

MASTER SERVICE
AGREEMENT Dated 01 June, 2022

BY AND BETWEEN

Rackbank Datacenters Pvt. Limited

(‘Service Provider’)

and

(‘Customer’)

MASTER SERVICE AGREEMENT

This Master Service Agreement (“**Agreement**” or “**MSA**”) dated 01 June, 2022 is made by and between Rackbank Datacentres Private Limited, a company registered under the laws of India with its primary offices situated at Building No 1, Crystal IT Park (SEZ), Ring Road, Indore - 452014 (hereinafter referred to as “**Service Provider**” which expression shall include its successors and assignees) and [●], a company incorporated under laws of [●] and having its primary offices situated at [●] (hereinafter referred to as the “**Customer**” which expression shall include its successors and permitted assignees) shall become effective from [●] (“**Effective Date**”).

Service Provider and Customer shall individually be referred to as a “*Party*” and collectively as “*Parties*”.

The Parties agree that as of the Effective Date, this Agreement shall constitute the complete exclusive statement of the agreement between them and that this Agreement shall supersede and replace any prior agreements between the Parties regarding the subject matter herein.

WHEREAS this Agreement describes the terms and conditions under which the Customer will obtain Service Provider’s Services (*defined later*) and the Parties intend that any specific business transactions will be implemented through individual separately executed Purchase Orders (*defined later*) unless otherwise provided under Part A of Schedule I to this Agreement.

WHEREAS the following Schedules are attached hereto and incorporated into this Agreement by this reference:

Schedule I, Part A – Specific Terms Addendum and Schedule 1, Part B (together referred to as “**STA**”) Schedule II – Service Level Agreement (“**SLA**”)

NOW, THEREFORE, in consideration of the mutual promises herein, Service Provider and the Customer agree as follows:

1. **Definitions:**

- 1.1. “**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the entity referred to, but only for so long as such control exists;
- 1.2. “**Agreement**” means, collectively, the MSA, any applicable Purchase Order, STA, AUP, SLA and other addenda which govern the provision of Services mutually agreed between the Parties.
- 1.3. “**Applicable Laws**” mean all laws/rules/regulations applicable on the Services according to the governing laws of the Governing Law Country mentioned under Section 7 of the STA.
- 1.4. “**AUP**” means Service Provider’s Acceptable User Policy found at <https://www.rackbank.com/acceptance-user-policy.php>
- 1.5. “**Billing Commencement Date**” means the date on which the billing period shall commence as mentioned under Section 9 of STA.
- 1.6. “**Business Day**” means Monday through Saturday, excluding public holidays, in the country whose laws govern this Agreement.
- 1.7. “**Confidential Information**” means non-public information disclosed by one party to the other in any form that: (i) is designated as “Confidential”; (ii) a reasonable person knows or reasonably should understand to be confidential; or (iii) includes either party’s products, customers, marketing and promotions, know-how, or the negotiated terms of the Agreement; and which is not independently developed by the other party without reference to the other’s Confidential Information or otherwise known to the other party on a non-confidential basis prior to disclosure.

- 1.8. **“Cure Period”** shall mean the period mentioned under Section 12 of the STA.
- 1.9. **“Customer Configuration”** means an information technology system (hardware, software and/or other information technology components) which is the subject of the Services or to which the Services relate.
- 1.10. **“Customer Data”** means all data which Customer receives, stores, or transmits on or using the Customer Configuration.
- 1.11. **“Due Date”** means the date on which a period of thirty (30) days from the date of a valid invoice raised by the Service Provider on the Customer for the Services.
- 1.12. **“End User”** means any individual or entity that directly or indirectly through another user:
(a) accesses or uses Customer’s Content; or (b) otherwise accesses or uses the Services under Customer’s account. The term “End User” does not include individuals or entities when they are accessing or using the Services or any content under their own account with the Service Provider, rather than under Customer’s account.
- 1.13. **“Fees”** mean the fee payable by the Customer to the Service Provider for the Services as per the terms of this Agreement
- 1.14. **“Hosted System”** means a Customer Configuration provided by the Service Provider for Customer’s use of Services.
- 1.15. **“Initial Term”** means the term of this Agreement as specified under Section 13 of STA.
- 1.16. **“Jurisdiction”** means the courts of law situated in and having jurisdiction in the city/region mentioned under Section 8 of the STA.
- 1.17. **“Purchase Order(s)”** shall mean all purchase orders pertaining to the Services and/or additional/supplemental services, raised by the Customer and duly accepted by the Service Provider under this Agreement.
- 1.18. **“Renewal Term”** means the automatic renewal period following expiry of the Initial Term, for consecutive rolling 90 day terms unless otherwise provided under the STA.
- 1.19. **“Services”** shall mean all services provided by the Service Provider to which the Customer subscribes to, by the virtue of this Agreement as described under Schedule I, Part B and/or any subsequent Purchase Orders.
- 1.20. **“Service Level Agreement”** or **“SLA”** means the Services Levels Agreement entered between the Parties as provided under Schedule II to this Agreement.
- 1.21. **“STA”** means the Specific Terms Addendum provided under Schedule I to this Agreement.
- 1.22. **“Tax”** means all taxes applicable on the provision of Services as per the Applicable Laws.

