

**MICROTALK COMMUNICATIONS PRIVATE LIMITED GOLD BUSINESS PARTNER
AGREEMENT GENERAL TERMS AND CONDITIONS**

**THIS AGREEMENT IS FOR BUSINESS PARTNERS NOT HOLDING THE APPROPRIATE
INDIAN GOVERNMENT DEPARTMENT OF TELECOMMUNICATIONS LICENCE.**

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CLAUSE 1 DEFINITIONS AND INTERPRETATION

In the Agreement the following definitions apply:

"**Affiliate**" of a Party (defined below) means an entity controlling, controlled by, or under common control with such Party.

"**Acceptable Use Policy**" means the document which Microtalk may make available from time to time which defines how the Services (defined below) may be used.

"**Account**" means the Partner's or Customer's details, the collection of Microtalk Services ordered by Customer and the record of the transactions for those Services on the Microtalk systems.

"**Artificial Inflation of Traffic**" or "**AIT**" means an unexpectedly high level of traffic to a revenue share number.

"**Business Day**" means any day other than Saturday and Sunday and other than a day on which banks or financial institutions in India are not required to close for business. If the day on or by which anything is to be performed is not a Business Day, it must be done on or by the next Business Day.

"**Business Partner**", "**Partner**" or "**Gold Business Partner**" means an individual or organisation appointed by Microtalk to promote and support the Services on behalf of Microtalk.

"**Charges**" means the fees payable for Service under the Agreement.

"**Cover Page**" means the first page of this document, titled "Gold Business Partner Agreement Cover Page".

"**Computer and User Identification Numbers**" means all means of identifying and accessing Microtalk systems and Services, which includes but is not limited to User Names, Passwords, Check words and Encryption Keys.

"**Class of Service**" means a selection of call routes and prices.

"**Customer**" means the relevant Subscriber entity named on the Telecommunications Master Services Agreement Cover Page or on the Service Order Form as the case may be, save that where an Affiliate of the relevant Customer entity enters into a Service Order Form with Microtalk, the Customer shall mean the Affiliate of the relevant Customer entity that signs the Order. Microtalk may accept instructions from a person who Microtalk reasonably believes is acting with the Customer's authority or knowledge.

"**Effective Date**" is the Effective Date of date on the Cover Page of the Business Partner Agreement.

"**KYC Documents**" is the Know Your Customer documentation provided by an entity as proof of that identity's legal identification.

"**Microtalk**" means the relevant Microtalk entity signing up to the Agreement.

"**Microtalk Equipment**" means equipment (including any software) owned or licensed by Microtalk and placed on the Customer's premises for provision of the Service.

"**Microtalk Provided Equipment**" means equipment sold to the Customer (including software licensed to the Customer) pursuant to a Service Description.

"**Order Form**" means an instruction by Customer to Microtalk to provide Services under the terms of the Telecommunications Master Service Agreement and any relevant Services Descriptions.

"**Operational Service Date**" means the date on which any Service or part of a Service is first made available to the Customer by Microtalk or the date when the Customer first starts to use such Service (or part of such Service), whichever date is earlier.

"**Party**" means either Microtalk or the Business Partner; "**Parties**" means both Microtalk and the Business Partner.

"**Portal**" means a web interface provided by Microtalk to Business Partner or to Customer for the purpose of completing Order Forms and managing the Services.

“Problem Report” means a fault identified by Customer and notified to Microtalk.

“Programming Interface”, “Application Programming Interface” or “API” means a computer-to-computer electronic link to enable Customer to automatically link to Microtalk systems for purposes including the completion of Order Forms.

“Regulated Service” shall mean, in India, any services which are subject to (i) conditions which are imposed by any relevant government body of India which has jurisdiction on Microtalk either specifically or generally and any notifications, determinations, directions, decisions and the like related thereto; and/or (ii) any formal or informal undertakings or assurances (however described) governing the conduct of Microtalk’s electronic communications business given by Microtalk to any government department of India.

“Service” means any product or service provided by Microtalk.

“Subscriber” means the ultimate user of the Services.

In this Agreement headings and bold type are for convenience only and do not affect the interpretation of the Agreement and, unless the context otherwise requires:

- (a) references to the Parties, Service Descriptions or Equipment Descriptions, Service Annexes and Clauses are references respectively to the Parties, Service Descriptions or Equipment Descriptions, Service Annexes and Clauses to and of the Agreement; and
- (b) words importing the singular include the plural and vice-versa.

