Master Service Agreement

This Agreement is made at Mumbai and entered into on this........day of ……………of 20…..

BY AND BETWEEN

QualiSpace, (Trunkoz Technologies Pvt. Ltd.) a company incorporated under the Companies Act, 1956, and having its registered office at 602, Avior, Nirmal Galaxy, Opp. Johnson and Johnson, LBS Marg, Mulund (W), Mumbai - 400080, (hereinafter referred to as **"Trunkoz"**), which expression shall mean to include all its assigns, successors and legal representatives, unless repugnant to the meaning hereto, of the **FIRST PART**,

AND

……………………..…………….Company/Individual/Partnership Firm and having its Office at ………………………………………… (hereinafter referred to as **"CUSTOMER"**) which expression unless repugnant to the context shall mean and include its successors and assigns and the person or other entities subscribing to the services of the **SECOND PART.**

This Agreement constitutes the final, complete, and exclusive statement of the terms of the Agreement between the parties as to the subject matter hereof, and supersedes all prior communications,negotiations,discussions,representations,understandings or any agreement between the parties, whether express or implied with respect to the subject matter hereof.

The parties agree that this Master Agreement shall be read and understood accordingly along with the SLA, AUP and the OPF and all these documents collectively shall cover the services to be provided by Trunkoz and to be received by customer.

Whereas the customer approached the Trunkoz to hire its services and thereafter Trunkoz is ready to lend its services on following terms and conditions mentioned in this Agreement which is agreed and accepted by the customer in full understanding.

1. DEFINITIONS:

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

1.1 "Agreement" shall mean the Master Services Agreement ("MSA") and the Services Level Agreement ("SLA") including Accepted User Policy (AUP) collectively. Any conflict between the documents shall be resolved by reading the documents in order mentioned above.

1.2 "Actual Uptime"("A") is the aggregate percentage of Total Uptime Hours in respective month during which the service is actually made available for use by customer.

1.3 "AUP" shall mean Accepted User Policy attached to this Agreement. AUP may be revised from time to time by written agreement of the partied (acting reasonably).

1.4 "Business Day" shall mean Monday to Saturday excluding public holidays.

1.5 "Data" means a representation of information, knowledge, facts, concepts or instruction which are being prepared or have been prepared in a formalized manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer.

1.6 "Downtime"("D") shall mean the duration of the Service Outage, calculated in aggregate number of hours in respective month. Where if Trunkoz identifies the service outage, the downtime begins from there on or if customer identifies and a Trouble Ticket is raised from the occurrence of Outage, the time period for Downtime begins upon when client raises the ticket and ends when the Trouble Ticket is by technical team of 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 heading exceptions to this SLA be included while measuring Downtime.

1.7 "Due Date" shall mean the expiry date specified in the invoice raised by Trunkoz.

1.8 "Effective date" shall mean the day when the OPF is completed in all respects is accepted along with the MSA and SLA.

1.9 "Employee" includes any current or ex-employees.

1.10 "Fees" means the amount invoiced by service provider other than the initial terms fees to be paid to by the customer for use of services provided by service provider.

1.11 "Initial Term" shall mean the period of 12 months from execution of this Agreement.

1.12 "Information" includes data, text, images, sound, voice, codes, computer programs, software and databases or micro film or computer generated micro fiche.

1.13. "INR" shall mean Indian Rupees.

1.14 "Law" includes any Act of Parliament or of a State Legislature, Ordinances promulgated by the President under article 240, Bills enacted as President's Act under sub-clause (a) of

clause (1) of Article 375 of the Constitution and includes rules, regulations, bye-laws and order issued or made there under.

1.15 "Master Service Agreement" means the Agreement which the customer had acknowledged and agreed to the terms mentioned therein.

1.16 "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.

1.17 "Person" includes any company or association or body of persons, whether incorporated or not.

1.18 "Prohibited activity", includes but not limited to, defamation, fraud, false advertising, unsolicited advertising, copyright violations, trademark, service mark, trade dress violation, trade secret violations, obscenity, harassment, threats, abuse, false pretenses, chain letters, inappropriate content, violation of service providers' rule, process abuse, system abuse, support abuse, spam, disruptive activities, inappropriate software, products and services etc.

1.19 "**Renewal term"** shall mean a similar period as mentioned in th**e** Initial Term which automatically extends after th**e** Initial term unless notice is given by the customer as mentioned in the clause 8.1 in this agreement to stop the services at least 30 days prior to expiry of Initial Term.

1.20 "**Service"** shall mean the hosting service like providing servers, other devices as mentioned in the OPF with all such facilities as detailed in the Service Catalogue and any other supplemental services as may be required by the Customer in writing.

1.21 "**Service Level Agreement ("SLA")"** shall mean the Service Level Agreement incorporated by reference in the OPF.

1.22 "**Service Commencement Date"** shall mean the date when Trunkoz sends the Log in details for use in connection with the services.

1.23 "**Supplemental Services"** shall mean any other services which are requested in writing by the customer other than those agreed to be provided by Trunkoz as mentioned in OPF.

1.24"Service Outage" shall mean an unscheduled disruption/failure in any services offered by service provider as per this Agreement due to which customer's server is inaccessible 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 including, switch, router, firewall etc. Failure of Services like Internet connectivity, IDC LAN etc. shall also be treated as Service Outage.