2. Terms Governing Provision of Services:

The Parties agree that this Agreement shall be read together with the purchase order(s) for Services issued by the Customer and accepted by Service Provider, and together they shall constitute the terms and conditions on which the Services shall be provided by Service Provider to the Customer. In case of conflict among different documents or sections, each of the following would prevail over the subsequent ones:

- STA
- SLA
- AUP
- MSA
- Purchase Order

3. Services:

Subject to the terms and conditions set forth in this Agreement, Service Provider shall provide the Services to the Customer. In case the relevant section in Schedule 1, Part B is blank, services

mentioned in the Purchase Order issued by the Customer and duly accepted by the Service Provider shall constitute Services.

4. Change in Scope of Services:

4.1. Customer may request additional services during the Term by (i) executing a statement of work prepared by the Service Provider (“SOW”); or (ii) by placing a Purchase Order. SOWs and Purchase Orders may also be collectively referred to as “Orders”. SOWs will not be effective unless signed by both Parties. Customer and Service Provider may execute multiple Orders under this Agreement and all Orders will be governed by the terms and conditions of this Agreement. Each additional Order will supplement rather than replace the prior Orders, unless otherwise stated by the Parties in writing.

4.2. If Customer requests a change to an existing Order, Service Provider will prepare a change order (“Change Order”) as per the Change Request Procedure provided under Section 14 of the STA which will be effective when signed by the Parties. Change Orders will amend existing Orders but will not replace them, unless otherwise agreed to by the Parties in writing. Service Provider has no obligation to execute, or to amend, any Order, including any Change Order, with Customer.

5. Lock-In Period:

Customer acknowledges and accepts that the provision of Services by the Service Provider shall be subject to Lock-In Period as provided under Section 11 of STA. The Customer shall not be entitled to terminate this Agreement during the Lock-In Period for any reasons whatsoever except for the sole reason as specified under Clause 13.3 (a) and (b). Notwithstanding anything contained herein, if the Customer terminates this Agreement before the expiry of Lock-In Period, then the Customer undertakes and agrees to pay the Service Provider, on or before the effective date of termination of this Agreement, an early termination compensation of an amount equivalent to the fee payable for the balance period of such Lock-In Period, calculated as per such effective date of termination of this Agreement.

6. Fees and Payment Terms:

6.1. The fees that the Service Provider shall charge for Services shall be agreed upon by Parties from time to time and set forth in the relevant Purchase Order. Unless otherwise agreed between the Parties in writing, Fees for the Services will begin to accrue on the Billing Commencement Date. Service Provider will invoice the Customer for the Services in advance at the beginning of every Billing Cycle, as defined under Section 10 of the STA. Customer shall pay all undisputed invoices raised by the Customer on or before the Due Date. Partial months will be billed on a pro rata basis based on a thirty (30) day month and Customer will pay for the Services in accordance with this Section.

6.2. Invoices that are not disputed within thirty (30) days of the invoice date are conclusively deemed to be accepted as accurate by Customer.

6.3. Any overdue amounts owed by Customer will accrue interest at the lesser of two percent (2%) per month or the highest rate permitted by Applicable Laws.

6.4. In the instance if the actual consumption by the Customer under this Agreement exceeds the mutually agreed consumption levels as per the scope of Services, the Parties agree and affirm that the Service Provider shall be entitled to raise a demand note evidencing such excess consumption, charging the Customer as per the agreed rates calculated on a pro-rata basis and the Customer undertakes to honour such undisputed demand note(s) and pay the additional fee charged therein. The Service Provider undertakes that it shall provide the necessary

documents/evidences to establish such excess consumption of Services on part of the Customer.

- 6.5. All amounts due to the Service Provider under the Agreement are exclusive of Tax. Service Provider shall invoice all taxes applicable on the Services as per Applicable Laws to the Customer and Customer shall pay Service Provider any Tax that is due or provide Service Provider with satisfactory evidence of Customer's exemption from the Tax in advance of invoicing. Customer shall provide Service Provider with accurate and adequate documentation sufficient to permit Service Provider to determine if any Tax is due.
- 6.6. All payments to the Service Provider shall be made without any withholding or deduction for any taxes except for local withholding taxes. Customer agrees to provide the Service Provider with accurate factual information and documentation of Customer's payment of any such local withholding taxes in a timely manner. Service Provider shall remit such cost to Customer in the form of a credit on Customer's outstanding account balance following receipt of sufficient evidence of payment of any such local withholding taxes as per Applicable Laws.

7. Representations and Undertakings:

- 7.1. Each Party represents that:
 - a. It has the legal right and authority to enter into this Agreement and is not barred by any agency or under Applicable Laws.
 - b. All the information and disclosures made in respect to this Agreement are true and accurate.
 - c. It has taken all necessary authorizations and approvals for the purpose of execution of this Agreement.
- 7.2. Customer represents that except to the extent caused by Service Provider's breach of this Agreement, (a) Customer is responsible for all activities that occur under the Hosted System, regardless of whether the activities are authorized by the Customer or undertaken by the Customer, Customer's employees or a third party (including Customer's contractors, agents or End Users), and (b) Service Provider is not responsible for unauthorized access (not attributable to the Service Provider) to Customer's Hosted System.
- 7.3. Customer further represents that it owns and/or has the lawful right to possess contents, materials and the data (including the Customer Data) which runs on the Services or causes to interface with the Services or which is uploaded for the Services or posted or submitted or otherwise used during availing of the Services by the Customer and such contents do not violate any terms of this Agreement or any Applicable Laws. Customer is solely responsible for the development, content, operation, maintenance, and use of Customer Data and content on the Hosted System.
- 7.4. Customer agrees to utilize the Services strictly in accordance with the AUP. Service Provider shall be entitled to modify the AUP from time to time and such amended AUP, made available at the website of Service Provider, shall be applicable. In all events where the Parties have mutually agreed to modify the terms of the AUP and such modifications shall be captured under this Agreement, the terms so modified shall prevail over the AUP and shall be read harmoniously with the terms of the AUP. If no such modifications are mentioned under this Agreement, then the standard AUP shall remain applicable.
- 7.5. Service Provider represents that the Services provided under this Agreement are not in violation of any Applicable Laws and undertakes to provide Services in accordance with this Agreement.
- 7.6. Service Provider does not provide any support or services to End Users unless Service Provider has a separate agreement with the Customer stating otherwise or an End User obligating us to provide such support or services.