CLAUSE 2 AGREEMENT PRIORITY

- 2.1 This Agreement together with each Order Form along with any relevant Services Descriptions or Equipment Descriptions entered into between Microtalk and the Partner shall provide the terms and conditions upon which Microtalk shall make delivery of Services and/or provide equipment to the Partner.
- 2.2 In the event of any conflict or inconsistency between the provisions of any of the documents relevant to a particular service or piece of equipment, then the order of precedence of the documents shall be: (1) the Services Description or Equipment Description relevant to a particular Service or piece of Equipment; (2) each Order Form relevant to a particular Service or piece of Equipment; and (3) this Agreement.

CLAUSE 3 MICROTALK OBLIGATIONS

- 3.1 Microtalk shall obtain and maintain at its own expense all relevant licences, permission, waivers or permits whatsoever necessary it requires to operate and provide telecommunications services and shall ensure that it complies with all relevant laws and obligations in accordance to the regulatory or legal authority in India.
- 3.2 Microtalk warrants that it is a corporation validly organised and existing as under the laws of India and has full power and authority under its constitutional documents and the laws of India to execute and deliver this Agreement and to perform its obligations thereunder and hereunder.
- 3.3 Microtalk shall provide the services with reasonable care and attention and shall employ appropriately skilled and trained staff who are competent for the areas of the business in which they are employed.
- 3.4 Microtalk shall provide the Service as specified in its marketing and technical documentation and reserves the right to make Service changes with 30 days’ notice to Partner and Customer.
- 3.5 Microtalk shall endeavour to process orders through the Portal and API in line with standard industry and regulatory timescales.
- 3.6 Microtalk shall use reasonable endeavours to resolve Service faults or Problem Reports filed by Customer in a timely manner. For the avoidance of doubt, Microtalk does not warrant that the Service will be fault free or free of interruptions.

- 3.7 Microtalk is entitled to subcontract any of the obligations or supply of certain services to other Microtalk group companies.
- 3.8 Microtalk shall explain and demonstrate the features of the products to the Business Partner
- 3.9 Microtalk shall train the Business Partner representatives on the features of the product so they can make customer presentations and demonstrations
- 3.10 Microtalk shall train the Business Partner on the Service management portals.
- 3.11 Microtalk shall share the any available Service literature with the Business Partner.
- 3.12 Where appropriate, Microtalk shall provide support to Business Partner in following new sale opportunities.
- 3.13 Microtalk shall provide monthly Commission Statements by email.
- 3.14 Microtalk shall pay monthly Commission as defined in the Partner Registration Form – Commercial Arrangements.

CLAUSE 4 PARTNER OBLIGATIONS

- 4.1 Partner warrants that it is a corporation validly organised and existing as under the laws of India and has full power and authority under its constitutional documents and the laws of India to execute and deliver this Agreement and to perform its obligations thereunder and hereunder.
- 4.5 It is the responsibility of Partner to ensure that its contact information is accurate and updated and Partner has the obligation to give prompt written notice to Microtalk in respect of any changes thereto. Microtalk accepts no responsibility if, after reasonable endeavours were made to contact Partner, Microtalk is unable to contact Partner for any matter pertaining to the Services.
- 4.6 Partner warrants that it has not been declared bankrupt or insolvent on or before the date of this Agreement and shall inform Microtalk if and when such circumstances arise during the course of this Agreement.
- 4.7 The Partner undertakes not hack, break into or by other unauthorised means use, or attempt to hack break into or by other unauthorised means use or reverse engineer any part of the Microtalk Service or Microtalk's hardware, software, databases or any other equipment used in connection with the Services by Microtalk or its suppliers.
- 4.8 The Partner will ensure that it does not do, permit anything to be done, or omit or permit the omission of anything in relation to its equipment which may cause damage to Microtalk's or its supplier's telecommunications networks, or result in interference with or modification of the operation of, Microtalk's or its supplier's telecommunications networks.
- 4.9 The Partner undertakes that it will ensure that Customer complies at all times with Microtalk's latest version of its Acceptable Use Policy.
- 4.10 Partner shall obtain and maintain at its own expense all relevant licences, permission, waivers or permits whatsoever necessary it requires to promote Microtalk's telecommunications services and shall ensure that it complies with all relevant laws and obligations in accordance to the regulatory or legal authority in the countries where Partner operates.
- 4.11 Partner shall identify potential sale opportunities for Microtalk Services to new Customers and shall identify upselling and renewal opportunities with existing Customers.
- 4.12 Partner shall conduct marketing activities to increase the awareness about Microtalk Services.
- 4.13 Partner shall take full responsibility for converting opportunities and leads to sales.