1.25 "Setup Charges" means all charges which may be incurred by Trunkoz for installing the server or any other expenses incurred for the commencement of services to the customer.

1.26 "Support Desk" is the location where the customer shall report a fault. Details of the same are mentioned in SLA, or if changed, may be intimated from time to time by service provider to the customer.

1.27 "Total Uptime Hours" shall mean <u>24 hours, 365 days a year (year is defined as period of 365 days)</u>

1.28 "**USD"** shall mean US Dollars

2. REPRESENTATIONS AND WARRANTIES:

2.1 The parties hereby represent and warrant that it has the right and authority to enter into this Agreement, and that by entering into this Agreement, it will not violate, conflict with, or result in a material default under any other contract, agreement, indenture, decree, judgment, undertaking, conveyance, lien or encumbrance to which it is a party or by which it or any of its property is or may become subject or bound. Each party shall not grant any rights under any future Agreement, nor will it permit or suffer any lien, obligation or encumbrances that would prevent it from performing under this Agreement.

2.2 They will, at their own expense, comply with all laws, regulations and other legal requirements that apply to them with respect to this Agreement, including copyright, privacy and communication decency laws.

<u>Customer:</u>

2.3 Customer represents and warrants that it will, at its own expense, make, obtain and maintain in force at all times during the term of this Agreement, all applicable filings, registrations, reports, licenses, permits and authorizations in order for Customer to perform its obligations under this Agreement.

2.4 It will (a) not utilize (or allow utilization of) the services in a manner that :(i) is prohibited by any law or regulation or Trunkoz policy or to facilitate the violation of any law or regulation or such policy; or (ii) will disrupt third party's use or enjoyment of any communications or outlet; (b) not violate or tamper with the security of any Trunkoz computer equipment or program; and (c) have an Agreement with each customer and end user sufficient to comply with the terms herein.

<u>Trunkoz:</u>

2.5 Trunkoz represents and warrants that it will, at its own expense, make, obtain and maintain in force at all times during the term of this Agreement, all applicable filings, registrations, reports, licenses, permits and authorization in order for Trunkoz to provide the services, and to perform its obligations under this Agreement.

3. GOVERNING LAW:

3.1 This agreement in all respects shall be governed, controlled and interpreted exclusively in accordance with Indian laws regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

3.2 Jurisdiction:

- The parties agree that courts in Mumbai shall have exclusive jurisdiction to hear any suit, action or proceeding arising out of or in connection with this Agreement irrespective of place of signing of Agreement or cause of action or of transactions or any other matter whatsoever in connection with or related to this Agreement.
- Each of the parties hereto consent to the exclusive jurisdiction of courts in Mumbai in any action or proceeding, waives any objection to venue laid therein and agrees not to plead or claim in any such courts that such proceeding brought therein has been brought in any inconvenient forum.

4. INITIAL TERMS:

4.1 The Initial Term for the services shall commence on the service commencement date and shall remain effective for an initial period of 12 months from the date of signing of this Agreement unless any different period is mentioned in the Purchase Order.

4.2 On expiration of the Initial Term as mentioned in clause 4.1, the term for providing services shall be automatically renewed on an annual basis or as per plan taken by the customer (whether annually/quarterly/monthly or whatever) upon the same terms and conditions mentioned in this Agreement, immediately on the next day after the expiry date of the term of the Agreement and referred as Renewal Term.

4.3 In case, if the customer does not wish to avail the services for any reason whatsoever after the expiry of Initial term, then the customer shall send a written notice, not limiting to email, at least 30days prior to the commencement of the renewal term in a manner as described in clause 8.1. In other respects, section 21 shall apply.

5. SERVICE:

5.1 All the information and disclosures made in respect to this Agreement are true and accurate. Trunkoz has taken all necessary authorizations and approvals for the purposes of execution of this Agreement.

5.2 Trunkoz shall take all reasonable measures to ensure that information transfer (within Trunkoz's area of influence) to and from customers materials is secure and Trunkoz shall not use, analyze or access customer data traffic or any other data except for any other purposes necessary for undertaking its contractual obligations as set out herein.

5.3 Trunkoz shall not purport to derive any end user identifiable information from the customer's services/customer's data flow.

5.4 Trunkoz shall not use customer as a reference unless otherwise mutually agreed in writing. Trunkoz shall retain sufficient insurance coverage to cover for its liabilities under this Agreement.

5.5 Services provided by Trunkoz are not in violation of any law or regulation(s) in force. Services required by the customer and agreed to be provided by Trunkoz do not conflict or are not in violation of any law, rules, and regulation(s) in force in the Territory of India.

5.6 Trunkoz agrees to provide services along with any of the facilities as mentioned in the Service Catalogue, from the service commencement date in accordance with the terms of the Agreement and may at its sole discretion consider any improvement/ enhancement to the services which may be requested by the customer.

5.7 Trunkoz in addition to the services provided to the customer may also provide additional services or other technical services as and when required at customer's request for which fees may be fixed and approved in advance, with the customer.

5.8 Services shall not include services for problems arising out of any modification, alteration or attempted modification, alteration or addition of hardware or software or

anything undertaken by person(s) other than Trunkoz or Trunkoz's authorized representatives.

