

LOCATION API SERVICE PROVIDER AGREEMENT

This Location API Service Provider Agreement ("Agreement") is executed as of date [REDACTED] ("Effective Date").

BETWEEN

Persistent Systems Limited, a limited company registered in India, having its Registered Office at "Bhageerath", 402, Senapati Bapat Road, Pune 411 016, INDIA. ("Persistent")

AND

[REDACTED], with its principal office located at [REDACTED] ("Company").

WHEREAS Persistent is engaged in the business of providing location gateway service, outsourced software product development services, software consultancy, and marketing of software services and is desirous to offer these services and products to prospective customers;

AND WHEREAS Company is engaged in the business of [REDACTED].

AND WHEREAS Company has approached and requested Persistent to provide location Application Program Interface ("APIs") services to Company for the determination of geo-location of mobile phones of subscribers, who are employees/associates of Company

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN CONTAINED IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. Definitions:

- a. **End User** means any person or entity who consents to be being tracked and agrees to share his/her location information for business reasons and has business relationship with the Company
- b. **Personal Data** has the meaning given under applicable laws.
- c. **Services** means Services including related services, to be provided by Persistent to Company as detailed out in an applicable statement of work ("SOW") or Purchase Order ("PO") or Order Form.
- d. **SIM** means a Subscriber Identity Module which is an electronic memory device for storing user specific data to allow controlled and secured use of the device on the network procured from mobile operator.

During the term of this Agreement, Company shall perform Services as detailed in the applicable SOW or PO or Order Form which shall be attached to and become part of this Agreement. SOW or PO or Order Form shall also state commercial and technical terms and conditions related to the Services. If additional services are requested by Persistent or if parties wish to modify the Services previously agreed to, a new SOW or PO or Order Form must be added to this Agreement or the existing SOW or PO or Order Form must be amended.

2. **Engagement and Services:**

- a. Subject to the Company sharing the completed consent letter/ undertaking which is executed by the Company and End User, as set out herein for each number to be tracked, Persistent shall provide [REDACTED] in accordance with this Agreement in consideration for payment of the Fees as set out herein. The Company shall obtain each End User's affirmative consent agreeing that the respective mobile operator and Persistent will make End User's location information available to the Company for business use alone. The consent shall be procured in the format as prescribed by the mobile operators from time to time.
- b. Company shall avail the Services by submitting an activation request in writing (e-mail acceptable), to Persistent from time to time.
- c. Company shall complete consent letter/undertaking and provide related documentation including authorization documents from authorized signatories, Company registration documents, proof of address

of the Company and of End User, proof of identification of End User or any other required documents as mandated in relation to the Services. Persistent may examine each consent letter/undertaking provided by the Company and ask for additional information/documents as mandated by law. The Company shall notify Persistent in the event (i) of any change in the End User(s); (ii) it becomes aware of any misuse of SIMs or (iii) changes to the KYC (Know Your Customer) documents furnished to Persistent.

- d. Persistent shall be under no obligation to provide Services to Company, until completion and submission of consent letter/undertaking and such other documents.
- e. Persistent may ask Company to resubmit consent letter/undertaking and such other documents if all these required documents are not made available to Persistent.
- f. If Services are subscribed for the purposes of evaluation, the Persistent will provide the Company with the Services for the term specified in the License Order Form. During such an evaluation term, Persistent may terminate the Agreement, for any reason or no reason, upon written notice to the other party. On expiry of the Agreement or earlier termination hereof, Company shall immediately discontinue to use the Services. During such evaluation term, Company acknowledges and agrees that Persistent shall have no obligation to provide any support or maintenance for the Services under this Agreement.