- 4.14 Partner shall provide Customers with professionally presented Service descriptions
- 4.15 Partner shall provide quotations to existing and potential Customers based on wholesale costs and recommended retail rates provided by Microtalk to Partner from time to time in writing by email.
- 4.16 Partner shall provide first line support to its Subscribers.
- 4.17 Partner shall ensure that Customers adheres to Microtalk's, terms and conditions, policies and guidelines of usage of Services.
- 4.18 Partner shall be responsible for collecting payment from customer (in the form of a cheque made out to "**Microtalk Communications Pvt Ltd**" and deposited in Microtalk's nominated bank account.
- 6.1 If the Partner disagrees with a Commission Statement, a written Commission Dispute Notice must be sent by post to the Microtalk's address on the Cover Page for the attention of the Chief Executive Officer within 15 days of receipt of Commission Statement. Commission Disputes communicated by email, fax, verbally, Skype or any other electronic messaging medium shall not be valid.
The Commission Dispute Notice must specify:
- a. the reasons for which Partner disputes the Commission Statement;
 - b. the amount in dispute; and
 - c. identifying information in dispute
- 4.19 Partner is responsible for collecting Customers' KYC (Know Your Customer) documentation, including:
- a. Proof of Identity (Pan Card mandatory)
 - b. Proof of Address:
 - c. In case of Proprietor - Utility Bill / Passport / Voter ID Card / Driving Licence /
 - d. Registration Certificate etc.
 - e. In case of Company - Company registration proof.

CLAUSE 5 CONNECTION OF SUBSCRIBER EQUIPMENT TO THE SERVICE

- 5.1 The Partner is responsible for the installation, configuration, monitoring and maintenance of any Customer equipment connected to the Service. The Partner shall ensure that any Customer equipment connected to or used with the Service is connected and used in accordance with any instructions, safety and security procedures applicable to the use of that Customer equipment.
- 5.2 The Partner shall ensure that any Customer equipment attached (directly or indirectly) to the Service by the Customer is technically compatible with the Service and approved for that purpose under any applicable law or regulation. Microtalk does not make any commitment with respect to the interoperability between the Service and the Customer equipment. In the case of Microtalk Provided Equipment sold for the purpose of the Customer's use with the Service, the Partner may rely upon Microtalk's representations as to such compatibility and compliance, as of the date of provision.

CLAUSE 6 MARKETING, PROMOTION & DISTRIBUTION

- 6.1 Unless Partner has been authorised by Microtalk in writing to do so, Partner shall not (i) refer to itself as an authorised representative of Microtalk in promotional, advertising, or other materials, (ii) use Microtalk's name, logos, trademarks, service marks, or any variations thereof in any of its promotional, advertising, or other materials, or (iii) release any public announcements referring to Microtalk's or this Agreement.

CLAUSE 7 SECURITY

- 7.1 Microtalk may issue to Partner, Computer and User Identification Numbers to enable Partner to access Microtalk systems and Services. By accepting these Computer and User Identification Numbers, Partner is accepting responsibility for all costs for all Services ordered and used through the systems accessed by these Computer and User Identification Numbers.

- 7.2 The Partner is responsible for the security and proper use of all Computer and User Identification Numbers allocated by Microtalk to the Partner's employees and/or users and must take all necessary steps to ensure that they are kept confidential, secure, used properly and not disclosed to unauthorised people.
- 7.3 The Partner must immediately inform Microtalk if there is any reason to believe that any Computer and User Identification Number allocated by Microtalk has or is likely to become known to someone not authorised to use it or is being or is likely to be used in an unauthorised way.
- 7.4 If a Partner's employee or system forgets or loses Computer and User Identification Numbers allocated by Microtalk, then the Partner must contact Microtalk and satisfy such security checks as Microtalk may operate. The Partner may change a Computer and User Identification Numbers allocated by Microtalk by contacting Microtalk and satisfying such security checks as Microtalk may operate.
- 7.5 Microtalk reserves the right to suspend Computer and User Identification Number access to the Services if at any time Microtalk considers that there is or is likely to be a breach of security and will notify the Partner as soon as possible after it has done so. Microtalk reserves the right (at its sole discretion) to require the Partner to change any or all of the Computer and User Identification Numbers allocated by Microtalk and used by the Partner in connection with the Services.
- 7.6 In the event of a breach of security, Partner is responsible for all costs associated with all Services used on its Microtalk Account(s) as a result of the security breach.

