive 12 months periods (the "Renewal Term") unless terminated by either Party by providing 90 (ninety) days prior written notice. Unless otherwise agreed, any termination of these Conditions, other than pursuant to Clause 12.2, shall not terminate any Order for Service Form in progress and the provisions of these Conditions will continue to apply to such Order for Service Form.

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12.2 After the Lock-In Period is completed and without affecting any other right or remedy available to either Party, such Party will be entitled to terminate these Conditions and/ or Order for Service Form, in whole or in part by giving the other Party 90 (ninety) days prior written notice.

12.3 Without affecting any other right or remedy available to either Party, such Party will be entitled to terminate these Conditions and/ or Order for Service Form, in whole or in part:

(a) if other Party materially breaches any provision of these Conditions or Order for Service Form at any time, the other Party will have a right to terminate these Conditions or Order for Service Form, provided that such Party notifies the other Party of such material breach, provides the breaching Party thirty (30) days to cure such material breach, and such material breach is not cured within such thirty (30) day period.

(b) if the other Party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

(c) the other Party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(d) the other Party's financial position deteriorates to such an extent that in the terminating Party's opinion the other Party's capability to adequately fulfil its obligations under these Conditions has been placed in jeopardy.

12.4 Without affecting any other right or remedy available to TopSource, TopSource may terminate these Conditions and/ or any Order for Service Form with immediate effect:

(a) in the event that TopSource is unable to complete its KYC checks in respect of the Client and any of the Client's relevant employees (where necessary) to the extent required to comply with applicable legal, tax and regulatory requirements and codes of practice;

(b) if TopSource discontinues the provision of any of the Services across its business (such notice to expire no earlier than the expiry of the Initial Term);

(c) by giving 14 (fourteen) days written notice to the Client if the Client fails to pay any amount due under these Conditions on the due date for payment;

(d) by giving written notice to the Client if the Client has failed to submit an appropriately completed KYC as specified in these Conditions; or

(e) by giving written notice to the Client if:

- there is a change of control of the Client; or
- the Client breaches, or TopSource reasonably believes that the Client has or will breach, any of the Relevant Requirements.

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12.5 Consequences of Termination:

(a) Upon termination of these Conditions, all Confidential Information received by the Recipient from the Disclosing Party shall be returned to the Disclosing Party or to the extent such Confidential Information cannot be returned, the Recipient shall destroy such Confidential Information at the request of the Disclosing Party, provided that the Client shall be entitled to retain Confidential Information to the extent required for conduct of its business in the ordinary course.

(b) In case of termination of these Conditions or the Order for Service Form as per the terms of these Conditions, the Client shall pay TopSource all the Fees and expenses for any Services provided by TopSource, till the date of termination of these Conditions and/or applicable Order for Service Form and any reasonable costs necessarily incurred by TopSource and attributable to the early termination of Order for Service Form, together with any investment costs and early termination fees, as specified in the applicable Order for Service Form (if any).

(c) Termination of these Conditions will not affect the accrued rights or remedies of either party.

(d) Notice of termination has to be on hard copy or on authorised email ids.

(e) Any provision of these Conditions which contemplates performance subsequent to any termination or expiration of these Conditions shall survive any termination or expiration of these Conditions and continue in full force and effect. Termination or expiry of these Conditions shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of these Conditions which existed at or before the date of termination or expiry.

13. NON-SOLICITATION

During the Term of these Conditions and for one (1) year thereafter Client agrees not to solicit, recruit, hire, contract with or engage the employment or services, either directly or indirectly, of any employee, consultant, accountant of TopSource or former employee, consultant, accountant of TopSource, without the prior written consent of the other TopSource, where former employees, consultants, accountants shall mean a person who cease to work for TopSource and a period less than one (1) year has since elapsed.

14. FORCE MAJEURE

Either Party shall not be responsible for the failure to perform or any delay in performance of any obligation hereunder (other than any payment of fees by the Client to TopSource)(including but not limited to failure by any agent or subcontractor of TopSource to perform its obligations to TopSource) where such failure is beyond the control of either Party or directly caused due to acts of God, labour disturbances, accidents, fires, floods, strikes, wars, riots, terrorism, pandemic, epidemic, rebellions, blockades, acts of government, governmental requirements and regulations or restrictions imposed by law or any other similar conditions beyond the reasonable control of such either Party. If the event of force majeure continues for a period of more than thirty (30) consecutive days, then either Party may have the option to terminate any affected Order for Service Form or these Conditions upon written notice of fourteen (14) days of such termination to the affected Party.