8. Confidentiality:

- 8.1. Each Party (“**Receiving Party**”) agrees that it will not disclose to third party/ies any information belonging to the other Party (“**Disclosing Party**”) which is provided to it by the Disclosing Party before, during and after the execution of this Agreement. All such information belonging to the Disclosing Party and provided to the Receiving Party shall be considered Confidential Information. Confidential Information includes prices, quotations, negotiated issues made before the execution of the Agreement, server configuration, design and other related information and information relating to the contents to be transmitted to and from the servers of Service Provider or Customer. All information provided by a Party to the other shall be considered confidential even if it is not conspicuously marked as confidential.
- 8.2. Notwithstanding the foregoing, neither Party shall have any obligations regarding non-use or non-disclosure of any confidential information which (i) is already known to the Receiving Party at the time of disclosure; (ii) is or becomes part of the public domain without violation of the terms hereof; (iii) is shown by conclusive documentary evidence to have been developed independently by the Receiving Party without violation of the terms hereof; (iv) is disclosed by the Disclosing Party to a third party without similar restrictions on the third party's rights; or (v) is received from a third party without similar restrictions and without violation of this or a similar agreement.
- 8.3. Each Party agrees not to disclose any of the Confidential information obtained from the other under any circumstances to any third party unless it is so required by law to be disclosed or if it falls under any of the exceptions mentioned in Clause 8.2 above. Any disclosure to be made by the Customer as per the requirements of law shall be so disclosed on providing advance notice to Service Provider with the reasons for such disclosures.
- 8.4. The terms and conditions of this Agreement, and all annexes, attachments and amendments hereto and thereto shall be considered Confidential Information. No news release, public announcement, advertisement or publicity concerning this Agreement and/or its contents herein shall be made by either Party without the prior written approval of the other Party unless such disclosure or public announcement is required by applicable law. Notwithstanding any provision to the contrary, Service Provider shall be entitled to freely disclose the information that it is providing / has provided the Services to the Customer in its marketing, promotion or other materials.

9. Temporary Suspension of Services:

- 9.1. Service Provider may suspend or limit Customer's or any End User's right to access or use any portion or all of the Services immediately upon prompt notice to the Customer if the Service Provider determines:
- (a) Customer's or an End User's use of the Services;
 - i. poses an immediate security risk to the Hosted System or any third party,
 - ii. could adversely impact Service Provider's systems, the Services or the systems or content of any other customer,
 - iii. could be fraudulent or be utilized to cause fraud or be illegal or be utilized to aid or abet illegal activities;
 - (b) Customer is in breach of this Agreement and fails to cure such breach within a period of ten (10) days (or such mutually agreeable period) of Service Provider notifying the Customer of such breach;

- (c) Customer is in breach of its payment obligations under Section 5 and fails to cure such breach within the Cure Period.
- (d) In all events where such suspension or limitation is required by law.

In all events of suspension under Clause 9.1(a)(i) and Clause 9.1(a)(ii), the Service Provider must furnish a detailed Root Cause Analysis (RCA) Report to the Customer evidencing and justifying such reason for suspension and the cause for such suspension attributable to the acts and/or omissions of the Customer/End User. Further, Service Provider will limit a suspension and/or limitation in time and scope as reasonably possible under the circumstances

9.2. Effect of Suspension.

In the event Service Provider suspends Customer's right to access or use any portion or all of the Services under Clause 9.1 above:

- (a) Customer remains responsible for all fees and charges the Customer incurs during the period of suspension; and
- (b) Customer will not be entitled to any service credits as provided under the SLA for such period of suspension.

10. Data Privacy:

- 10.1. The Service Provider shall without limiting Clause 15 or Customer's obligations under Clause 7.3 , implement and undertake reasonable and appropriate measures designed to help the Customer secure Customer Data against accidental or unlawful loss, access or disclosure.
- 10.2. All data privacy laws/rules as per the laws of the Governing Law Country (defined under Section 7 of STA) shall be applicable to the Services. Further, the Parties agree and affirm that in all cases where the Customer Services pertain to colocation services only, the Service Provider shall not have any access to Customer Data. Hence, this clause will not be applicable in such cases.
- 10.3. The Customer acknowledges that the Service Provider may require to disclose information and data provided to it by Customer, including information that identifies an individual or a person either directly or indirectly and alone or in combination with other information available (such identifying information being referred to as "**Personal Information**"), such as a person's name, phone number and email address, to Service Provider's affiliates and associates to carry out Services under this Agreement. Service Provider may also disclose Personal Information obtained from Customer if required (i) under applicable laws including in connection with law enforcement, fraud prevention, or other legal action, or as required by law or regulation, or (ii) for optimisation of Services or (iii) if it reasonably considers it necessary to protect itself, its customers, or the public; All disclosures under this Clause shall be subject to prior intimation of such disclosure by the Service Provider to the Customer unless specifically barred thereto.
- 10.4. The Customer shall be deemed to have consented to disclosure of Personal Information by the Service Provider in the instances mentioned under Clause 10.3 above by providing such Personal information to the Service Provider in the course of Service Provider's performance of the Services.
- 10.5. The Service Provider hereby undertakes that the Service Provider shall comply with all applicable data privacy laws while handling Personal Information belonging to the Customer. All such disclosures and compliances will be governed and monitored by the Service Provider's dedicated Committee on GDPR and Data Protection Laws which shall ensure Service Provider's compliance with such applicable data protection laws. However, the Parties agree and affirm unequivocally due to the nature of the Services, the Service Provider does not

