**AGREEMENT**

This Agreement is made and executed at New Delhi on **1st Dec 15** and shall be deemed to be effective from **1st Dec 15.**

BY AND BETWEEN

**Tandem Healthcare Pvt. Ltd.,** a company incorporated under the Companies Act, 1956 having its Registered Office at New Delhi 110065 hereinafter referred to as **‘Tandem’**, which expression shall, unless repugnant to the context thereof, include its successors and permitted assigns;

**AND**

**Mas Callnet India Private Limited**, a company incorporated under the Companies Act, 1956, having its registered office at **B 24, OKHLA INDUSTTANDEML AREA PHASE-II, New Delhi 110020** (hereinafter referred to as (**“Mas”**) which expression shall, unless repugnant to the context thereof, include its successors and permitted assigns.

“TANDEM” and “MAS” hereinafter individually shall also referred to as “Party” and collectively as “Parties” as the context may require.

**INTERPRETATION:**

(i) References to any document (including this Agreement) are references to that document as amended, consolidated, supplemented, novated or replaced from time to time.

(ii) References in this Agreement to Articles, Clauses, Schedules and Annexure are references to articles, and clauses in and schedules and annexure to this Agreement. The Annexure or Schedules to this Agreement shall be deemed to form an integral part of this Agreement.

(iii) Headings are inserted for convenience only and shall not affect the construction of this Agreement.

**WHEREAS**

1. TANDEM is a company in the business of Selling Healthcare Products.
2. MAS is inter alia engaged in the business of providing third party integrated business process outsourcing solutions, Inbound/ Outbound services, Voice blend operations, E-mail/ Chat/ IVRS support services, SMS support services, Knowledge Process Outsourcing, Information technology and software, Other related value-added telecommunication/ IT services and other outsourced Voice and data activities.
3. MAS is an independent IT enabled Services Company in India delivering solution in running call centers, database management and back office support services for domestic and international customers.
4. MAS has offered its services to TANDEM on a non-exclusive basis, as enumerated in **Annexure A.**

It is considered expedient by both MAS as well as TANDEM that the terms and conditions for the engagement of MAS by TANDEM should be reduced in writing and embodied in this agreement.

**NOW THEREFORE, THIS AGREEMENT WITNESSETH, AND THE PARTIES AGREE TO AS FOLLOWS:**

**Article 1** – **Engagement and Responsibilities**

* 1. This Agreement sets forth the terms and conditions under which TANDEM shall undertake services from MAS. The scope of services shall be as per **Annexure A** of this Agreement. The scope of services may be revised on mutual understanding of both the parties.
  2. In pursuance of the services described in Annexure A, TANDEM shall, from time to time issue to MAS, service request for execution of specific services enlisted in Annexure A.
  3. MAS shall comply with the instructions provided by TANDEM from time to time relating to the performance of the service, duties and obligations under this Agreement. The services rendered by MAS shall be subject to review by TANDEM and its decision as to the quality thereof shall be final.
  4. MAS agrees that before deployment of any person to perform the services of TANDEM, it shall ensure that such person/(s) abides by security rules, guidelines, policies & procedures as provided by TANDEM from time to time.
  5. MAS shall share MIS Reports with TANDEM as per **Annexure A** of this agreement.
  6. TANDEM would also provide training modules to MAS for training of the tele-callers.
  7. Any change in the Cost, Volumes, Scope of services, etc should be done through duly executed addendum based on mutually agreed terms and conditions & signed by both the parties herein.

**Article 2 – Fees**

2.1 In consideration of the services provided to it, TANDEM shall pay to MAS such fees and charges as enumerated in **Annexure C**. MAS shall raise invoices at the end of every calendar month along with monthly timesheets in the format approved by the TANDEM in writing.

2.2 MAS hereby undertakes that it shall not claim any additional cost or expenses from TANDEM as otherwise stated in Annexure C.

2.3 MAS hereby undertakes that it shall not request for extension of service beyond the period specifically authorized by TANDEM.

2.5 TANDEM shall pay the invoices within 15 working days of receipt of final undisputed invoice by it. In case of any discrepancy in or dispute regarding the invoice, TANDEM shall intimate MAS on the same and provide details within 7 days of the receipt of invoice. Both Parties agree to resolve the discrepancy/ dispute within next 15 days. Notwithstanding the above, TANDEM agrees to pay the undisputed amount within 15 working days of receipt of invoice. The remaining amount shall be paid by TANDEM after getting the modified invoice, if any required, from MAS.