5.9 Trunkoz neither shall be responsible for the non-availability of the site and/or application due to any "bugs" or application failure nor for any changes done by authorised representative of the customer or otherwise in any manner whatsoever even if its without the knowledge and consent of the customer but which leads to downtimes or application failures nor for outages/downtimes on the internet network nor for any reason whatsoever arises or incidental thereto.

6. DISCLAIMER OF WARRANTIES:

The warranties set forth in this clause are the only warranties made by trunkoz. Trunkoz is providing services on an "as is" "as available" basis. We expressly disclaim all warranties of any kind, express or implied, with respect to its services, any related service or software or the fitness of the space for customer's use. Trunkoz hereby expressly disclaims any implied warranty of merchant ability, fitness for a particular purpose, or non infringement or implied warranties arising from a course of dealing or course of performance. We make no warranty that the service will meet your requirement or that the service will be uninterrupted, timely, secure or error free; nor do we make any warranty as to the results that may be obtained from the use of the service(s). We do not guarantee that the service provided by us would meet customer's requirement. No oral or written information given by Trunkoz, its employees, licensors or the like will create a warranty.

7. PAYMENTS:

7.1 Customer shall pay Trunkoz all fees including monthly/quarterly/annual data transfer fees and excess usage fees, if any indicated on sales order ("Order"). Customer shall be charged for supplemental services if any provided by Trunkoz. Trunkoz shall send the invoice to the customer through email/fax /Postal mail to the designated invoicing address of the customer. First invoice will include set up fees such as installation and other Recurring fees from the commencement date till the End of billing cycle as agreed by the customer.

7.2 All payments shall be made by Cheque or Demand Draft in favour of "Trunkoz Technologies Pvt. Ltd." payable at Mumbai, and it is to be sent to the address indicated in this Agreement or at such other address as Trunkoz may from time to time initiate by proper notice hereunder. Customer shall pay payments in advance for the service period. Trunkoz shall raise invoice at least 15 days before the start of the period and send the same to the customer.

All invoices are due and payable within fifteen days of Trunkoz's date of invoice. Interest shall be at the rate of one and half percent (1.5%) per month on all overdue and unpaid invoices.

7.3 Amounts & cost indicated for all Trunkoz services are in INR / US Dollars.

7.4 <u>Delay in payments</u>:

Trunkoz reserves the right to suspend any or all the services in case the customer fails to pay the fees for any month beyond thirty days of the due date of the invoice issued for that month as mentioned above, in accordance to the process set out in 21.2

8. NOTICE:

8.1 All notices, requests, claims, demands and other communications hereunder shall be in writing. [The language of communication shall be English only] Such notices shall be given

(i) Via. Hand delivery, or

(ii) By a nationally recognized courier service, or

(iii) By electronic mail, or

(iv) By confirmed facsimile to the parties at their business address or to such other address as either party may specify in writing.

A notice shall be regarded as having been given:

   (i)   when delivered, if sent by hand ; or
   (ii)   the business day following the date of confirmed transmission, if sent by facsimile;
   (iii)   the business day following the date of confirmed delivery, if sent by courier.

8.2 **<u>Change of Address</u>:**

Any party to this Agreement may notify the other party regarding any changes to the address or any of the other details specified in this paragraph; provided, however, that such notification shall only be effective on the date specified in such notice or five business days after the notice is given, whichever is later.

8.3 <u>Refusal of delivery</u>**:**

Rejection or other refusal to accept or the inability to deliver because of changed address regarding which, no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

9. RIGHTS AND OBLIGATIONS:

Trunkoz's rights and obligations:

9.1 <u>Temporary Suspension of the Services</u>:

- Customer agrees and accepts that in case Trunkoz has reason to believe that for any technical reasons to prevent congestion arisen due to faulty equipment or customer's unlawful use of services by customer or otherwise in any manner whatsoever even without the knowledge and consent of the customer or any of its affiliates or any person whatsoever, Trunkoz may consider it necessary to suspend the services. In all such cases, Trunkoz shall notify the customer prior to or in case solving the congestions (attributable to customer's breach of this Agreement) requires immediate actions not allowing time to notify- immediately after such suspension. Such suspension of services shall not be considered as default on part of Trunkoz in providing the services. This is done to protect the contents of the customer information residing in the assets at Trunkoz with intent to prevent any malafide action or disclosure of such information.
- Customer hereby agrees that in any case the Trunkoz shall not grant service outage credits in cash or cheque or in any form of money in any case whatsoever whether mentioned in this agreement or incidental thereto.

9.2 <u>Abuse of service</u>:

- Any use of Trunkoz system resource that disrupts the normal use of the system for other Trunkoz customers is considered to be abuse of system resources and is grounds for administrative intervention. Spamming is one example of system abuse. Depending on the nature of and the severity of the abuse, the user may receive an e-mail warning or have their operations manager, and may require the payment of a service reconnection charge, which is Rupees Ten Thousand only (Rs. 10,000/-) per server(subject to change and shall be decided by Trunkoz only). Occasionally, unintentional misuse is mis-classified as intentional misuse. Customers who believe their activity has been mis-classified may appeal to the operations manager.

