

Joint Venture Agreement

This Joint Venture Agreement (the "Agreement") is entered on the
(.....) day of....., 20.....

BETWEEN

ABC PVT. LTD. a company incorporated in India under the Companies Act, 1956
and

having its Registered Office at (address) India (hereinafter referred
to as the "ABC")

AND

XYZ, a partnership firm of (Mr., Mr. and
Mr.) formed and registered under the laws of (country)
(with
the liability of the partners limited to their contribution) having its principal office
at (.....) (hereinafter referred to as the "ABC").

Each of the ABC and the XYZ are also referred to herein as a "Party" and
collectively as "Parties".

Whereas the OIL is carrying on the business of manufacturing, developing and
marketing of various products in the area of information technology, computer
hardware, computer software and other related activities in India; and
Whereas the partners of ABC have substantial experience in the area of
computer software development, marketing and providing after sales support;
and

Whereas the Parties are interested in carrying on business jointly in the
..... (foreign) in area of computer software development, system
designing, data collection and reporting, (.....) (herein after the
"Business"); and

Whereas the Parties have decided to carry on Business jointly by establishing
private, limited liability limited under the laws of the State of (.....)
..... (foreign) (the "..... Company"); and

Whereas the Parties have entered in to a Memorandum of Understanding
dated (.....) to provide for the basic terms and conditions for entering
into the Agreement.

NOW THEREFORE, in light of mutual terms and conditions promises
contained herein and other good and valuable consideration, the receipt and
sufficiency of which is hereby acknowledged the Parties and the
agree as follows:

1. Definitions

The following words and expressions shall, unless the context otherwise
require, have the following meaning:

" Act" The (Companies Act of State of (foreign) where the

company is proposed to be incorporated), as amended from time to time, or any statutory re-enactment thereof, and wherever the context requires, any statutory rules framed thereunder;

“ Agreement” This Shareholders Agreement entered into between ABC and the XYZ;

“ Articles” the Articles of association of the JVCO venture company to be incorporated pursuant to the Agreement;

“ Board” the Board of Directors of the JVCO;

“ Director” a Director of the JVCO;

“ JVCO” Joint Venture Company to be incorporated pursuant to the Agreement in the name of (company name) or in such other name permitted by the authorities;

“ Shares” the Equity Shares of ten (foreign amount) each in the share capital of the JVCO;

“ Shareholders” OIL and the ABC collectively, or where Shares in the JVCO are held by ABC’s affiliates or nominee, that affiliate or nominee holding Shares in the JVCO.

2. Transfer of Business from the ABC to JVCO

2.1 The whole of the business (including all assets, liabilities, rights, title and interest in any intellectual property and goodwill) as was being carried out by the partners of ABC and owned and run by the ABC shall be transferred by the ABC to JVCO in consideration of the 49% Shares in the capital of the JVCO.

2.2 At least 10 days before the date fixed for allotment of Shares to the parties the ABC shall prepare a detailed statement of its accounts and finances as of (, 20...) showing clearly the assets and liabilities which are intended to be transferred/assumed by the JVCO. The JVCO shall be liable only for the declared liabilities and such other liabilities arising out of the declared liabilities and none other.

3. Capitalisation and Shareholding of JVCO

3.1 Immediately after the execution of the Agreement ABC shall take steps for the incorporation of the JVCO with the authorised capital of (foreign amount in figures and words) divided in to (No. of Shares) equity shares (common stock) of (foreign amount in figures and words) each.

3.2 The entire share capital of the JVCO shall be held by the Parties in the following proportion:

ABC 49%

XYZ 49%

Non-Resident Indians 2%

(At the option of OIL)

3.3 Of the proposed twenty million Shares, (No. of Shares) Shares aggregating to a total face value of (foreign amount)

(representing 49% stake in the JVCO) reduced by any Share(s) already held shall be issued by the JVCO to the ABC in consideration of the ABC's transferring (having transferred) its entire business to the JVCO.

3.4 Of the proposed twenty million Shares (No. of Shares) Shares aggregating to a total face value of (foreign amount) (representing an interest of 49%) shall be issued to ABC against the cash subscription paid by OIL to the JVCO.

3.5 The balance of the proposed twenty million Shares, i.e. (No. of Shares) Shares aggregating to a face value of (foreign amount) shall be allotted by the JVCO to such persons who are non-resident Indians and selected by ABC.