3. Representations and Warranty:

Company hereby agrees, covenants, warrants and represents that:

- a. Company shall not use these services in operations involving high-risk activities including but not limited to life and death situations like the operation of emergency services, nuclear facilities, air traffic control or life support systems, where the use or failure of the services could lead to death, personal injury, or environmental damage.
- b. Company shall use the services provided under this Agreement only for a legal purpose and strictly in accordance with the rules or guidelines of TRAI or any other statutory authority.
- c. Company shall comply with applicable laws, rules and Regulations, industry practices, third party guidelines and other relevant policies and requirements, including but not limited to: (i) all applicable data security and privacy laws; (ii) Regulations and privacy initiatives. With respect to subscribers/End Users, if requested, the Company shall provide to Persistent within reasonable time documents relating to End User such as proof of address, proof of identification or any other document as requested by competent authority or by Persistent. If the Company is unable to procure the requested documentation within 30 days of the request, Persistent may terminate this Agreement.
- d. Company agrees and acknowledges that Persistent acts as an intermediary and has no editorial right over any information provided. Company complies with all applicable laws and shall continue to do so while using the Location APIs provided by Persistent. Company validly exists under applicable laws of India and has the requisite power to enter into and perform this Agreement;
- e. Company is in possession of and shall maintain during the term of this Agreement all necessary consents, approvals, permissions and licenses that are required for this Agreement. Company processes personal data in accordance with applicable data protection or privacy laws and maintains appropriate and sufficient technical and organizational security measures.
- f. Company shall disclose any information to, and comply with the demands of any governmental authorities. Company shall obtain, on behalf of Persistent, express written consent from its employees/subscribers/end users to track them and share their location details and further permission to track his/her mobile in the format as provided in applicable SOW or PO or Order Form.
- g. Company represents that the execution and performance of this Agreement by it does not and shall not violate any provision of any arrangement, law, rule, regulation, any order or judicial pronouncement to which it has been subjected to and or otherwise applies.
- h. The Company shall use the services only for the purposes specified herein and shall not use for any other purpose. Further, Company shall not use the Services for any illegal or fraudulent activities and Company shall be responsible for any claims arise due to usage not permitted under this Agreement and as per law.
- i. Company shall be solely responsible and accountable for any charges arising from: (i) unauthorized usage of the Services resulting from any illegal or fraudulent use of the Services by the Company, its employees, agents, End Users; (ii) negligence by Company, its employees, agents, End Users.

- j. Use of information obtained from or through Services is at Company's sole and absolute risk. Company acknowledges that the location information available from the use of the Services is dependent on Persistent's partner mobile operator and Persistent has no control over accuracy/availability of information. Company acknowledges that Persistent is only intermediary and only passes through the location information "as is".
- k. Company shall be solely responsible and accountable for any charges arising from: (i) unauthorised usage of the Services resulting from any fraudulent use of the Services by Company, its employees or agents and/or (ii) negligence by Company, its employees or agents.
- l. Company shall, when required, assist Persistent in its dealings with government regulatory authorities including but not limited to department of telecommunications (DoT), telecom regulatory authority of India (TRAI) etc.
- m. Company shall not do, cause or permit anything which may result in a breach of applicable laws.
- n. To the extent that personal data is collected, stored and processed by Persistent under this Agreement, Company agrees to provide such assistance as necessary for compliance of applicable laws related to data processing.
- o. Persistent reserves right to disclose any information to and comply with demands of any governments authorities and accordingly Company acknowledges and authorizes Persistent to comply with any requests and demands to furnish any information.
- p. Total security of communications cannot be guaranteed. Persistent shall exercise all reasonable efforts to ensure the security of Company's communications, but does not guarantee that communication shall be completely secure.
- q. Company shall immediately notify Persistent in the event, any End User revokes/withdraws his/her consent for being tracked and Persistent shall not remain liable for any claims arise in case of failure of such notification.
- r. Company shall comply with the Acceptable Usage Policy, Access to Services Policy, Support Policy of Persistent, as defined from time to time.
- s.

4. Independent Contractor:

Persistent's relationship with Company is that of an independent contractor, and nothing in this Agreement will be construed to create a joint partnership, joint venture, agency, or employer-employee relationship. Persistent's actions will not be supervised by Company as done in case of employer-employee relationship. Company shall not be liable to withhold federal income tax, state income tax, social security tax or state disability insurance tax from Fees or expenses to be paid to Persistent under this Agreement. Persistent shall be responsible for supervision of administrative matters and payment of compensation related to its personnel.