CLAUSE 8 DATA PROTECTION

- 8.1 The Parties shall strictly comply with all applicable statutes, regulations and orders and, in particular, telecommunication services and data privacy laws and shall obtain and maintain in force all applicable notifications and licences under such statutes, regulations and orders.
- 8.2 Partner acknowledges and accepts that Microtalk may store Partner and Customer data on computer equipment located in any country.
- 8.3 Each Party agrees:
- (a) to comply with any applicable data protection law of India;
 - (b) that it will be solely responsible for any acts or omissions that cause the other Party to be in breach of any applicable data protection law of India, and
 - (c) to comply with all reasonable technical and organisational measures that the other Party implements in order to comply with any applicable data protection law of India.

CLASUE 9 LEGAL AND REGULATORY COMPLIANCE

- 9.1 The Parties will comply with any supplementary conditions to the Agreement that are required by the laws and regulations of India. Such supplementary conditions shall be incorporated into the Agreement, as appropriate.
- 9.2 Where Regulated Service is provided under the Agreement, the terms and conditions and prices for Regulated Service are published on Microtalk's Portal/website and may be amended by Microtalk from time to time. For the avoidance of doubt, the terms and conditions and prices published on Microtalk's website for Regulated Service, and any amendments thereto, shall govern the provision of Regulated Service to the exclusion of all other terms and conditions and prices in the Agreement.
- 9.3 If Microtalk is required in order to comply with law or regulation to modify the Service or amend the terms and conditions or prices, Microtalk reserves the right to do so and notify the Partner as soon as possible of any such modification and any terms and conditions (including Charges) associated with such modification, except in the case of Regulated Service where any such changes will be published as set out in this Clause 13. If a legal or regulatory intervention or ruling of any sort prevents the accomplishment of the purpose of the Agreement, the Partner and Microtalk shall immediately commence good faith negotiations to explore whether a similar economic effect can be obtained consistent with the applicable legal or regulatory requirements.

- 9.4 The delay or failure by Microtalk to perform any of its obligations under the Agreement which is caused by or materially contributed to by a restriction of a legal or regulatory nature which affects, wholly or partly, the provision of the Service(s), shall not constitute a breach of the Agreement.

CLAUSE 10 INTELLECTUAL PROPERTY

- 10.1 All intellectual property rights either pre-existing or created by either Party during or arising from the performance of the Agreement shall remain the absolute property of that Party or its licensors.

CLAUSE 11 LIMITATION OF LIABILITY

- 11.1 Partner agrees that Microtalk shall not be liable for any loss or damage sustained by Partner or its customers or Subscribers due to any failure in or breakdown of the communication facilities associated with providing the Services, for any failure, interruption or degradation of the Services, whatsoever shall be the cause or duration thereof, or for any other cause or claim whatsoever arising under this Agreement.
- 11.2 In any event, and notwithstanding anything contained in this Agreement, in no circumstances shall Microtalk be liable for any of the following types of loss or damage arising under or in relation to the Agreement or any part of it (including without limitation any Service Description, Order Form or the Cover Page), in contract, tort (including negligence or breach of statutory duty) or otherwise however, and whatever the cause thereof,
- (a) for any failure or delay in providing the Services; and/or
 - (b) for any increased costs or expenses; and/or
 - (c) for any loss of profit, business, contracts, revenues, or anticipated savings; and/or
 - (d) for any indirect or consequential damage of any nature whatsoever; and/or
 - (e) any loss arising from the transmission of viruses; and/or
 - (f) any loss or corruption or destruction of data; and/or
 - (g) unauthorised access of Customer's or Partner's equipment, network or data by third party.

Whether or not the Partner or Customer was advised in advance of the possibility of such loss or damage.