- Violations of any of the Trunkoz conditions of use are unethical and may be criminal offences. Customer is expected to report to Trunkoz any information customer may have concerning instances in which the conditions of use have been or are being violated. When Trunkoz becomes aware of possbile violations, it will initiate an investigation.
- At the same time, in order to prevent further possible unauthorized activity, Trunkoz may suspend access to services to the individual account in question. Confirmation of violations may result in cancellation of the individual account and/or criminal prosecution.
- The account suspension may be rescinded at the discretion of the operations manager, following payment of the reconnection charge.

9.3 General obligation:

Subject to the satisfaction of the service credit approval criteria as provided in the SLA, Trunkoz will provide the services to the customer as per the standards as stated in the SLA and any other Supplemental Services as mutually agreed in writing between Trunkoz and customer.

Customer's rights and obligations:

9.4 Maintain Security:
- Customer shall take all reasonable measures to ensure that the information transmitted to or from the servers of Trunkoz with respect to the services required by the customer are secure and shall duly authorize all third persons to have any access to the servers of Trunkoz.
- Customer may empower any of its Authorized person to use the services. Customer must require such person to apply/follow reasonable security measures as if would have been followed by customer itself. Trunkoz will not liable for any action taken by such authorized third person on the assets deployed for the customer.
- Customer shall document and promptly report all errors or malfunctions of the hardware to Trunkoz. Customer shall maintain a current back up copy of all programs

and data. Customer shall ensure that all legalities as per the cyber laws and other applicable laws/ regulatory framework are fulfilled.

9.5 <u>Compliance with Law</u>:

- Customer shall observe and implement all provisions in all acts, rules, regulations, bye laws and ordinance, notifications issued by any government department or any authority thereof.
- Customer shall ensure that it has taken all necessary approvals, licenses from concerned authority(ies) as applicable within or outside the territory for availing the services to be provided by Trunkoz.
- Customer hereby declares that he will be bound by the orders, judgments, decrees issued by any judicial or quasi judicial body without raising any objection or passing any liability towards Trunkoz.

9.6 <u>Policy of Trunkoz</u>:

- Customer shall acquaint him/her self and keep updated with Trunkoz's latest Spam Policy available on Trunkoz's website, www. Trunkoz.com, by which s/he shall be bound and violation of which shall lead to immediate termination of the services being provided to the customer.
- Customer shall be responsible for having used/ availed the services provided by Trunkoz in violation of AUP.

9.7 <u>Online Conduct</u>:
Customer acknowledges that Trunkoz exercises no control whatsoever over the content of the information passing through customer's site(s), and it shall be the sole responsibility and duty of the customer to comply with all applicable laws, rules and regulation.

9.8 <u>Prohibited activities</u>:
Customer shall not permit any person (Users) using customer's online facilities and/or services, including but not limited to, customer's web site(s) and transmission capabilities to do any of the prohibited activities, which shall lead to immediate termination of the services being provided to the customer without any refund/credit.

10. ACCEPTABLE USER POLICY (AUP):

10.1 As per AUP enclosed.

10.2 Customer agrees that in situations where the AUP of Trunkoz is amended in a manner which does not serve the purpose of the customer, then the customer shall issue a written notice as described in clause 8 mentioning the issues with regard to the new AUP.

10.3 Trunkoz has the rights to terminate customer in breach of section 10.2, if the objections raised by the customer are not acceptable to Trunkoz then the services from Trunkoz to customer will be terminated by Trunkoz, providing notice as mentioned in the Termination clause 21.2 herein.

11. UNAUTHORISED USE OF SERVICES:

11.1.   Customer hereby agrees that he shall take due care and ensure that specific security services such as maintaining fire walls, confidentially of passwords to the servers, not providing access to the services to any third party, etc., are maintained.

11.2.   In case if customer fails to comply with first clause then Trunkoz shall not be responsible in any manner whatsoever to any third party or to such customer. Customer shall indemnify Trunkoz or third party for any damages, loss, cost whatsoever occurred because of gross negligence or for any reason whatsoever happens because of non compliance by customer.

12.   NETWORK ABUSE :

12.1 Customer acknowledges that customer has read, understands and agrees to comply with, all applicable provision of Trunkoz's then current Acceptable User policy incorporated herein by this reference.

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

12.3 Customer agrees not to use any of Trunkoz services to access or attempt to access other user's network without their express permission. These access attempts include but are not limited to sending, of virus/trojan/worms via any electronic media.

12.4 Upon written or electronic request of Trunkoz, customer agrees to indemnify and hold harmless Trunkoz, its affiliates, its officers, directors, employees, agents and licensees, form any claims, liabilities, losses, damages and expenses, including reasonable attorney's fees,

arising out of or relating to customer's or its end user's use of any of the services provided hereunder.

12.5 Use of Trunkoz system resource that disrupts the normal use of the system for other Trunkoz customers is considered to be abuse of system resource and is ground for administrative intervention. Violations of any of the Trunkoz conditions of use are unethical and may be deemed criminal offences.

13. SOFTWARE LICENSE:

13.1 Software provided with the services under this Agreement, has been provided by third parties. All such third party provided software is licensed to customer subject to terms and conditions of an end-use license. The Agreement ("EULA") provided as either a document accompanying such software, or as pop-up screen during initial use of such software.

13.2 Customer hereby accepts and agrees to abide by the terms and conditions of EULA associated with any third party software provided to Customer with any of the Services. Customers agree that he shall not use any pirated software.