5. Payments:

- a. Company agrees to pay Persistent as compensation for the Services, and Persistent agrees to accept as compensation, amounts as per the rates given in as provided in applicable SOW or PO or Order Form ("**Fees**"). Persistent shall raise invoices for payment of fees or expenses, once in a month. Payment of Fees under this Agreement shall be made by Company to Persistent within net 15 days from the receipt of an invoice by the Company. Scanned copy (ies) of the invoice(s) for Fees and expenses may be e-mailed by Persistent to the Company's designated contact for invoices and payments as specified in as provided in applicable SOW or PO or Order Form. The payment instructions shall also be specified in as provided in applicable SOW or PO or Order Form.
- b. The Fees stated hereinn are exclusive of taxes. Company will be responsible for, and will promptly pay, taxes (including but not limited to sales, service, export and use taxes) associated with this Agreement or Company's receipt of the Services, except for taxes based on Persistent's net income and taxes related to Persistent's employees.
- c. In the event there is a delay in payment for more than 3 days from the due date, the Company shall be liable to pay an interest of 1.5% per month or maximum permitted by applicable law, whichever is less, on the delayed payments from the due date of payment. Persistent shall be relieved of its

obligations under this Agreement in the event of non-payment of the Fees and Persistent at its sole discretion, may suspend the Services till the receipt of all outstanding amounts from the Company.

d. Breach of payment obligations of Company shall be considered as material breach of this Agreement.

6. Confidentiality:

- a. In connection with this Agreement, parties will acquire or develop confidential and proprietary information concerning the other Party and its dealings and methods of dealings including but not limited to commercial terms, financial and business information, processes and proprietary information (collectively "Confidential Matter"). Parties agree that such Confidential Matter is for the exclusive benefit of the other Party and that, both during term of this Agreement and at all times thereafter, either Party will not directly or indirectly use or disclose any Confidential Matter except for the sole benefit of and with prior written consent of disclosing Party. Confidential Matter shall not include any information or matter that, without the breach of any obligations contained in this Clause 3 (Confidentiality) (a) is available in the public domain, (b) is independently developed by the receiving party, (c) was already known to the receiving party, or (d) is required to be disclosed pursuant to an order, direction or ruling passed by any governmental, regulatory or judicial body. Provided however, in the case of (d), the receiving party shall notify the disclosing party prior to the disclosure to enable the disclosing party to seek appropriate injunctive relief. Upon the termination of this Agreement, a Party will promptly return all Confidential Matter to the other Party, on request. Either Party shall not disclose any third party information to the other Party without being duly authorized by such third party. Nothing stated in the clause shall permit a Party to use other Party's trade mark, trade name and logo in self-promotional materials, proposal or similar matters or make any public statement about the specifics of the Services performed under this Agreement without the prior written consent of the other Party.
- b. **No License:** Nothing in this Clause is intended to grant any rights to either party under any intellectual property rights, in the Confidential Information of the other Party.

7. Intellectual Property Ownership:

- a. No right, title and interest in a party's pre-existing intellectual property rights is granted to the other Party under this Agreement.
- b. The parties shall not use the trademarks, trade names, copyrights, service marks, logos, devices and other intellectual properties of the other party without the other party's prior written permission thereof, save and except to the extent necessary to perform respective obligations mentioned herein.

8. Limitation of Liability:

- a. IN NO EVENT SHALL PERSISTENT BE LIABLE TO THE COMPANY FOR (I) ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES OR LOSS OF REVENUE OR LOSS OF BUSINESS PROFITS, HOWEVER CAUSED, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (II) DAMAGES RELATING TO ANY CLAIM THAT ACCRUED MORE THAN TWO YEARS BEFORE THE INSTITUTION OF ADVERSARIAL PROCEEDINGS THEREON.
- b. SUBJECT TO THE ABOVE AND NOTWITHSTANDING ANYTHING TO THE CONTRARY ELSEWHERE CONTAINED HEREIN, THE MAXIMUM AGGREGATE LIABILITY (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE)) OF PERSISTENT, REGARDLESS OF THE FORM OF CLAIM SHALL BE THE AGGREGATE FEES PAID TO PERSISTENT HEREUNDER FOR PRECEEDING THREE MONTHS OF THE EVENT GIVING RISE TO SUCH CLAIM. THE FOREGOING LIMITATIONS OF LIABILITY WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED WARRANTY OR REMEDY HEREIN. THIS IS COMPANY'S SOLE AND EXCLUSIVE REMEDY FOR A BREACH OF THIS AGREEMENT BY PERSISTENT.