- 11.3 In the event the limitation of liability is not permitted by law, then, subject to Clause 11.1 and 11.2 above, the liability of Microtalk in no event shall exceed the amount in INR that is the equivalent of 3 months averaged transacted business between Microtalk and Customer in relation to which the damages arose whether in contract or tort (including negligence or breach of statutory duty) or otherwise arising out of or in connection with this Agreement.

CLAUSE 12 PARTIES NOT PARTNERS

- 12.1 Nothing in this Agreement shall constitute a partnership among Parties nor constitute one Party the agent of the other Party and vice versa. Except as set out in this Agreement, no Party shall have express or implied authority to bind or represent any other Party for any purpose whatsoever unless expressly agreed in writing by the Party concerned.
- 12.2 All persons engaged, employed and/or appointed by either Party shall solely be regarded as employees of that Party and that none of the said persons engaged, employed and/or appointed shall be regarded as employees of the other Party in any instance.
- 12.3 Each Party shall ensure that persons engaged, employed and/or appointed by such Party comply with the terms and provisions as set out in this Agreement and each Party shall remain responsible and liable for any acts or omissions of such persons engaged, employed and/or appointed by such Party.

CLAUSE 13 SUSPENSION OF SERVICES

- 13.1 Microtalk may suspend forthwith the provision of its respective Services until further notice if Customer has outstanding debit balances not paid when due; or
- a) if Microtalk needs to carry out planned works (e.g., preventative maintenance) on its System; or

- b) if Microtalk is required to comply with a government, administrative or judicial order, decision or other such requirement that would prevent Microtalk from providing the Services; or
- c) where the use of the Services, in the reasonable opinion of Microtalk, adversely affect, or is likely to adversely affect, Microtalk facilities or service to its other customers; or
- d) if Customer and/or its agents or Partners engage in any deceptive, misleading, illegal or unethical practices, or use the Services to commit or attempt to commit a crime or facilitate the commission of any crime or other illegal or tortious acts; or
- e) if Customer fails to comply with or Partner fails to enforce Microtalk Acceptable Use Policy; or
- f) if Partner is in default or breach of this Agreement.

13.2 In the event that Microtalk exercises its right to suspend the provision of its Services to Partner it shall provide advance notice to Partner where it is reasonably practicable to do on, failing which, as soon as reasonably practicable allowing suspension.

13.3 The Partner undertakes and confirms that Microtalk shall not be liable for any loss, damage or inconvenience suffered by Partner as a result of any Service suspension made.

CLAUSE 14 COMMENCEMENT AND TERMINATION

14.1 Subject to the provisions for early termination contained in this Agreement, this Agreement shall commence on the Effective Date and shall continue until terminated by either Party.

14.2 Either party may at any time terminate this Agreement by giving a prior written notice of not less than sixty (60) days to the other Party.

14.3 Notwithstanding anything herein contained, and without prejudice to any other rights or remedies Microtalk may have under this Agreement, in law or at equity, Microtalk may terminate this Agreement forthwith:

- (a) if Partner commit a breach of this Agreement and fails to rectify the same within seven (7) days of receipt of a written notice from Microtalk, identifying the breach and requiring its rectification; or
- (b) any governmental or regulatory authority with competence and/or jurisdiction over the Parties decides that the provision of the relevant Service under the Agreement is contrary to existing laws, rules or regulations or any decision, law or other official governmental order makes the provision of the Service illegal. In such case no damages shall be due; or
- (c) any of the authorisations or regulatory formalities required was or is not obtained, is withdrawn or is no longer valid for whatever reason (other than due to the negligence or wilful misconduct of a Party), or due to a Party breaching the terms of said authorisations or regulatory formalities shall be considered a material breach of the Agreement is committed and the Party causing such breach shall not be entitled to terminate the Agreement pursuant to this Clause 14;

14.4 This Agreement shall be terminated immediately by Microtalk in the event that Partner has ceased or threatened to cease business, is or has been wound up or become bankrupt or a receiver and manager or judicial manager has been appointed over the whole or substantial part of its assets or property.

14.5 Termination of this Agreement by either Party shall not affect any rights, liabilities or remedies accrued prior to the termination date of the Agreement.

14.6 Upon termination of the Agreement (or any Service provided under it):

- (d) the rights of the Parties accrued up to the date of such termination shall remain, unaffected; and
- (e) the Partner shall co-operate fully with Microtalk to recover any Microtalk Equipment.