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15. CHANGE REQUEST PROCESS

15.1 At any time during these Conditions Parties reserve the right for introducing changes to the Services, Deliverables and time schedule at any time during the term of Order for Service Form provided pursuant to these Conditions using the following procedures:

(i) Either Party may propose change request to any aspect of a Order for Service Form by issuing a written request to the other Party describing the proposed change in enough detail to enable initial consideration of the proposed change (**"Change Request"**). Upon the Change Request being issued, TopSource will prepare and submit to the Client, a proposal (**"Change Request Proposal"**), setting out full details of the change, including any changes to the Services, Deliverables, Fees, specifications, milestones, project plan, due dates and any other areas as deemed fit by TopSource and arising as a result of the change.

(ii) The Client will consider the Change Request Proposal and within a period of seven (7) working days, will notify TopSource that it (i) accepts the Change Request Proposal, in which case the Client will sign the Change Request Proposal, or (ii) requests further information or changes to the Change Request Proposal, in which case the Parties will discuss the required information and changes and if agreed, TopSource will then re-submit a revised Change Request Proposal to the Client; or (iii) rejects the Change Request Proposal, in which case the Parties will have no further obligations in relation to that change and the Parties' obligations under these Conditions and the relevant Order for Service Form will continue in force unchanged.

15.2 Any additional feature requirement that is not covered in the Order for Service Form will be treated as Change Request and will be agreed upon in writing by the Parties in the manner set out hereinabove. No changes or additions to the scope of Order for Services Form may be implemented or acted upon by TopSource unless the Change Request Proposal is signed, as provided hereinbefore.

16. MISCELLANEOUS

16.1 A person who is not a party to these Conditions has no rights under the Indian Contract Act, 1872 to enforce any term of these Conditions but this does not affect any right or remedy of a third party, which exists or is available apart from that Act.

16.2 The Client and TopSource are, and at all times shall be, independent contractors in all matters relating to these Conditions. Neither these Conditions nor the cooperation of the Parties contemplated under these Conditions, shall be deemed or construed to create any partnership, joint venture and employer-employee or agency relationship between them. Neither Party is, nor will either Party hold itself out to be, vested with any power or right to bind the other Party contractually or act on behalf of the other Party as a broker, agent or otherwise.

16.3 The client hereby acknowledges and agrees that Topsource might use Client's name and logo for marketing purposes, such as but not limited to, case studies, testimonials, references, etc. The Client hereby grants Topsource the right to use the Client's name and logo for any such marketing purposes.

16.4 These Conditions shall be binding upon and inure to the benefit of each of the parties and each of its respective successors and permitted assigns. Neither Party may assign its rights or obligations hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld;

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provided, however, either Party may assign these Conditions without the consent of the other Party in connection with the sale of all or substantially all of the assets of such Party in a merger or other similar transaction.

16.5 TopSource may at any time assign, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under these Conditions. The Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of the Client's rights and obligations under these Conditions without the prior written consent of TopSource.

16.6 In case any dispute or difference arises between the Parties as to any term and/or conditions of this Conditions, the Parties shall promptly meet and attempt in good faith to resolve such dispute or difference by amicable negotiations; Provided, that if the same is not so resolved within thirty (30) days, the matter shall be referred to the sole arbitrator mutually appointed by the Parties. The arbitration proceedings shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 and the venue of such arbitration shall be Pune, India only and the award or awards in such arbitration shall be final and binding on the Parties.

16.7 All notices required or permitted to be given under these Conditions, shall be in writing and shall be deemed to have been duly given if delivered personally or sent by pre-paid telex, fax or telegram, or mailed first-class, postage pre-paid, by registered or certified e-mail (notices sent by telex or fax, or telegram, shall be deemed to have been given on the date sent; those mailed shall be deemed to have been given five (5) days after mailing) to legal@topsourceworldwide.com (if the notice is for TopSource) and the contact address set forth in the Order (if the notice is for the Client) or to such other address as any Party shall designate by notice in writing.

16.8 **Variation**- Except as set out in these Conditions, no variation of these Conditions shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

16.9 Nothing in these Conditions shall create any association, partnership or joint venture between the Parties hereto, it being understood and agreed that the Parties are independent contractors and neither Party shall have the power or authority to obligate the other in any way. Neither TopSource, nor its employees, consultants or agents shall be deemed employees of Client.

16.10 The failure to enforce any provision of these Conditions shall not be construed as a waiver of any breach or default or a waiver of the provision itself.

16.11 These Conditions, Specifications and any Order executed by the Parties contain the entire agreement between the Parties with respect to the subject matter hereof, and no modification, amendment, change or supplement shall be effective unless in writing and signed by both Parties. These Conditions supersedes all prior understandings, negotiations and agreements relating to the subject matter hereof.

16.12 **Governing law and jurisdiction**. The Agreement shall be governed by, and construed in accordance with, the laws of India.

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