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

14. PROHIBITED ACTIVITIES:

Customer while using the services shall not indulge in any activities which are illegal, immoral and prohibited by IT (Information Technology)act, 2000, Indian penal code,1860 or under any law for the time being in force ,failure of which may lead to immediate termination of this agreement:

a) Defamation:
   Customer shall not post or transmit any content in violation of any applicable law of libel or defamation in India or elsewhere.

b) Fraud:
   Customer shall not post or transmit any fraudulent content on or through the service. This includes any content that you know or have reason to know is false, and that you intend for others to rely on.

c) False Advertising:

Customer shall not post or transmit on or through the service any advertising or promotional material that contain false, deceptive, or misleading statement, claims, or representation.

d) <u>Unsolicited Advertising</u>:

- Customer shall not post or transmit any unsolicited advertising, promotional materials, or other forms of solicitation to other subscribers, individuals or entities, except in those areas(e.g. classified advertisement areas) that are designated for such a purpose.
- Customer further shall not involve or associate Trunkoz, its associate companies, any customer/s of the same in any way with the posting or transmission of unsolicited advertising, promotional materials, or other forms of solicitation, including but not limited to unsolicited advertisement sent from another service provider advertising a Trunkoz hosted web page, and unsolicited advertisements sent from another service provider which request that replies he sent to a Trunkoz or its related companies email address.

e) <u>Copyright Violations</u>:

Customer shall not post or transmit on or through the service any content that infringes another person's or entity's copyright in all or any part of the content.

f) <u>Trademark, Service Mark, and Trade Dress Violation</u>:

Customer shall not post or transmit on or through the Service any content that infringers, dilutes or otherwise violates another person's rights in its trademark, service marks, trade dress, or other indicia of origin.

g) <u>Trade Secret Violations</u>:

Customer shall not post or transmit on or through the service any content that reveals trade secrets or other confidential or proprietary information belonging to another person or other entity.

h) <u>Obscenity</u>:

Customer shall not post or transmit any obscene or pornographic content, including, but not limited to, child pornography, on or through the service.

i) <u>Harassment, Threats, and Abuse</u>:

Customer shall not use the service to harass, intimidate, threaten, or abuse any person or entity, by any means, including the use of vulgar, hateful, racially or ethnically offensive, sexually harassing, or otherwise objectionable content.

j) <u>False Pretenses</u>:

Customer shall not use the Service to impersonate any person, including but not limited to, a Trunkoz official or an information provider, guide, or host, or communicate under a false name or name that you are not entitled or authorized to use in all forms of online communication, including but not limited to, screen names, subscriber profiles, chat dialogue, and message posting.

k) Chain Letters:
Customer shall not post or transmit chain letters or messages that offer a product or service or even general information based on the structure of a chain letter, on or through the service.

l) Inappropriate Content:
Customer shall not post or transmit on through the service content that is patently inappropriate material under the circumstances e.g., content or topics not related to the topics focused on by the participants in a particular news group or mailing list.

m) Violation of service providers' Rule:
 Customer shall not use the services to violate any operating rule, policy, or guidelines of any other online service provider or interactive service.

n) Not transferable:
Customer agrees that this Agreement is not transferable.

o) Process Abuse:
Customer shall not make false or unverified complaints against Trunkoz or any of its employees, agents and other customers, or otherwise abuse any of Trunkoz complaint registration and response procedures.

p) System Abuse:
Customer shall not abuse Trunkoz system, or any other system accessible through the internet via Trunkoz, by casing any harm to the system so that it inhibits or negatively impacts the ability of other users to effectively use such system. You further agree not to compromise or attempt to violate security at Trunkoz or elsewhere, including but not limited to, attempted access of any data, server, or account that you are not expressly or authorized to access.

q) Support abuse:
Customer shall not harass, threaten or abuse authorized representative of Trunkoz, including but not limited to tech support representatives, customer relations representatives, and sales representatives, or otherwise abuse Trunkoz support services.

r) Spam:
Customer shall not send unsolicited messages, whatever the purpose may be. You or your end users agree not to post or cross post, unsolicited commercial messages regardless of content on/through either of your IP address(es), been provided to you by Trunkoz.

s) Disruptive activities:
Customer shall not use or allow any and all licensed users to use the service to disruptive the normal flow of online dialogue, including but not limiting to, by way of uploading data contain any viruses, Trojan horses, worms, time bombs, cancel bots or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information, or otherwise act in a manner that negatively effects use of the internet by other subscribers, users, individuals, or entities.

t) <u>Inappropriate software, products and services</u>:
Customer shall not post, transmit, promote or otherwise make available any software, product or service that is illegal, violate the rights of TRUNKOZ or a third party or is designed to violate this Agreement. Such software, products or services include, but are not limited to, programs designed to send unsolicited advertisements(i.e. "spamware"), services which send unsolicited advertisements, programs designed to initiate" denial of service" attacks, mail bomb programs, and programs designed to gain unauthorized access to networks on the Internet.

For purposes of the prohibited and/or abusive activities, the term **"content"** includes information or material of any type capable of being posted or transmitted on or through the Access Service, including material in print, graphic, pictorial audio, or audio- visual form etc..