14.7 Microtalk may suspend Service(s) or terminate the Agreement immediately on notice to the Partner where the Partner is in breach of the Agreement or any other contract that the Partner has with Microtalk and if the breach is capable of remedy, fails to remedy the breach within a reasonable time of being requested by Microtalk to do so.

CLAUSE 15 EXPORT CONTROL

- 15.1 The Parties acknowledge that products, software, and technical information (including, but not limited to, Service, technical assistance, etc.) provided under the Agreement may be subject to export laws and regulations of India and other countries, and any use or transfer of the products, software, and technical information must be in compliance with all applicable regulations.
- 15.2 The Parties will not use, distribute, transfer, or transmit the products, software, or technical information (even if incorporated into other products) except in compliance with all applicable export regulations, if requested by either Party, the other Party also agrees to sign written assurances and other export-related documents as may be required to comply with all applicable export regulations.

CLAUSE 16 CONFIDENTIALITY AND NON-COMPETE

- 16.1 Each Party undertakes to the other that it will maintain and treat in confidence this Agreement and the terms of this Agreement including price information relating to the operation of the arrangements which are the subject of this Agreement and all other confidential information whether of a technical or business nature or otherwise relating in any manner to the business or affairs of the other Party which it may receive in connection with this Agreement and shall not divulge the same to any third Party and will allow access of the same to its own staff only on a "need to know" basis, except to the extent that any such information becomes public through no fault of that Party or is required to be disclosed pursuant to law, regulatory authority or administrative agency. The obligations and restrictions in this Clause shall survive for a period of three (3) years after the termination or expiry of this Agreement for whatsoever reasons.
- 16.2 Unless otherwise agreed, for the duration of this Agreement and for a period of thirty six (36) months after the termination of this Agreement (for whatsoever reason) neither Party shall, directly or indirectly:
- (a) solicit or offer employment to any employee of the other Party, or
 - (b) seek the custom of any client, business partner or customer of the other Party other than by means of a general campaign open to all-comers and not specifically targeted at such client or customer of the other Party, or
 - (c) seek to bypass the other Party and contract with any of the other Party's suppliers such that the effect of such arrangements reduces the commercial benefit the other Party may gain from this Agreement or any other agreement the other party may have with its customers. This Clause does not apply to any supplier arrangements either party may have prior to the signing of this Agreement.

CLAUSE 17 DISPUTE RESOLUTION

- 17.1 Should any dispute, disagreement or claim arise between the Parties the Parties shall attempt to resolve the dispute by negotiation. In such event and as and when the dispute arises, one Party may invite the other in writing to meet and to attempt to resolve the dispute within seven (7) days from date of the written invitation.
- 17.2 Should the procedure as described in the preceding Clause fail and the dispute remains unresolved within twenty one (21) days of the date of either Party's written invitation to meet then in such event the matter shall be referred to each Party's Managing Director who shall use their best endeavours to arrange to meet within seven (7) days after the expiry of the aforementioned twenty one (21) day period.
- 17.3 Should the procedure as described in the preceding Clause fail or should for any reason the dispute remain unresolved after the period of forty (40) days after the said written invitation, the Parties agree to submit the dispute for determination to the panel of arbitrators. Each Party shall appoint 1 arbitrator and these 2 arbitrators shall appoint the panel of arbitrators in accordance with the (Indian) Arbitration and Conciliation Act, 1996 (as amended). The panel of arbitrators shall consist of three arbitrators. Each Party will appoint one arbitrator each and the two appointed arbitrators will appoint the third and the presiding arbitrator. The seat of arbitration shall be at Kolkata and the language to be used in the arbitration proceedings shall be English.
- 17.4 Each Party shall bear its own costs in respect of dispute resolution and arbitration, save that, where arbitration takes place, the arbitrator may order otherwise.

17.5 The provisions of the Clauses related to dispute resolution are without prejudice to either Party's right to seek any form of injunctive relief from the courts where a Party deems it necessary to do so.

CLAUSE 18 NOTICES

18.1 Address. All notices, demands or other communications required or permitted to be given or made under or in connection with this Agreement shall be in writing and shall be sufficiently given or made (i) if delivered by hand or (ii) sent by pre-paid registered post. Either Party may from time to time notify the other of its change of address or in accordance with this Clause.