have any access to Customer Data and hence cannot be held liable for any losses/damages that the Customer may suffer on account of Customer Data.

11. Indemnity

- 11.1. Service Provider will indemnify, defend and hold harmless the Customer including their, directors, employees, agents and contractors from any and all liability, damages, costs and expenses (including reasonable attorneys' fees and expenses) that the Customer may incur as a result of (a) gross negligence or wilful misconduct of the Service Provider solely, in provision of Services to the Customer; and (b) .any third-party claim alleging that the Services infringe or misappropriate that third party's intellectual property rights, and undertakes to pay the amount of any adverse final judgment or settlement.
- 11.2. Customer will defend, indemnify, and hold harmless the Service Provider, its Affiliates and licensors, and each of their respective employees, officers, directors, and representatives from and against any Losses arising out of or relating to any third-party claim concerning: (a) Customer's or any End Users' use of the Services (including any activities and use by Customer's employees and personnel); (b) violation of this Agreement or applicable law by the Customer or Customer's End Users; or (c) a dispute between Customer and any of its End User (d) an allegation that any of Customer Content infringes or misappropriates that third party's intellectual property rights, and will pay the amount of any adverse final judgment or settlement; except in cases where such third party claim is solely attributable to gross negligence or wilful misconduct on part of the Service Provider.
- 11.3. The obligations under this Section 11 will apply only if the party seeking defense or indemnity: (a) gives the other party prompt written notice of the claim; (b) permits the other party to control the defense and settlement of the claim; and (c) reasonably cooperates with the other party (at the other party's expense) in the defense and settlement of the claim. In no event will a party agree to any settlement of any claim that involves any commitment, other than the payment of money, without the written consent of the other party.

12. LIMITATION ON DAMAGES:

- 12.1. Notwithstanding anything in the Agreement to the contrary:
 - (a) Either Party's liability arising out of any loss or damages for which limitation is expressly prohibited by Applicable Laws, shall be unlimited.
 - (b) Subject to Clause 12.1(a), the maximum aggregate monetary liability of either Party and any of its representatives in connection with the Services or this Agreement under any theory of law shall not exceed the actual damages incurred up to the greater of: (i) an amount equal to six times the Fees payable by Customer for the Services in the first month of the Initial Term, or (ii) the total amount paid by Customer to the Service Provider for the Services that are the subject of the claim in the 12 months immediately preceding the event(s) that first gave rise to the claim.
- 12.2. Neither party (nor any of its representatives) is liable to the other party for any indirect, special, incidental, exemplary, or consequential loss or damages of any kind. Neither party is liable for any loss that could have been avoided by the damaged party's use of reasonable diligence, even if the party responsible for the damages has been advised or should be aware of the possibility of such damages. In no event shall either party be liable to the other for any punitive damages; or for any loss of profits, data, revenue, business opportunities, customers, contracts, goodwill, or reputation.

12.3. As an essential part of the Agreement, the liquidated damages payable under the SLA(s) shall be the credits stated in any applicable SLA(s) which are Customer's sole and exclusive remedy for Service Provider's failure to meet those guarantees for which credits are provided; and the parties agree that the credits are not a penalty, are fair and reasonable and represent a reasonable estimate of loss that may reasonably be anticipated from any breach. The maximum credit(s) for failures to meet any applicable SLA(s) for any calendar month shall not exceed 100% of the then current monthly recurring Fee for the Services. Customer is not entitled to a credit if Customer is in breach of the Agreement at the time of the occurrence of the event giving rise to the credit, until such time as Customer has remedied the breach. No credit shall be due if the credit would not have accrued but for Customer's action or omission.

13. Term and Termination:

13.1. **Term:** The term of this Agreement shall commence on the Effective Date and shall remain valid till the expiry of Initial Term and any Renewal Term thereto, unless terminated under Clause 13 of this Agreement.

13.2. **Termination for Convenience:** Either Party may terminate this Agreement for any reason by providing the other Party, a written notice of termination at least ninety (90) days prior to such date of termination.

13.3. Termination for Cause:

- a. Either party may terminate this Agreement for cause if the other party is in material breach of this Agreement and if the other party fails to cure the material breach within the Cure Period.
- b. Customer may terminate this Agreement if the Service Provider fails to provide Services as agreed between the Parties under this Agreement.
- c. Service Provider may terminate this Agreement upon breach of monetary terms under Clause 5 above and fails to cure such breach within the Cure Period.