Customer shall not engage in the following activities, which are outside the purview of Internet Telephony service and are illegal in India:

(a) Voice communication from anywhere by means of dialing a telephone number (PSTN/ISDN/PLMN) as defined in National Numbering Plan;

(b) Originating the voice communicating service from a telephone in India and terminating the voice communication to telephone within India;

(c) Establishing connection to any Public Switched Network in India and /or establishing gateway between internet & PSTN/ISDN/PLMN in India;

(d) Dial up lines with outward dialing facility from nodes.

15. CONFIDENTIALITY:

15.1 Parties hereby agree that neither party would disclose to third parties any confidential information which is provided before, during and after the execution of this agreement. For the purposes of this clause, Confidential Information shall mean information including, without limitation, customer information, computer programs, code, algorithms, names and expertise of employees and consultants, know how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical, business, financial and product development plans, forecasts, strategies and information which are marked confidential, or if disclosed verbally, are identified as confidential on or before the time of disclosure.

15.2 Each party agrees to take all reasonable precautions to prevent any unauthorized disclosure or use of confidential information of the other party including, without limitation, disclosing such Confidential Information only to its employees:
(a) with a need to know to further permitted uses of such information;
(b) who are parties to appropriate Agreements sufficient to comply with this Clause and

(c) who are informed of the nondisclosure/non-use obligations imposed by this clause; and both parties shall survive for two years following termination of this Agreement but shall not apply with respect to any confidential information which;

(i) was or becomes publicly known through no fault of the receiving party;

(ii) was rightfully known or becomes rightfully known to the receiving party without confidential or proprietary restriction from a source other than the disclosing party;

(iii) is independently developed by the receiving party without the participation of individuals who have had access to the Confidential Information;

(iv) is approved by the disclosing party for disclosure without restriction in a written document which is signed by a duly authorized officer of such disclosing party; and

(v) the receiving party is legally compelled to disclose; provided, however, that prior to any Such compelled disclosure, the receiving party will (a) assert the privileged and confidential nature of the confidential nature of the confidential information against the third party seeking disclosure and (b) cooperate fully with the disclosing party in protecting against any such disclosure and/or use of the confidential information.

15.3 In the event such protection against disclosure is not obtained, the receiving party will   be entitled to disclose the confidential information, but only as, and to the extent, necessary to legally comply with such compelled disclosure.

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

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

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

16. LIMITATION OF LIABILITY:

16.1 In no event Trunkoz shall be liable for any special, incidental, consequential damages of any nature, for any reason, including without limitation the breach of this Agreement or any termination of this Agreement, whether such liability is asserted on the basis of contract, tort (including negligence or strict liability) or otherwise, even if Trunkoz has been warned of the possibility of such damages.

16.2 Trunkoz owes no responsibility for hardware/software crash or corruption of data due to server on/off at the request of customer or such other reasons, which are uncontrollable by Trunkoz. Trunkoz's liabilities in such circumstances are nil, and customer shall indemnify and hold Trunkoz harmless against any such claim, action, suit or proceeding.

16.3 Trunkoz shall not be liable for damages including but not limited to special, incidental or consequential damages of any nature, loss, cost whatsoever occurs to customer or any third party by any mala fide intention or due to any act or omission whether incidental or not by any employee of Trunkoz or customer or any third party.

16.4 Trunkoz shall not be liable in case if customer utilizes bandwidth/ data transfer in excess of what customer has agreed for and shall reimburse Trunkoz for such excess usages per GB (As per excess usage charges indicated in the proposal). Trukoz at its own discretion reserves the right to change the Bandwidth/data transfer usage monitoring software. Moreover, Trunkoz shall not be responsible for any excess/normal usage if the traffic generated is due to some malfunction of hardware, software or due to configurations done by the customer or by Trunkoz itself or for any other reason whatsoever. The customer also agrees that he will be paying for the excess usages generated by any virus/trojans, etc.

16.5 Customer agrees that Trunkoz shall not be liable for any damages, cost, loss of profits, loss caused to the customer or any third party as result of use of services or inability to use the services due to any reason whatsoever. Further customer agrees that he shall not claim anything on trunkoz regarding such loss caused due to above mentioned condition.

16.6 In no event shall Trunkoz shall have any liability whatsoever neither for any cover or setoff nor for any indirect, consequential, exemplary, incidental or punitive damages, including loss, profits.

16.7 Each party agrees that no damages can be claimed with respect to any event that occurred more than one year to such claim being asserted. The claims are entertained till one year of expiry of the contract which shall not exceed in any manner whatsoever the amount given by the customer to Trunkoz.

16.8 Software license**:**
Trunkoz shall not be liable to any third party because of use of any software, hardware or any related thing thereto which is pirated, prohibited, unlicensed, expired, outdated and unauthentic in any manner whatsoever by customer.

17. INDEMNIFICATION:

17.1 Customer shall pay, indemnify and hold Trunkoz harmless from all sales, service, value-added or other taxes of any nature, other than taxes on Trunkoz net income, including penalties and interest, and all government permit or license fees assessed upon or with respect to any fees (except to the extent customer provides Trunkoz with a valid tax

exemption certificate). If any applicable law requires customer to withhold amounts from any payments to Trunkoz hereunder. Customer shall effect such withholding, remit such amount to the appropriate taxing authorities and promptly furnish Trunkoz with tax receipts evidencing the payments of such amounts.