3.6 If and when the JVCO desires to increase the paid-up share-capital, by way of further issue of Shares, the additional Shares shall be offered in the first instance to the existing holders of the Shares by way of rights issue in proportion to the Shares held by them at that time so as to maintain the ownership structure within the JVCO.

4. Board of Directors

4.1 The management of the JVCO shall be vested in the Board of Directors consisting of five Directors other than nominee Director(s) of financial institutions and banks, if any. Of the seven Directors, three Directors shall be appointed by ABC and three by the XYZ and one Director shall be nominated by the non-resident Indian Shareholders. In the event that financial institutions and/or, banks advancing loans to the JVCO impose conditions as to the composition of the Board, ABC and the XYZ shall enter into discussions to arrive at a mutually acceptable solution to comply with the requirements of the said lenders. The Directors shall not be required to hold any shares as a condition or qualification for holding office of directors of the JVCO.

4.2 The Parties shall ensure that the JVCO shall enter into a separate agreement with the Directors nominated by ABC for their appointment as the Whole time Directors of the JVCO. The terms and conditions of their appointment shall be substantially as set out in Schedule –I hereto.

4.3 The chairman of the Board of Directors (the "Chairman") and for the meetings of the Shareholders' of the JVCO shall be a person nominated by ABC.

4.4 The operational powers and responsibilities of the Board shall, subject to the provisions of the Act, be as determined in a general meeting in accordance with the Articles.

5. Management

5.1 Chairman: At the first meeting of the Board of Directors, held after the allotment of shares to the Parties as envisaged in section 3 of the Agreement, a Director nominated by ABC shall be appointed the Chairman of the JVCO and such Chairman shall preside over all meetings of the Board and of the Shareholders at which he is present.

5.2 Notwithstanding anything contained in the Act the Chairman shall not have a casting or second vote.

5.3 Voting: Subject to the provisions hereof, all decisions of the Board shall be by a majority vote of all the Directors (excluding the Directors nominated by the lenders).

5.4 Any of the following actions:

- (a) Change in the dividend policy
- (b) Alteration of the Memorandum and Articles of Association of the JVCO
- (c) Change in the capital structure of the JVCO.
- (d) Change in the name of the JVCO, its registered office or its constitution.
- (e) Appointment of any exclusive marketing associate.
- (f) Any scheme of arrangement or compromise or restructuring of the JVCO.
- (g) Incurring or agreeing to incur capital expenditure exceeding 10 per cent of the net worth of the JVCO.
- (h) Any change or action or proposal affecting rights or obligations of the Parties.
- (i) Investment in other companies by way of equity, loan or otherwise.
- (j) Borrowing other than normal credit in routine course of business.
- (k) Appointment of chief executive/whole time Directors.
- (l) Changing the constitutions of the Board of Directors other than nominee directors appointed by the financial institutions pursuant to loan agreement, if any.
- (m) Appointment of a relative or contract with a relative as defined under the Act.
- (n) Any contract of outsourcing where the cumulative value in a year exceeds 10% of the turnover of the previous year.
- (o) Change in the remuneration structure of a Director.
- (p) Any agreement containing clauses giving right to a person to subscribe to share capital whether it is express or contingent or any other condition which may affect any or all of the above issues mentioned in this article.
- (q) Change in the business plan approved by the Board.

Shall require prior approval by:—

(a) ABC and the XYZ, in the case of those matters customarily requiring shareholder approval or,

(b) In the case of all other matters, whether being passed at a Board meeting or by circulation, a majority of the Directors comprising at all times at least one Director each appointed by ABC and the XYZ,

5.5 The Parties shall at all times during the effective period of this Agreement cause their representatives on the Board to exercise their votes in consonance with and in compliance with the terms of this Agreement.

6. Meetings of the Board

6.1 Meeting of the Board shall be held at least once in a quarter. The minimum

number of meeting required to be held under the Act shall always be complied with.

The meeting of the Board shall normally be held in () unless otherwise agreed upon by the Parties.

6.2 At least fourteen (14) days' prior written notice of all meetings of the Board shall be given to each of the Directors. There shall be attached to each notice of the meeting of the Board an agenda of the matters to be discussed and decided at the Board meeting. The Board shall not be entitled to take any decision on the matters not provided in the agenda. However, in case of urgency any meeting of the Board can be held at a shorter notice with the approval of all the Directors.