18.2 Deemed Delivery. Any such notice, demand or communication shall be deemed to have been duly served (i) if delivered by hand or sent by pre-paid registered post, at the time of delivery.

18.3 All other information (with the exception of a Billing Dispute Notice), including but not limited to price changes, low credit warnings, technical and marketing information shall be sent by email and shall be assumed to have been delivered on the same day it was sent. Customer is responsible for keeping its contact email addresses up to date on the Microtalk systems through the Portal.

18.4 Notices to Microtalk and to Partner are to be sent to the addresses at the top of this Agreement.

CLAUSE 19 ILLEGALITY/SEVERABILITY

19.1 Any provision of this Agreement which is held invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.

CLAUSE 20 ASSIGNMENT

20.1 This Agreement shall not be assigned or transferred (nor the performance of any obligations hereunder sub-contracted) by the Partner. However, Microtalk may assign, novate or transfer its rights and obligations under this Agreement to its Affiliates or related corporations without the consent of Partner.

CLAUSE 21 NO WAIVER

21.1 No term or provision of this Agreement shall be deemed waived and no breach or default shall be deemed excused unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. A consent to waiver of or excuse for a breach or default by either Party, whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for any different or subsequent breach or default.

CLAUSE 22 FORCE MAJEURE

22.1 No failure or omission by Microtalk or Partner to carry out or observe any of the terms and conditions of this Agreement shall give rise to any claim against such Party by the other Party or be deemed to be a breach of this Agreement if such failure or omission arises from any circumstances known as Force Majeure, or any other cause beyond the reasonable control of Microtalk or Partner, as the case may be.

22.2 In this Agreement, "Force Majeure" means any cause of any kind whatsoever, not reasonably within control of a party hereto and includes, without limitation: acts of God, fire, accidents, military conflict, vandalism, sabotage, cable out, breakdowns, or accident to equipment or software, failure; delay or disruption of transportation facilities, inability to obtain or curtailment of supplies of materials, equipment, software or labour required to perform or comply with any obligation or covenant under this Agreement, strikes, lockouts or any other industrial, civil or public disturbances, any laws, orders, rules, regulations acts or restraints of any government or government body or authority, civil or military, including the order and judgements of courts.

22.3 The Party prevented from fulfilling its obligations shall on becoming aware of such event inform the other Party in writing of such force majeure event as soon as possible. If the force majeure event continues for more than sixty (60) days, either Party shall have the right to terminate the Agreement with immediate effect by written notice.

22.4 Microtalk will have no liability to the Partner for failure to supply the Service if;

- a) a third person refuses or delays to supply a service to Microtalk and there is no alternative available at reasonable cost; or
- b) Microtalk is prevented by legal or regulatory restrictions from supplying the Service.

CLAUSE 23 AMENDMENT

23.1 This Agreement may not be amended, varied or modified in any manner except in writing signed by a duly authorized officer or representative of each of the Parties hereto.

CLAUSE 24 COUNTERPARTS & ENTIRE AGREEMENT

24.1 Each Agreement between the Parties may be executed via an electronic on-line signature, in any number of counterparts and by the Parties on separate counterparts. Each counterpart shall constitute an original of the respective Agreement, but together the counterparts shall constitute one document.

24.2 This Agreement (including the documents and instruments referred to herein) supersedes all prior representations, arrangements, understandings and agreements between Parties relating to the subject matter hereof and sets forth the entire complete and exclusive agreement and understanding between the Parties hereto relating to the subject matter hereof; no Party has relied on any representation, arrangement, understanding or agreement (whether written or oral) not expressly set out referred to in this Agreement.

CLAUSE 25 LAW AND JURISDICTION

25.1 This Agreement shall be subject to and construed in accordance with the laws of India. It is irrevocably agreed that the appropriate Court(s) of Kolkata shall have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement and which cannot be settled by the Parties and that accordingly any suit, action or proceeding arising out of or in connection with this Agreement (hereinafter referred to as "**the Proceedings**") shall be brought in such court and that each Party hereto submits to the exclusive jurisdiction of such court.

25.2 Nothing in the preceding Clause shall limit the right of Microtalk to take the Proceedings:

- (a) in any other manner permitted by laws; or
- (b) in any other court of competent jurisdiction, nor shall the taking of the Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not.

----- End -----