2.6 The payments made by TANDEM to MAS as per this agreement shall be made subject to deduction of withholding of all applicable taxes (as per the applicable law), for the time being in force.

**Article 3** – **Representations and Warranties of MAS**

3.1 MAS represents and undertakes that;

1. It has full power and authority to enter into this Agreement and perform the services and it has the necessary infrastructure to duly perform the services under this agreement;
2. It is a registered telemarketer with TRAI in case any telemarketing activity is carried by TANDEM;
3. It shall render the services and perform its obligations and duties under this agreement accurately and in accordance with instructions, specifications, procedures, standards, guidelines, timeframes, if any as are issued from time to time by TANDEM for the performance of the services to the satisfaction of TANDEM;
4. It shall be responsible for its corporate and personnel taxes if any, and shall indemnify and hold harmless TANDEM for any liability in this connection;
5. It has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and it has taken all necessary action (corporate, statutory or otherwise), to execute, deliver, perform and authorise the execution, delivery and performance of this Agreement;
6. The execution, delivery and performance of this Agreement by MAS (i) has been duly authorized by its Board of Directors, and (ii) will not conflict with, result in a breach of or constitute a default under any other agreement to which MAS is a Party, or the intellectual property rights of a third party;
7. MAS is a duly licensed, authorized or qualified to do business and is in good standing in the jurisdiction in which a license, authorization or qualification is required for the ownership or the transaction of business of the character transacted by it, except where the failure to be so licensed, authorized, or qualified would not have a mateTANDEMl adverse effect on any of the MAS’s ability to fulfil its obligations under this Agreement;
8. MAS is in compliance with all Laws applicable to it and has obtained all applicable permits and licenses required by it in connection with its obligations under this Agreement.

3.2 MAS acknowledges that it may be provided access to offices of TANDEM and may be allowed use of the equipment or facilities for rendering services to TANDEM only in terms of this agreement. MAS undertakes not to claim any right, title and/ or interest of any nature whatsoever in the office and, or, the equipment or facilities provided by TANDEM, at any point of time during the term of this agreement or after its expiry.

3.3 MAS shall ensure to strictly comply with the understanding between the parties during the tenure of this agreement and to ensure that all statutory/ regulatory/ judicial compliance(s) are met as per the laws of the land.

3.4 MAS shall be responsible for downloading the NCPR data as and when generated by the regulatory body, TRAI and shall update the data on its records. It shall be further responsible for scrubbing of numbers received from the Access Provider/ TRAI comprising of NCPR data in terms of The Telecom Commercial Communication Customer Preference Regulations, 2010.

3.5 MAS acknowledges that all customers data generated due to services shall be the property of TANDEM. All Intellectual Property Rights in or to the customer data shall vest with TANDEM without any condition and immediately upon their creation.

3.6 MAS shall only store, copy or use the data to the extent necessary to perform its obligations under this agreement and shall not disclose it to any third party without the prior consent of the TANDEM except, if required to do so by any applicable law specifying the same.

3.7 MAS shall store the customer data in a secure manner and provide the backup of customer data to TANDEM on monthly basis.

3.8 All inventions, designs, mask works, processes, methodologies, literary works and works of authorship, as those terms are understood under law, created, developed or prepared by MAS exclusively for TANDEM and for exclusive service delivery to TANDEM under or in support of the performance of its obligations hereunder (the Work Product), shall be owned by TANDEM. MAS shall not have any rights, title and interest, including, ownership of copyright, in and to the Work Product and all copies of the Work Product. MAS agrees to execute all documents necessary to confirm or perfect the ownership of copyright/ any other proprietary rights of TANDEM in such Works and or deliverables without any extra demur or delay.

3.9 All reports/ reviews/ feedback prepared by MAS for TANDEM in pursuance to any of its obligations and/ or services to be provided by MAS shall not in any manner be construed to be an expression of conclusive findings or assessment of market risks. The same is only for purposes of information.