14. Effects of Termination:

The Parties agree and affirm that upon the date of termination/expiry of this Agreement:

- a. Except as provided in Sub-Clause (d) hereunder, all rights of the Customer under this Agreement immediately terminate.
- b. Customer shall remain responsible for all fees and charges payable by the through the date of termination for Services rendered by the Service Provider.
- c. Either Party shall immediately return/destroy all Confidential Information belonging to the other party that may be in its possession as instructed by such party.
- d. The Service Provider must allow the Customer to retrieve any data/remove any physical assets/equipment belonging to the Customer within a period of ten (10) days from the date of termination, provided that the Customer has cleared all outstanding dues payable to the Service Provider till such date of termination.
- e. Termination shall not affect the rights and liabilities of a Party that have accrued before the effective date of termination.

15. DISCLAIMER:

THE SERVICES ARE PROVIDED "AS IS." EXCEPT TO THE EXTENT PROHIBITED BY LAW, OR TO THE EXTENT ANY STATUTORY RIGHTS APPLY THAT CANNOT BE EXCLUDED, LIMITED OR WAIVED, SERVICE PROVIDER AND ITS AFFILIATES (A) MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE SERVICE OFFERINGS OR

THE THIRD-PARTY CONTENT, AND (B) DISCLAIM ALL WARRANTIES, INCLUDING ANY IMPLIED OR EXPRESS WARRANTIES (I) OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, (II) ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE, (III) THAT THE SERVICE OFFERINGS OR THIRD-PARTY CONTENT WILL BE UNINTERRUPTED, ERROR FREE OR FREE OF HARMFUL COMPONENTS, AND (IV) THAT ANY CONTENT WILL BE SECURE OR NOT OTHERWISE LOST OR ALTERED.

16. Notices:

- 16.1. Customer's routine communications to the Service Provider regarding the Services should be sent to Customer's Account Manager via authorised e-mail ID of the Customer. To serve any notice/communications regarding termination of the Agreement for breach, indemnification, or other legal matter, Customer shall send the same via electronic mail and/or through postal service to the address mentioned under Section 3 of the STA.
- 16.2. All communications by the Service Provider with respect to this Agreement should be sent to the Customer via electronic mail/fax/registered post/courier at the address or email address mentioned under Section 6 of the STA.

17. Force Majeure:

A Party shall not be liable to the other Party if, and to the extent, that the performance of any of its obligations under this Agreement (excluding obligations in relation to the Customer's payment for Services already rendered and/or being rendered during the Force Majeure event) is prevented, restricted, delayed or interfered with due to circumstances beyond the reasonable control of that Party, including, but not limited to, circumstances such as change in legislation, fire, flood, explosion, epidemic, accident, act of God, war, riot, terrorist activities, strike, lockout and/or act of government (Force Majeure).

The Party claiming an event of Force Majeure as aforesaid shall promptly notify the other Party in writing, and provide full particulars of the event of Force Majeure and the date of first occurrence thereof, as soon as possible after the event and also keep the other Party informed of any further developments. The Party so affected shall use its commercially reasonable efforts to remove the cause of non-performance, and shall, unless otherwise agreed to by the other Party in writing, resume performance hereunder with utmost dispatch when such cause of non-performance is removed.

18. Governing Law and Dispute Resolution:

18.1. This Agreement shall be governed by the laws of the region/country as provided under Section 7 of the STA.

18.2. In case of any disagreement or dispute between the Customer and the Service Provider, the dispute will be resolved in the manner as outlined hereunder.

The Customer and the Service Provider shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute between them on any matter connected with this Agreement or in regard to the interpretation thereof. If, after thirty (30) days from the commencement of informal negotiations, the Customer and Service Provider have not been able to resolve the dispute amicably, such differences and disputes shall be referred, at the option of either Party, to arbitration by a single arbitrator to be mutually agreed upon between the Parties. In the event of no consensus, the courts of the relevant Jurisdiction shall appoint an Arbitrator.

Such arbitration will be conducted in accordance with the prevailing arbitration laws/rules of such country whose laws govern this Agreement. The arbitration shall take place in the Jurisdiction city, unless otherwise mutually agreed by the Parties and shall be conducted in the English language.

19. Assignment/Subcontractors

Neither party shall assign this Agreement and/or any Purchase Orders without the prior consent of the other party, except to an Affiliate or successor as part of a corporate reorganization or a sale of some or all of its business, provided the assigning party notifies the other party of such change of control. The Service Provider may use its Affiliates or subcontractors to perform all or any part of the Services, but the Service Provider remains responsible under the Agreement for work performed by its Affiliates and subcontractors to the same extent as if the Service Provider performed the Services itself.

20. Ownership

- 20.1. Each Party acknowledges and agrees that the other Party retains exclusive ownership and rights in its trade secrets, inventions, copyrights, and other intellectual property and any hardware provided by such Party in relation to this Agreement.
- 20.2. Neither Party shall remove or misuse or modify any copyright, trade mark or any other proprietary right of the other Party which is known by virtue of this Agreement, in any circumstances.

21. Declaration with regard to Internet Bandwidth and Public IPs:

The Service Provider hereby declares that in all instances where Internet Bandwidth and/or public IPs are provided to the Customer as a part of the Services, such Internet Bandwidth and/or public IPs are sourced through Tata Communications (formerly VSNL) and Vodafone India Limited, a 'Class A' ISP License holding company incorporated under the Companies Act, 1956. Tata Communications (formerly VSNL) and Vodafone India Limited are the Service Provider, owned and managed by the same promoter group as the Service Provider. All billings on account of the said Internet Bandwidth and/or public IPs that may form the part of the Services under this Agreement, are done by the Service Provider on behalf of Tata Communications (formerly VSNL) and Vodafone India Limited.