17.2 Customer hereby agrees and undertakes that the use of any software or hardware or any act or omission or by whatever means customer shall not violate any law or regulation nor post any defamatory or trade libelous, pornographic or obscene contents and the customer further undertakes that it has all rights, needed for the production, distribution, exhibition and exploitation of its properties as part of the work product and there is no outstanding contract agreement to which the second party is party which conflicts with this agreement or might limit restrict or impair the rights granted hereunder.

17.3 Customer agrees that in case of damages, loss, cost or whatsoever occurred to Trunkoz by customer or any other third party or by any reason whatsoever, customer shall indemnify Trunkoz and any third party or parties as the case may be in such cases.

17.4 Customer agrees that in case of any damages, loss, cost, whatsoever occurred to any third party by any reason whatsoever Trunkoz shall not be liable to search any third party in any manner whatsoever. Further customer shall indemnify such third party or parties as the case may be.

17.5 Customer hereby declares that every fact, information or "data" provided to Trunkoz by the customer is correct and true in every sense whatsoever and customer shall indemnify Trunkoz for any damages, loss, cost whatsoever occurred to Trunkoz by misrepresentation of any such fact or information.

17.6 Customer hereby declares that he is bound by the duties mentioned in the Information Technology Act, 2000 and rules made there under. Customer will not pass any penalty or compensation under Section 43, Section 43-A, Section 44 inflicted on customer by the proper authorities towards Trunkoz.

17.7 Customer hereby agrees that Trunkoz's employee or any representative for their act or omission or by any reason whatsoever shall not be liable for any damages, loss, cost and whatsoever occurs to such customer or any third party in course of any bona fide or incidental work under this agreement. Further customer shall indemnify such third party or parties as the case may be.

17.8 Customer agrees to and shall reimburse Trunkoz for all reasonable repair or restoration costs associated with damage or destruction caused by Customer's personnel, Customer's agents, Customer's suppliers/contractors, and visitors during the term or as a consequence of Customer's removal of its hardware or property installed in the space or for any reason whatsoever.

17.9 As provided by national law and by international treaties, copyrighted materials (e.g. Images, text and program etc., shall not be uploaded using Trunkoz Internet services without the permission of the copyright holder. If customer or any person authorised or unauthorised by mistake, willingly or unwillingly, intentionally or unintentionally or by any reason

whatsoever violates above mentioned condition then Trunkoz shall not be liable in any manner whatsoever, further customer shall indemnify Trunkoz or any third party if any loss, damages ,cost or whatsoever occurs.

18. OWNERSHIP:

18.1 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.

18.2 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.

19. FORCE MAJEURE:

- Neither party shall be liable in damages nor have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including but not limited to to acts of God (e.g.earthquake), labour disputes, strikes, riots, internet failure ,war or other unanticipated occurrences ,problems , governmental requirements or restrictions or other events of a magnitude or type of which precautions are generally not taken in the industry and circumstances which shall materially and adversely affect the performance of the obligations of either party and is not caused by an act of negligence or default of the affected party and is not within the reasonable control (directly or indirectly) of the affected party.
- The obligations and rights of the party so excused shall be extended on a day-to-day basis for the period of time equal to that of the underlying cause of the delay as long as such delay remains beyond such party's reasonable control.

20. SUSPENSION OF SERVICES:

Customer agrees that the services as provided by Trunkoz may be suspended by giving at least thirty (30) days prior notice for customer to remedy the situation under all circumstances. Trunkoz may suspend the services in cases where:

- Trunkoz is of the opinion that services are being used by the customer in violation of the terms and conditions mentioned in the AUP.

- Trunkoz believes that the services provided by Trunkoz to customer are being used by non-Authorized persons without the consent of Trunkoz.
- In situations where there is no cooperation from customer during investigation of suspected violation of the agreement.
- Protect the servers maintained by Trunkoz in the event of immediate threat of breakdown or where there is a valid reason to believe that not suspending the services would cause loss to the other customers of Trunkoz, where such event arises due to customer's actions. In cases where it is required by law.

21. TERMINATION:

21.1 Termination by customer:

Customer can terminate the agreement during the initial term if the following situation arise:

- Trunkoz fails to provide the **services** as agreed and fails to cure the defect within the period of 30 working days from the date of written notice issued by the customer.
- Trunkoz fails to comply with any other terms, other than providing of services, as contemplated in the Agreement and fails to cure the defect within the period of 30 days from the date of written notice issued by the customer.

21.2   Termination by Trunkoz:

Trunkoz has right to terminate the Agreement when:

1. Any payment to Trunkoz payable:
   - which the customer has not issued a notice disputing the unpaid portion of the payment, and
   - which remain unpaid more than 7days of the due date as mentioned in the invoice and Trunkoz has separately notified customer of the same.
2. When the customer fails to comply with the terms of this Agreement despite of having received a written notice to comply/enforce the same and customer has not remedied such breach within such time as specified by the Trunkoz.
3. Any notice of the termination shall be provided in writing and quoting the reasons for termination and as per mutually agreed.
4. Trunkoz can terminate the services of the customer on its sole discretion, if it is established that the customer has used the service fraudulently, unlawfully or abusively.

5. On termination of Agreement, Trunkoz shall remove all of the Customer's electronically stored data from Trunkoz's facilities without liability of any kind to the Customer.