**Article 4** – **Independent Contractor and Employees of MAS**

4.1 Nothing herein shall be deemed to create any partnership, joint venture between TANDEM and MAS or their representatives and employees and nothing herein shall be deemed to confer on any party any authority to incur any obligation or liability or behalf of the other party. MAS is an independent contractor and not an employee or authorized representative of TANDEM. MAS undertakes that it shall not represent itself as an associate or agent of TANDEM to any person, in any manner and shall not undertake any obligation or liability in the name of or on behalf of TANDEM.

4.2 Nothing in this agreement shall by implication or expression be taken to mean or imply that any of the persons employed, engaged by MAS for rendering the services, are the employees of TANDEM or engaged by TANDEM.

4.3 All employees, workers, consultants and the like engaged by MAS to render the services to TANDEM shall be in the sole employment of MAS and MAS shall be solely responsible for their salaries, wages, remunerations and/ or, any other statutory or other payments and the like. Under no circumstances shall TANDEM be liable for any payment or claim or compensation (including but not limited to compensation on account of injury, death, termination) of any nature to such employees, workers, and consultants at any point of time during the currency of this agreement or even after its termination.

4.4 MAS undertakes that it shall fulfill and comply with all the requirements of statutory provision including Minimum Wages Act, Payment of Wages Act, Contract Labor (Regulation & Abolition) Act, The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952, Employees' State Insurance Act, 1948 and other laws and contractual obligations applicable to it in respect of the employees, workers, consultants and the like engaged by MAS for providing the services to TANDEM at his own risk and cost and that TANDEM shall not be liable for the same in any manner whatsoever. MAS agrees that each month when invoice for services are raised it shall subsequently certify that it has abided by all applicable labor and other laws relevant to the provision of such services.

4.5 In the event TANDEM notifies MAS that it is not satisfied with any of the persons, employees, workers, consultants and the like, engaged by MAS for providing the services to TANDEM, or if TANDEM has reason to believe that a person/ s engaged by MAS to provide services to TANDEM are not abiding by the applicable security rules, guidelines, policies & procedures, then MAS shall replace such person/ s to the satisfaction of TANDEM within reasonable time and as per the HR policies of MAS. MAS undertakes to keep and hold TANDEM harmless and indemnified in this regard in all respects.

4.6 MAS shall maintain all requisite records, registers, account books etc, which are obligatory under any applicable law in connection with the services being rendered to TANDEM and shall provide such information as may be required under any law to the concerned authority.

**Article 5** – **Confidentiality**

5.1 MAS shall keep strictly confidential all information and details including, but not limited to accounts, business plans, quarterly analysis reports, data, details, customer database, manuals and all other documents disclosed to MAS or which comes into the knowledge of MAS under this agreement. MAS shall ensure that all employees appointed by it to carry out the purpose of this agreement, to execute apron TANDEM confidentiality agreements to protect the rights of TANDEM and TANDEM’s customer database.

5.2 MAS shall promptly notify TANDEM of any unauthorized use and take all apron TANDEM steps that are necessary to recover the confidential information of TANDEM and to prevent subsequent unauthorized use or dissemination of the Confidential information including availing of action seizure and injunctive relief.

5.3 MAS shall not copy the information, data including customer data etc., without TANDEM’s prior written approval. MAS will not translate, modify, adapt, de-compile, disassemble the information, data, etc., except as specifically agreed to by TANDEM in writing and as per obligations of MAS to scrub the database received from TANDEM as per Access Provider/ NCPR database.

5.4 MAS also agrees that it shall not, without TANDEM’s prior written consent, disclose or allow to be disclosed such confidential information to any one, except to its relevant officers and employees and then only to such extent as may be necessary for the performance of MAS’s obligations under this agreement. In this regard, MAS shall execute back to back confidentiality agreements with such employees and relevant officers.

5.5 During the term of this agreement and for the period of five years from the date of expiration or termination of this agreement, MAS shall not disclose or use the information they are privy to, without obtaining the prior written approval/ consent of the TANDEM except as provided in this agreement. Both parties shall develop and implement such procedures as may be required to prevent the intentional or negligent disclosure to third parties of the confidential information communicated to each other.