22. Miscellaneous;

- 22.1. The provisions that by their nature are intended to survive expiration or termination of the Agreement shall survive expiration or termination of this MSA including all terms of the Agreement requiring Customer to pay any Fees for Services provided prior to the time of expiration or termination.
- 22.2. The Agreement constitutes the complete and exclusive understanding between the Parties regarding its subject matter and supersedes and replaces any prior or contemporaneous representation(s), agreement(s) or understanding(s), written or oral.
- 22.3. Amendment/Modification of this Agreement: This Agreement may be amended only by the written agreement of both Parties.
- 22.4. General.

Except where otherwise expressly stated herein, and subject to the limitations set forth under this Agreement, the rights and remedies provided for herein are cumulative and not exclusive of any rights or remedies that a Party would otherwise have.
- 22.5. Each Party recognizes and agrees that the warranty disclaimers and liability and remedy limitations in this Agreement are material bargained for bases of this Agreement and that they have been taken into account and reflected in determining the consideration to be given by each Party under this Agreement and in the decision by each Party to enter into this Agreement.
- 22.6. Service Provider and Customer are independent contractors and this Agreement will not

establish any relationship of partnership, joist venture, employment, franchise or agency between the Service Provider and Customer. Neither the Service Provider nor Customer will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

- 22.7. The Parties agree that there will be no third party beneficiaries to this Agreement, including, but not limited to any Authorized Person, end user, customer or the insurance providers for either Party.
- 22.8. No waiver of any breach of any provision of this Agreement will constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver will be effective unless made in writing and signed by an authorized representative of the waiving Party.

IN WITNESS WHEREOF EACH PARTY HAS EXECUTED THIS AGREEMENT ON THE DATES WRITEN BELOW:

Signed by:

Signed by:

Name:

Name:

Position:

Position:

FOR AND ON BEHALF OF
Rackbank Datacenters Pvt. Ltd.

FOR AND ON BEHALF OF
Customer

SCHEDULE I
SPECIFIC TERMS ADDENDUM

This Addendum (the “STA”) supplements and amends the Master Service Agreement (the “Agreement”), entered into by and between the Service Provider and the Customer on [INSERT EFFECTIVE DATE OF MSA]. The “Addendum Effective Date” shall be the date of the last signature hereunder. Any capitalized terms used and not defined herein shall have the meaning set forth in the MSA.

- A. Interpretation: This Addendum supplements the MSA and shall be construed and interpreted in a harmonious manner as an integral part of the MSA. . In the event of any inconsistency between any of the clauses of the MSA and this Addendum, the provisions of the Addendum shall survive. All references in the MSA which mention “Section under Schedule I” shall be read as reference to Sections mentioned in the Table under Part A provided below.
- B. This STA and contains two parts:
- (i) Part A: Reference Terms and Specific Amendments to the MSA.
 - (ii) Part B: Commercial Terms

PART A

Reference Terms and Specific Amendments to the MSA

1. Reference Terms:

Section	Description	Particulars
1.	Name of the Service Provider entity	Rackbank Datacenters Pvt. Limited
2.	Registered Office Address of the Service Provider	37, Shanti Nagar, Manoramaganj, Indore, Madhya Pradesh - 452001
3.	Communication Details of the Service Provider	Address: Building - 1, First Floor, Crystal IT Park (SEZ), Ring Road, Indore, Madhya Pradesh 452014
		Attn: Legal Team
		Email: legal@rackbank.com
4.	Name of the Customer	<i>To be inserted by Customer/Business</i>
5.	Registered Office Address of the Customer	<i>To be inserted by Customer/Business</i>
6.	Communication Details of the Customer	Address: <i>To be inserted by Customer/Business</i>
		Attn: <i>To be inserted by Customer/Business</i>
		Email: <i>To be inserted by Customer/Business</i>
7.	Governing Law Country (<i>Insert name of the country whose laws will govern the MSA</i>)	India
8.	Jurisdiction (<i>Enter the name of the city/region whose courts of law shall have jurisdiction</i>)	Indore
9.	Billing Commencement Date	<i>To be inserted by Business.</i>
10.	Billing Cycle (<i>monthly/quarterly</i>)	<i>To be inserted by Business</i>
11.	Lock-In Period	6 Months
12.	Cure Period	30 days
13.	Initial Term (Contract Period)	<i>To be inserted by Business.</i>

14.	Change Request Procedure	[•]
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2. Specific Amendments to the MSA and/or AUP (if any)

Sample Amendment clause:

2.1 The following language amends Clause xx of the MSA:

“Proposed language of the Clause”

3. General.

This Addendum does not affect the validity or enforceability of the Agreement. Except for the modifications set forth herein, all other terms and conditions of the Agreement remain unchanged and in full force and effect. In the event of any conflict between the terms and conditions of this Addendum and the terms and conditions of the Agreement, this Addendum shall prevail.

Nothing in this Addendum:

- i. prejudices or adversely affects any right, power, authority, discretion or remedy arising under the Agreement before the Addendum Effective Date; or
- ii. discharges, releases or otherwise affects any liability or obligation arising under the Agreement before the Addendum Effective Date.

PART B

Commercial Terms

The services and commercial terms to be provided by the Service Provider shall be detailed in the Statement of Work (SOW) provided along with this MSA.