6.3 Quorum for the meeting of the Board shall not be complete unless one representative of each Party is present at the meeting. However, if at a duly convened meeting of the Board, a representative of either of the Parties are not present (the "Absenting Party"), the meeting shall be reconvened by the JVCO. If at the reconvened meeting also a representative of the Absenting Party is not present the quorum shall be deemed to be complete and the Board shall be entitled to take decision on the items mentioned in the agenda. However, the Absenting Party shall have the right to express its consent or dissent on the matters through telephone or Internet.

7. Operations of JVCO

7.1 Unless the Parties agree otherwise, the day to day management of the JVCO will be conducted/carried out by the whole time Directors who shall, however, be accountable to the Board of Directors. However, an adequate "Management Information System" by way of Internet, periodical reports in writing, shall be developed and implemented within a period of one month of signing of the allotment of Shares so as to enable OIL to know about the functioning of the JVCO. In particular, such Management Information System shall provide information relating to matters contained in the Schedule-II to the Agreement.

7.2 In addition to the Management Information System the JVCO shall prepare its Balance Sheet, Profit and Loss Accounts and such other financial statement as may be directed by the Board on a quarterly basis and submit the same within a period of 15 days from the close of each quarter for the approval of the Board.

7.3 Unless otherwise agreed by the Parties, the JVCO shall distribute at least two thirds of its profit after tax by way of dividend.

8. Meetings of the Shareholders

8.1 General meetings of the JVCO shall be called from time to time to direct and control the business of the JVCO and the Board shall decide the time, place and agenda for convening such meetings subject to the Articles and the applicable requirements of the Act.

8.2 Notwithstanding anything contained herein, at all times, atleast twenty one (21) days' prior written notice of any meeting of the Shareholders of the JVCO shall be given to all the Shareholders and Director.

8.3 No business shall be transacted at any meeting of Shareholders or any adjournment thereof, unless a quorum as provided under clause 8.4 hereof is present at the time when the meeting proceeds to business and throughout the meeting.

8.4 A quorum for a general meeting shall not be deemed to have been constituted unless one representative of OIL and one representative of the ABC is present. However, if at a duly convened meeting of the Shareholders, a representative of either of the Parties are not present, meeting shall be reconvened by the JVCO. If at the reconvened meeting also a representative of the Absenting Party is not present the quorum shall be deemed to be complete and the Shareholders shall be entitled to take decision on the items mentioned in the agenda. However, the Absenting Party shall have the right to express its consent or dissent on the matters through telephone or Internet.

9. Books of Accounts, other records and Audit

9.1 The JVCO shall ensure that its books and records are maintained with a view to accurately reflect its financial positions and are kept in accordance with the requirements of the Act and to support the Management Information System as provided in the Agreement.

9.2 A reputed and mutually acceptable firm of Accountants shall be appointed as the Auditors of the JVCO to carry out the statutory audit of the JVCO. However, the Parties shall be free to appoint at their cost any firm of Chartered Accountant or any other qualified person to carry out the independent audit or inspection of the financial position of the JVCO or a management audit of the functioning of the JVCO.

9.3 Not later than (45) days after the end of each fiscal year, audited balance sheets of the JVCO as of the end of that fiscal year, together with the related audited statements of the income, retained earnings and cash flow for that fiscal year, setting forth in comparative form the information for the preceding fiscal year shall be presented before the Board for its consideration and approval.

10. Articles of Association

10.1 Within one month of the allotment of Shares as envisaged in section 3 of the Agreement, the Articles shall be amended to remove any and all provisions which are not in accordance with the provisions of this Agreement and to provide for management of the JVCO in accordance with the provisions of this Agreement.

10.2 The Parties shall take all action to ensure that at all times the Articles reflect the provisions of this Agreement. The Parties agree to do all such things and take all such actions to ensure that the provisions of this Agreement are put

into effect. In case of any conflict between the provisions of the Agreement and the Articles, the provisions of this Agreement shall prevail between the Parties.