5.6 Nothing in this agreement shall prevent the disclosure by either party or their employees of confidential information that:

5.6.1 Prior to the transmittal to each other was of general public knowledge.

5.6.2 Becomes, subsequent to the time of transmittal to each other a matter of general public otherwise than as a consequence of a breach by each party of any obligation under this agreement.

5.6.3 Is made public by the parties on their own.

5.6.4 Was in the possession of either of the parties in documentary form prior to the time of disclosure thereof to the other and is held by either of them free of any obligation of confidence to each other or any third party; or

5.6.5 Is received by either party in good faith from a third party having the right to disclose it, who, to the best of either party’s knowledge, did not obtain such information from TANDEM and who imposes no obligation of secrecy on the parties with respect to such information.

5.6.6 Is compelled to reveal under any order or direction from judicial or quasi-judicial authority, provided that the party who is under such compulsion to reveal the information shall promptly inform the other party of its compulsion aforesaid and provide all assistance in obtaining a protective order preventing or limiting the disclosure and such disclosure shall not be more than what may be necessary for compliance of such order or direction.

5.7 Both the parties agree and undertake that their officers, employees, personnel agents (hereinafter collectively referred to as “personnel”) shall hold all proprietary information in confidence and in particular shall:

5.7.1 Not use or permit or enable any person to use any of the proprietary information in any way other than for the purpose of this agreement.

5.7.2 Not disclose or divulge any proprietary information to any person not authorized by the parties and shall limit access to the proprietary information to only to such of their personnel as need to know the same for the furtherance of this agreement.

5.7.3 Not to make or have made not retain, nor permit the making or retention of any copy or record howsoever created (i.e. duplicate copy, photocopy, facsimile, magnetic copy etc) of any of the proprietary information other than may be required for performance of service, duties and obligations under this agreement.

5.7.4 Take all necessary actions to protect the proprietary information against misuse, loss, destruction, deletions or alternations;

5.7.5 Not to use or permit to use of the proprietary information in any way which may be harmful to or against the best of the interest of the other party;

5.7.6 Not to, either directly or indirectly, commercially exploit the proprietary information of each other for economic or other benefits and notify each other promptly of any unauthorized or improper use or disclosure of the proprietary information.

**Article 6** – **Inspection & Right to Audit**

6.1 MAS shall, upon reasonable notice allow TANDEM, its management, auditors, regulators and/ or agents the opportunity of inspecting, examining, auditing and/ or taking copies of TANDEM’s records and all the documents related to TANDEM with MAS.

6.2 TANDEM reserves the rights to inspect the business process and service delivery process at any time without giving any prior notice to MAS. This point shall be treated differently from article 6.1.

6.3 MAS shall co-operate with TANDEM’s internal or external auditors to assure a prompt and accurate audit of TANDEM’s records and data with MAS and MAS shall also co-operate in good faith and in a best efforts basis with TANDEM to correct any practices, which are found to be deficient as a result of any such audit within a reasonable time after receipt of TANDEM audit report.

**Article 7** – **Indemnification**

7.1 Both Parties hereby undertake to keep and hold each other indemnified and harmless against all costs, expenses, claims, liabilities and proceedings (including legal) and attorney’s fees, which may be caused to or suffered by indemnified party or made or taken against the indemnifying party, which are directly or indirectly arising out of breach of this Agreement by the indemnifying party or by any acts of commission or omissions of the persons engaged by indemnifying party for performing the Services under this Agreement or otherwise employed or engaged by indemnifying party.

7.2 Both Parties hereby undertakes to indemnify each other in respect of all claims, damages, costs and expenses suffered or incurred by the indemnified party on account of any claims of the nature described in Article 4 above, asserted against the indemnified party by the indemnifying party or its personnel or any person connected with indemnifying party or engaged by indemnifying party to provide the services under this agreement.

7.3 MAS hereby agree to indemnify and hold the TANDEM harmless from any and all costs, expenses, including, reasonable outside attorney’s fees, claims, suits and liability by third parties (collectively, “Claims”) that the TANDEM may suffer or incur by reason of the MAS or its employee’s actual or alleged: (i) infringement of any intellectual property rights of a third party; (ii) the gross negligence or willful misconduct of the MAS or its employees or agents in connection with this agreement; (iii) disclosure of confidential information to any third party/ person except with prior written consent of TANDEM and (iv) comments/remarks made to a TANDEM customer during the course of a call.