SCHEDULE II

SERVICE LEVEL AGREEMENT

This Agreement is effective from the Service Commencement Date. This Agreement provides the right under certain circumstances specified below, for a Customer to receive Service Credits in the event of failure by Service Provider to provide Services to the Customer in accordance with the Agreement.

Customer acknowledges that Service Provider has the expertise and knowledge to provide the Services. The Customer has shown his interest in availing the Services provided by Service Provider by accepting the terms and conditions mentioned in this Agreement and the standard of the Service as provided in this SLA.

1. DEFINITIONS

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

“Billing Start Date” shall mean the date of commissioning report submitted to the Customer by

Service Provider. In case the Customer is not satisfied with the solution delivered by Service Provider, the Customer shall inform Service Provider of the same within 3 days of the receipt of Commissioning Date. Upon receipt of the objection, Service Provider shall suspend all Services, make the changes required and release the environment once again with a new Commissioning Report. In such case the latter one shall be regarded as the Billing Start Date. If the Customer uses the commissioned set-up, though he has a few outstanding requests, Customer shall pay full charges from the first Commissioning Report, unless partial billing is agreed to between the parties, before the Customer starts using the Services. If no partial billing agreement has been reached and if Customer uses the Services even after raising objections, Customer shall pay in full from the first date of Commissioning Report

“Downtime” (“D”) shall mean the duration of the Service Outage, calculated in aggregate number of hours in respective month. Where if Service Provider identifies the service outage, the downtime begins from there on or if customer identifies and a Trouble Ticket is raised from the occurrence of Service Outage, the time period for Downtime begins upon start of Service Outage and ends when the *Trouble Ticket* is closed by Service Provider subject to due confirmation from the Customer on resolution of the outage. The time periods are calculated on basis on the number of outages per respective month and excluding the events covered under headings *Exceptions* to this SLA which shall not for the purposes of this SLA be included while measuring Downtime.

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

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

“Facility” means the facility located at office of Service Provider in Hyderabad where Service Provider provides space, racks for placing the servers.

“Fees” means the amount invoiced by Service Provider.

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

“Actual Uptime” (“A”) shall mean the aggregate percentage of Total Uptime Hours in respective month during which the Services is actually made available for use by Customer.

“Representatives” means any person who is nominated or appointed by the Customer to visit the Facility center.

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

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

“Service Outage” shall mean an unscheduled disruption/failure in any Service offered by Service

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

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

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

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

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

2. SCOPE OF THE SERVICES

- 2.1 Service Provider may provide such Services as provided in the Service Catalogue provided in Annexure A to this SLA. The Customer may issue one or more purchase orders to Service Provider for Services and Service Provider shall accept a purchase order only if it is in accordance with the terms of this Agreement and for services as covered by the Service Catalogue.
- 2.2 Service Provider assures Customer that it shall provide its immediate support and assistance in the event of any disruption in the Services being provided by Service Provider. The manner and time frame for troubleshooting and the timelines for the resolution of the problems are mentioned in the Annexure A of this Agreement.
- 2.3 Service Provider assures the Customer 99.995 % uptime availability of the Infrastructure viz., Power and Cooling** covered by this SLA. Hardware Uptimes SLA would be 4 hours resolution from the time of detection of hardware problem either by Service Provider help desk or by the Customer. Subject to Clause 3 of this SLA, in the event Service Provider fails to provide the Customer with the Services required by the Customer in accordance with the SLA, such failure resulting from complete unavailability of Service Provider network, such events will be treated as “Qualified Network Downtime Event” for which Service Provider will issue the Customer a Service Credit - calculated as per method provided in Clause 2.5.

** Service Provider assures Customer that it will provide cooling @ 21°C (+/-) 2°C and

Humidity levels @ 50 % (+/-) 5%.

- 2.4 The Actual Uptime (A) calculated in the respective month and it will be measured (compared) against the total uptime hours of the year 99.995%. If the outages exceeds total uptime hours the following service credits shall be due to Customer:

A >= 99.995% No Credits

A in between 99.994% to 99.000% 2 days equivalent service credit for the Service period affected calculated on a prorate basis.

A in between 98.999% to 98.000% 7 days equivalent service credit for the Service period affected calculated on a prorate basis.

A is < 98% 15days equivalent service credit for the Service period affected calculated on a prorate basis

Calculation of Actual Uptime % =
$$\frac{\text{Total Uptime Hours} - \text{Actual Downtime}}{\text{Total Uptime Hours}} \times 100.$$

- 2.5 The Customer is required to provide a preventive maintenance window, once in every quarter to enable Service Provider to update the various patches and carry out other preventive maintenance. The time required to carry out this preventive maintenance by Service Provider shall depend upon the environment of the Customer and shall be informed to the Customer before the time window is sought. During this window, Customer's environment shall not be available and the same shall not be counted as Downtime.

For the customized solutions provided by Service Provider, preventive maintenance is absolutely essential and the SLAs offered by Service Provider are based on the explicit understanding that the Customer will provide opportunity for Service Provider to carry out preventive maintenance from time to time. In case the Customer does not provide, at least once in a quarter, the requisite downtime to carry out preventive maintenance activities, even after a request is made by Service Provider, Service Provider shall not be liable to provide any Service Credits or any other compensation in case of Downtime or any other loss to Customer such as data loss, denial of service or virus attacks.