9. Indemnification:

Company shall indemnify Persistent, its officers, directors, employees, affiliates, consultants, agents, representatives against all claims, penalties, damages, actions, fitness etc. arising under or in connection with: (i) any breach of provisions on compliance of applicable laws; (ii) any breach of provisions of confidentiality obligations; (iii) infringement of intellectual property rights; (iv) use of the Services for any purpose other than as specified in the Agreement; (v) transmission of illegal or unlawful content; (vi) infringement of privacy and data protection laws; (vii) fines/penalties imposed by any governmental authorities.

SUBJECT TO APPLICABLE LAWS, NO DIRECTOR, EMPLOYEE, CONSULTANT OR AGENT OF PERSISTENT OR ACTING ON ITS BEHALF PURSUANT TO THIS AGREEMENT OR IN THE DISCHARGE OF ANY OBLIGATION UNDER THIS AGREEMENT OR OTHERWISE IN RELATION TO THIS AGREEMENT SHALL HAVE ANY PERSONAL LIABILITY TO COMPANY OR ANY OF ITS AGENT, REPRESENTATIVE, DIRECTOR OR EMPLOYEE OR TO ANY OTHER PERSON ACTING FOR OR ON BEHALF OF THE COMPANY.

10. Warranty Disclaimer:

PERSISTENT DISCLAIMS ALL WARRANTIES OF ANY KIND, IMPLIED, STATUTORY, OR IN ANY COMMUNICATION BETWEEN THEM, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF ACCURACY, CORRECTNESS, MERCHANTABILITY, NON-INFRINGEMENT, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE.

11. Non-Solicitation:

During the term of this Agreement and for six (6) months thereafter, neither party will directly or indirectly recruit, solicit or induce any personnel, consultant or advisor of the other party to terminate his or her relationship with such other party. Neither party shall directly or indirectly recruit former personnel of the other party without the prior written consent of the other party, where former personnel shall mean a person who ceases to work for the other party and a period less than one year has since elapsed.

If any restriction set forth in the aforesaid Section is found by any court of competent jurisdiction to be unenforceable because it extends for too long a period of time or too broad in geographic area, it shall be interpreted to extend only to the maximum period of time, range of activities or geographic area as to which it may be enforceable.

12. Term and Termination:

The Agreement is effective for a period of one (1) year from the Effective Date . The Agreement may be terminated by Persistent without cause upon thirty (30) days prior written notice to the Company.

If the services are subscribed for evaluation purposes, this Agreement shall come into full force and effect on the date on which the passwords have been made available to Company, and for the term specified in the Evaluation License Order Form unless terminated earlier by Persistent, for any reason or no reason, upon written notice to the other party.

Persistent may immediately terminate the Agreement (a) if Company materially breaches the terms of the Agreement (b) in following events (i) the Company becomes or applies for insolvency, bankruptcy, reorganization or liquidation, (ii) a receiver is appointed for business or assets or applied for the Company, (iii) a third party files, or has filed an action under (i) or (ii) above against the Company, (iv) an order for relief under the applicable bankruptcy or insolvency law has been issued or applied for by the Company.

Persistent reserves the right to suspend the Services (or any part of it) in any of the following circumstances: (i) where Company has been unable to procure consent and other related documents from End User(s) within three (03) days of receipt of written request from Persistent; (ii) the provision or continuation of the Services or any part of it would be in breach of an applicable law; (iii) the Company commits a material breach of this Agreement which, if capable of remedy, is not remedied within thirty (30) days of receipt of written notice to do so; (iv) changes to applicable law, regulations occur that cause

Persistent (in its discretion) to cease providing the Services; or (v) Persistent may suspend Services to collect any applicable financial penalty as levied by any governmental authority for any unauthorized or unlawful use of the Services.