7.4 MAS TANDEM hereby agrees to indemnify and hold TANDEM harmless from any and all costs, expenses, including, reasonable outside attorney’s fees, claims, suits and liability by third parties relating to violation of any of the provisions of The Telecom Commercial Communication Customer Preference Regulations, 2010, including making good of penalty amount and additional security deposit with the Access Provider due to complaint by a customer.

**Article 8** - **Sub-Contracting**

8.1 MAS shall itself perform the services and all obligations and duties under this agreement. Except with the prior written consent of the TANDEM, neither the benefit nor the burden of this agreement shall be assignable by MAS to any entity. TANDEM may assign or transfer its rights and obligations under this agreement to any entity which acquires all or substantially all of TANDEM’s operating assets or into which TANDEM is merged or reorganized pursuant to any merger or reorganization.

8.2 MAS shall itself perform its services, obligations and duties under this agreement, provided that in case MAS requires the assistance of some other specialized agency or to engage some other agency, such agency may be engaged only with the prior written approval of TANDEM and in any event such agency shall be absolutely accountable only to MAS and MAS shall be absolutely responsible and accountable to TANDEM and full liable for such agency’s acts and omissions.

8.3 TANDEM’s approval to such sub-contractor shall not create any relationship between TANDEM and the sub-contractor nor shall it discharge MAS from its responsibilities for performance of the services in its entirety. MAS shall be absolutely responsible and liable for all acts and omissions of such sub-contractor and shall always keep and hold TANDEM harmless and indemnified in respect of any damages, costs or expenses incurred or suffered by TANDEM which arise from any act or omission of such sub-contractor.

**Article 9** – **Term and Termination**

9.1 This agreement shall be deemed to be valid and effective from **1/12/2015** for 1 year till **1/12/2016** and shall be renewable at mutual consent by executing a separate agreement/addendum duly signed by the authorized representatives of both the Parties.

9.2 Notwithstanding anything stated elsewhere in this agreement, if either party commits breach of any of the terms or conditions of this agreement, a written notice may be served upon the party committing such breach by the other party and in case the breach is not rectified within a period of fifteen days from the date of receipt of notice by the party committing the breach, then the party giving such notice shall be entitled to terminate this agreement with thirty days notice thereafter.

9.3 Both the parties may also terminate this agreement by giving 30 days prior notice in writing without assigning any reason thereof though TANDEM agrees that during the phase where a ramp down of number of Seats is required, then TANDEM would provide 30 days’ notice in writing to MAS.

*9.4* MAS further agrees, that in the event of earlier termination or expiry of the agreement, it shall, if so requested in writing by TANDEM, be obliged to continue providing the services on the same terms and conditions as provided in this agreement, till such times as TANDEM is able to procure an alternate arrangement or provider for providing of the services at the premises **subject to maximum of 45 days from the date of 30 days notice served**.

9.5 In the event of termination of this agreement, MAS shall refund any advance payments made by TANDEM or subject to prior written consent from TANDEM, render such services against which the payment was made. TANDEM shall within 30 days of termination of this Agreement, make the payment of the entire outstanding amount to MAS as due on the date of termination,.

**Article 10 – Limitation of Liability**

To the greatest extent permissible under the law, either party shall not be liable for any special, indirect or consequential loss or damage including without limitation loss of profits, business, revenue and/ or goodwill in connection with or arising out of this master agreement and/ or any previously and/ or future agreements entered into by parties hereto.

**Article 11** – **Miscellaneous**

11.1 Nothing in this agreement shall confer any right upon MAS to use TANDEM’s trademarks, trade names, service marks or brand names or other intellectual property rights for commercial gains, save for use of TANDEM’s trade name by MAS for the purpose of selection and recruitment of CDEs and for mentioning TANDEM’s trade name in its List of Clients for purposes of advertising only.

11.2 This agreement shall constitute the entire agreement between TANDEM and MAS with respect to the subject matter hereof, and shall supersede all prior agreement & understandings, if any, between the parties concerning the subject thereof.

11.3 No amendments to the agreement shall be valid unless executed in writing and signed by duly authorized representatives of both parties.