- 2.6 Service Provider shall recommend usage of high availability architecture for all critical loads, wherein there is a duplication of critical elements. For instance, this may be two power sources to a rack, or two firewalls in the network. In a high availability set-up, it is clarified that even when one of the elements fail, but the other is still running, then the entire set-up/solution/system/environment is considered to be available and the same shall not be counted as Downtime.

3. EXCEPTIONS

- 3.1 The following events do not constitute a Downtime and shall not be eligible to be considered for any Service Credit:
- (a) Interruption due to scheduled maintenance, alteration, or implementation, where the Service Provider provides at least seven days prior notice and to the Customer and also interruption due to Emergency Maintenance; The usual scheduled maintenance time is the early hours of the morning i.e., between 1am to 6am. The usual maintenance time would not be more than two hours.

- (b) The quarterly maintenance window as described in clause 2.6 above.
- (c) Hardware failure
- (d) Failure of the Customer links, internet connectivity or end user software, access circuits, local loop or any network not owned or managed by Service Provider.
- (e) DNS Issues not in scope and control of Service Provider.
- (f) Negligence or other conduct of Customer or its authorized persons, including a failure or malfunction resulting from applications or services provided by Customer or its authorized persons;
- (g) A shut down due to circumstances reasonably believed by Service Provider to be a significant threat to the normal operation of the Services, Service Provider's facility, or access to or integrity of Customer data (e.g., hacker or virus attack);
- (h) Failure or malfunction of any equipment or services not provided by Service Provider;
- (i) Any abuse or fraud failure to comply with the Acceptable User Policy on the part of Customer and its authorized persons.
- (j) Any problems outside the Service Provider Facility Network.
- (k) Any interruptions, delays or failures caused by Customer or Customer's employees, agents, or subcontractors, such as, the following:
 - i. Inaccurate configuration.
 - ii. Non-compliant use of any software installed on the server.
 - iii. Customer initiated server over-utilization.
 - iv. Any problems related to the attacks on the machine such as hacking, attacks, and exploits.
- (l) Any specific services not part of Services.
- (m) Force Majeure event.

4. SERVICE CREDIT

- 4.1 Service Provider agrees that it shall provide for the requisite service credits to the Customer in the event of it not being able to provide the Services for which it had already received the payments.
- 4.2 Service Provider agrees that on occurrence of any event that attracts service credits the Customer would be eligible to request a Service Credit on compliance of the terms as mentioned in Clause 6.1.(a) of this SLA.
- 4.3 Customer shall be eligible for Service Credit for only those Downtimes which has occurred a month prior to the date of claim and the maximum Service Credit to which Customer shall be entitled is as mentioned in Clause 6.1.(c).

5. PAYMENT TERMS

- 5.1 The Customer shall pay all the charges as set out in the Agreement which includes one-time setup charges, Quarterly recurring charges and other supplemental charges for any Supplemental Services provided including before the Service Commencement Date.

6. PROCEDURE FOR AVAILING SERVICE CREDITS

- 6.1 Whenever the Customer encounters Service Outage, the following procedure should be followed;
 - (a) The Customer should contact Service Provider "Support Desk" without undue delay and shall request for a Trouble Ticket number immediately and can track the Trouble Ticket number till the Trouble Ticket is closed on resolution of the outage.
 - (b) Service Provider on the receipt of the issue of Trouble Ticket to the Customer shall have a background check to verify if the Customer is eligible for the Service Credit.

- (c) When Service Provider fails to provide Services in accordance of the SLA entitling Customer for Service Credits, Service Provider shall credit the Customer's account the prorated base charges from the day the Trouble Ticket is issued to Customer till the Trouble Ticket is closed on resolution of the outage.

6.2 Service Credits will be adjusted in the subsequent billing cycle unless otherwise agreed mutually between the Parties.

7. WARRANTIES OF SERVICE PROVIDER

7.1 Additional Warranties of Service Provider in regards to SLA:

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

8. REPRESENTATIONS OF CUSTOMER

8.1 Additional Warranties of Customer in regards to SLA.

- (a) The Customer will not do any voice communication from anywhere to anywhere by means of dialing a telephone number (PSTN/ISDN/PLMN) as defined in National Numbering plan. The customer will not originate the voice communication service from a Telephone in India and/or terminate the voice communication to any Telephone within India.
- (b) The Customer will not establish any connection to any public switched Network (i.e. telephone voice network) in India and will not use any dial up lines with outward dialing facility from Nodes.
- (c) Customer acknowledges and will not establish any interconnectivity between ISPs for the purposes of offering Internet Telephony Services.

9. NETWORK SECURITY:

For securing the servers of clients against any NW threats, the following are implemented: Firewall, IPS and Antivirus etc. However, Customer can opt for dedicated security gadgets by paying the relevant charges.

10. MANAGING OS AND DB

Setup and administering the OS, DB and HW including the patches updation for the servers for OS and DB will be taken care of by Service Provider as and when required. OS is provided with license and accordingly charged.

11. SERVER AND DB MANAGEMENT

OS and DB management will be provided by Service Provider to the Customer, if opted for and charged accordingly.

12. CLIENT ACCESS TO THE SERVERS

Customer is allowed to access their server only after providing the PO to Service Provider. The Customer is provided with 2 IPs and 24x7x365 monitoring of servers is maintained.

13. DISCLAIMER

With a commitment and desire to offer the best possible technology to the Customer and evolutions in technology, Service Provider shall upgrade its platform from time to time. Accordingly, Service Provider reserves its right to change the platform without any change in the service levels committed.