Upon expiry or termination of this Agreement, Persistent shall be paid Fees up to the effective date of the termination.

13. Notices:

All notices hereunder shall be given in writing by hand delivery, courier service, email or facsimile at the addresses set forth below:

If to Persistent

Legal Department
"Bhageerath", 402,
Senapati Bapat Road
Pune 411016, India.
Phone : +91-20-3024 2000
Fax : +91-20- 2565 7888
E-mail : legal@persistent.co.in

If to Company

14. Waiver:

No failure by either party hereto, to exercise and no delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder by either party preclude any other or future exercise of any right hereunder by that party.

15. Severability:

If any one or more of the provisions of this Agreement is or becomes invalid, void, illegal or unenforceable, the validity, existence, legality and enforceability of the remaining provisions will not in any way be affected, prejudiced or impaired.

16. Subcontract:

The parties acknowledge that the Persistent may subcontract Services without prior consent of the Company.

17. Assignment:

This Agreement is not assignable by either party in whole or in part without the written consent of the other party. Notwithstanding the foregoing, either party may assign or transfer this Agreement to any of its Affiliate. The Agreement shall be assigned to the acquiring party or the merged entity in the event of a merger or a sale of all or a substantial portion of such party's assets or stock or transfer of persons.

18. Publicity:

Except as required by applicable laws, the Company shall not issue any announcement or any other communication to any third party concerning its dealings with Persistent in relation to this Agreement in any promotional, advertising or any other materials without Persistent's prior written consent.

19. Survival:

In the event of expiry or termination of this Agreement, obligation of Company related to payment, liability, confidentiality, indemnity, warranties etc. shall survive and continue in effect even after termination or expiry of the Agreement.

20. Force Majeure:

Neither party shall be liable for any failure or delay in fulfilling the terms of this Agreement due to fire, strike, war, civil unrest, terrorist action, government regulations, act of Nature or other causes which are unavoidable and beyond the reasonable control of the party claiming force majeure. This provision shall not be construed as relieving either party from its obligation to pay any sum due to the other party.

21. Governing law and Dispute resolution:

This Agreement shall be construed and governed by the laws of India. The parties agree to negotiate in good faith to resolve any dispute between them regarding this Agreement. If the negotiations do not resolve the dispute to the reasonable satisfaction of parties within 30 days of first intimation of claim regarding such dispute from one party to the other, then each party’s CEO (“**Representatives**”) shall, within fifteen (15) days of a written request by either party to call such a meeting, meet either in person or through any other media and alone (except for one assistant for each party) and shall attempt in good faith to resolve the dispute. If the dispute is not resolved within 10 (ten) days of such meeting, either party may invoke arbitration proceedings for resolution of disputes.

The arbitration will be conducted in Pune, India in English language, in accordance with the Arbitration and Conciliation Act, 1996 by a sole arbitrator who shall be appointed by parties mutually and the award made in pursuance thereof shall be binding on the parties. The dispute resolution and arbitration process mentioned in this Section will not prohibit parties from approaching the courts for appropriate interim reliefs.

22. Entire Agreement:

This Agreement shall constitute the complete agreement between the parties respecting the subject matter. This Agreement may not be extended, amended, terminated, or superseded except by agreement in writing between the parties. This Agreement supersedes all previous agreements between the Contractor and the Company, whether oral or written, regarding subject matter hereof, Standard terms and conditions of a purchase order or an invoice or any similar document, whether hosted on party’s website or otherwise, shall be ineffective. There are no intended third party beneficiaries to this Agreement. This Agreement is a non-exclusive agreement, and Persistent shall remain free to enter into similar agreements, arrangements with third parties. Each Agreement may be executed in one or more counterparts (including scanned copies), all of which when signed and taken together constitute a single agreement between the parties.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be duly executed by their authorized representatives as of the Effective Date written above.

PERSISTENT SYSTEMS LTD.

_____ (**COMPANY**)

Signature

Signature

Print Name

Print Name

Title

Title

Date

Date

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Phone:

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