11.4 Any notice or notification in connection with this agreement shall be in writing and delivered either personally, registered post acknowledgement due or speed post. Any notice or other written communication pursuant hereto shall be addressed to TANDEM or MAS at their respective addresses mentioned herein above or to such address as may be notified by the concerned party to the other party in accordance with the provisions of this clause.

11.5 If any of the provisions of this Agreement become invalid, illegal or unenforceable in any respect under any Applicable Law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

**Article 12** – **Dispute Resolution and Governing Laws**

12.1 All disputes or differences arising between the parties as to the effect, validity or interpretation of this agreement or as to their rights, duties or liabilities there under, failing amicable resolution through mutual negotiations/ mediation, shall be referred to and settled by arbitration by a mutually appointed sole arbitrator. The arbitration proceedings shall be held in accordance with the Indian Arbitration and Conciliation Act, 1996 or any subsequent enactment or amendment thereto. The decision of the arbitrator shall be final and binding upon the parties. The venue of arbitration proceedings shall be New Delhi and the language shall be English.

12.2 This Agreement shall be construed in accordance with the applicable laws of India. All disputes arising out of this agreement shall be subject to the exclusive jurisdiction of the court of New Delhi only.

IN WITNESS WHEREOF the Parties have hereunto executed this agreement the day and year first hereinabove written.

|  |  |
| --- | --- |
| **For and on behalf of** | **For and on behalf of** |
| **TANDEM Healthcare Pvt Ltd.** | **MAS Callnet India Pvt. Ltd.** |
| Signed by  Name:  Date:  Witnesses | Signed by  Name:  Date:  Witnesses: |

**ANNEXURE A**

**SCOPE OF SERVICES of MAS**

MAS will provide callers to TANDEM for selling its products through Tele Marketing. For this MAS will provide/ have:

* MAS will provide Call Center services with fully trained manpower who is equipped with the necessary equipment’s like phone with separate inbound & outbound dial facility, computer with backup, Process Knowledge.
* MAS will provide one Team Leader.
* For call audits, a shared QA will be provided.
* MAS will operate for 7days a week and from 9.30am to 6.30pm. This time may be changed depending on the business requirement and shall be done with prior notification by TANDEM to MAS
* ACD with Intelligent Routing which checks a database and routes calls to the agents most skilled at meeting a particular need, increasing efficiency and customer satisfaction.
* IT Team for round the clock operations and networking.
* Provide MIS to TANDEM as per the prior approved formats.
* Keeps track of multiple events as it dials, including agents log in/ log out, online reports, agent wise reports, campaign wise reports, disposition reports, etc.
* Quality Monitoring, that follows a predefined quality policy by TANDEM to do Quality Assurance
* MAS to provide 100% call recordings. Call recordings will be available to TANDEM for three months after that backup of recordings shall be handed over to TANDEM.

In respect of Availability of contact center services to Customers, MAS shall ensure following parameters:

**Training**

1. Product/ Process training to be provided by TANDEM’s In-house trainer to the Contact Center Trainer. Span of training will be defined by TANDEM.
2. Training of soft skill for agents would be provided by the MAS which will be governed by TANDEM.
3. MAS Contact Center Team, Product Managers and TANDEM Team shall design the training courseware in coordination with the Business.
4. Daily update & briefings will be provided to contact center by TANDEM team.

**ANNEXURE C**

**Commercial of Services:**

|  |  |
| --- | --- |
| **Dialdesk- Annual Plan** | |
| Dialdesk- Annual Plan | **MARP111** |
| **Plan Name** | |
| One Time Setup Cost | 10000 |
| Refundable Security Deposit | NIL |
| Annual Advance Rental | **111000** |
| Free Value - Toll Free | 56000 |
| **Plan Unit Rate** | |
| Transactional SMS (150 Characters) | 0.32 |
| EMAIL | 0.1 |
| Inbound Calling Minutes (Pulse 1 MIN)- Toll Free | 4.1 |
| Outbound Calling Minutes (Pulse 1 MIN) | 3.75 |

***Terms & Conditions***

1. Payment & PO in favor of **“I Spark Data Connect Pvt. Ltd.”**
2. Service Tax Extra as applicable.
3. Commissioning Time: 15 Days from the date of LOI
4. Payment 100% in advance
5. Training on product shall be provided by client

However should you require any further information, Kindly advice accordingly.