21.2 <u>Termination for convenience:</u>

Either party may terminate the Agreement at any time by giving each other 30 days advance written notice.

22. EFFECT OF TERMINATION:

Upon the termination of this Agreement becoming effective:

i) Trunkoz shall immediately cease to provide the service(s) to the customer;

ii) any and all payment obligation of the customer under this Agreement for service(s) will immediately become due;

iii) within three (3) days of the termination of this Agreement upon disclosing party's request thereto, each party shall be under an obligation to return all the confidential information of the other party in its possession without retaining any copies of such confidential information except as required to comply with any applicable legal or accounting record keeping requirement.

iv) Parties shall mutually agree on methods and timeline on removal of customers' equipment and material from Trunkoz premises. All feasible help will extended by Trunkoz to the customers.

v) In the event of any expiration or earlier termination of this Agreement or any Order, customer will be obligated to pay to Trunkoz full contract period fees and charges unless such termination is the result of Trunkoz's default, the payment of any waived or discounted installation fees, as well as monthly fees for each remaining month of the term of the affected order(s).

23. ARBITRATION:

In case of any disagreement, dispute, differences or claim whatsoever between the customer and Trunkoz , the dispute will be resolved in the manner as outlined hereunder:

- The customer and Trunkoz shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute whatsoever between them including any question regarding its existence, validity, termination or in regard to the interpretation of the context thereof. If, after thirty days from the commencement of informal negotiations, the customer and Trunkoz have not been able to resolve amicably a contract dispute, such differences and disputes

shall be referred to and finally resolved by binding arbitration in accordance with the laws relating to arbitration in India.

- The appointment of sole arbitrator and place of arbitration shall be decided by Trunkoz. Customer shall agree with the same without raising any objection of any nature arising out of or in connection with the appointment.
- The Arbitration proceedings shall be completed within a period of eight weeks from the date of the first arbitration sitting. The language to be used in the arbitral proceedings shall be English only.

24. MISCELLANEOUS:

24.1 Severability:

If any term or other provision of this Agreement is determined to be invalid, illegal or incapable of being enforced by any rule or law, or public policy, such provision shall be struck from the Agreement; such invalidity or enforceability shall not affect the remaining provisions or conditions of this Agreement. The parties shall be legally bound to the remaining terms of this Agreement. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

24.2 No waiver of rights:

A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.

24.3 Headings:

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

24.4 Language:

The language in all parts of this Agreement shall be in all cases construed according to its fair meaning and not strictly for or against either party.

24.5 Solicitation:

- Customer hereby agrees and accepts that during the term of this Agreement and for period of 12 months after termination of this Agreement, customer shall not, without the prior written consent of the Trunkoz, either directly or indirectly, on customer's own behalf or in the service or on behalf of others, solicit or attempt to solicit, divert or hire away any person employed by the Trunkoz or any customer of the Trunkoz.

- In case if the customer employs any person contrary to the provisions stated in above clause, Trunkoz shall be eligible to the rights available to it under law and may initiate appropriate legal actions against the customer.

24.6 Relationship between parties**:**

- The parties are independent contractors to each other. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship between the parties.
- Neither party is the agent of the other nor may represent to any person that it has the power to bind other on any Agreement. The Agreement is non-exclusive and allows both the parties to conduct its business in a manner that is not against the terms and spirit of this Agreement.
- Each party shall be entitled to use subcontractors, any breach of these terms on the part of the subcontractor of a party shall be deemed to be a breach by such party and such party shall be responsible on behalf of its subcontractors to the other party.

24.7 Non Assignment and No Third Party Beneficiaries:

- This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. Notwithstanding the above, this Agreement may not be assigned in whole or in part by a party, without the written consent of the other party.
- Trunkoz shall provide services only to the customer and not their authorized person i.e. there are no third party beneficiaries to this Agreement and any third party or parties shall have no right(s) against Trunkoz.
- Customer agrees that irrespective of whosoever the customer authorize to use the services provided by Trunkoz such authorized person though

eligible to use the services shall not be entitled to enforce any right or benefits in terms of this Agreement or be in privity to this Agreement with Trunkoz.

- Customer agrees and acknowledges that he/she shall be solely responsible/ liable for use of the services by its authorized person to the same extent as if customer had been using the service itself.

24.8 Non Agency:

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

I, hereby authorize Trunkoz to open a dedicated server/VPS services account. I have read and agree to abide by all rules and conditions set forth in this service level Agreement.

QualiSpace (Trunkoz Technologies Pvt. Ltd.)	Customer :
Address : 602, Avior, Nirmal Galaxy, Opp. Johnson and Johnson, LBS Marg, Mulund (W), Mumbai - 400080, Maharashtra, India.	Address :
T.: +91 22 6142 6099	Ph.:
F.: + 91 22 6142 6099	Fax No. :
Email : sales@qualispace.com	Email :
Concerned Person : Yatin Shah	Concerned Person:
Designation : Business Manager	Designation:

WITHNESS WHEREOF, the undersigned do hereby execute this Agreement by duly authorized officials as of the date set forth below:

For QualiSpace (unit of Trunkoz Technologies Pvt. Ltd.) Customer:

Name: Yatin Shah   Person Name:

Designation: Business Manager   Designation:

Signature   Signature