11. Non-Competition/Confidentiality

11.1 Each of the Parties agree that from the date hereof and for so long as it holds shares in the JVCO it will not engage or be interested whether as principal, agent, consultant, employee or even otherwise in any trade occupation or business

worldwide competing directly or indirectly with the JVCO without prior consent in writing of the other Party:

Provided, however, that OIL shall not require any consent of the XYZ for accepting the directorship and/or holding/acquiring any stake in any other company carrying on similar business unless the ABC proposes to acquire substantial stake in that company.

11.2 Each of the Parties shall keep confidential all information (written or oral) concerning the business and affairs of the JVCO or any subsidiary of the JVCO or of the other Party that it shall have obtained or received as a result of the discussion leading upto entering into or implementation of the Agreement or its association with the JVCO or any subsidiary of the JVCO save that which is:

(a) trivial or obvious;

(b) obtained lawfully and other than as a result of a breach of this Article from Third Parties; or

(c) in the public domain prior to the signing of the Agreement.

12. Effective Date, Term and Termination

12.1 In the event of either Party committing a breach of any of the provisions of this Agreement, the other Party shall, without prejudice to other rights and remedies available, have the right to terminate this Agreement, by giving the defaulting party a thirty (30) days' prior notice in writing, specifying, inter alia, the nature of the alleged default and the intention of termination, unless such default is cured by the defaulting Party within the next thirty (30) days following receipt of the said notice. However the notice of default shall not be valid and effective unless given within a period of ninety (90) days of the event of default or within one month of the default coming to knowledge of the non-defaulting party whichever is later.

12.2 The Agreement shall terminate automatically if at any time as a result of a transfer of shares made in accordance with the Agreement (and the Articles), either the ABC or its nominee or the XYZ or their nominee hold no Share in the paid up capital of the JVCO, but without prejudice to any rights which either ABC or the XYZ may have against the other party arising prior to such termination.

13. Miscellaneous

13.1 The JVCO shall at all times maintain an independent identity, as distinct from that of the ABC or XYZ. ABC shall however, be free to project the JVCO as one of the group companies. However, ABC's; liability in the affairs of JVCO shall be limited to the extent of its equity participation.

13.2 Parties undertake that they will not dispose of their share holding in the first three years of the Agreement except that OIL may transfer its shares to any Company which is within the promoter's group as defined under the guidelines issued by Securities & Exchange Board of India. Provided that such transferee company agrees to be bound by this Agreement. Thereafter if either of them wishes to dispose of its shareholding to a third party, it can do so only upon satisfaction of the following conditions:—

(a) an offer must first be made to the other Party by delivery of ninety day's prior notice in writing, to purchase the shares proposed to be transferred on the same terms and conditions as would be offered to any third Party;

(b) within such ninety days period, the other Party shall have either failed to purchase or declined in writing to purchase the Shares proposed to be sold or a part thereof on the terms and conditions offered to the other Party;

(c) on the expiry of the ninety days period from the original offer, the transferor shall be free to offer the shares to any third party on terms and conditions including prices which are in no way more favourable than that offered to the other Party;

(d) any transaction with the third party shall be concluded within the period of sixty days after the expiry of ninety days period referred to in clause 13.2 (i) above.

(e) It shall be a precondition of any negotiations with any third party that the third party shall be bound by the terms of this Agreement to the same extent as the transferor.

13.3 If at any time during the term of this Agreement, the Parties mutually decide to introduce any Third Party or offer certain percentage of Shares to the public, each of the Parties shall dispose of Shares in proportion to their shareholding in the JVCO.

13.4 Both the Parties shall cause the JVCO to take all actions to implement the provisions of this Agreement both in letter and spirit, to the extent permissible under law.

13.5 Both the ABC have joint and several liability for the actions of each other and guarantee each other's obligations. Whenever any act is to be done by the ABC or any right is vested in the ABC, the same can be exercised or performed by any one of the ABC and XYZ. ABC or XYZ shall not be liable or responsible for any contention that the said act did not have the authorisation or the sanction of the other Promoter.

14. Representations and Warranties

14.1 Representation of ABC.—ABC represents and warrants that the execution, delivery and performance of the Agreement is not impaired by any other valid agreement.

14.2 Representation and Warranties of the XYZ

The XYZ individually and collectively represents and warrants that:—

(a) the execution, delivery and performance of this Agreement by them will not conflict with, result in the breach, termination or acceleration of, or constitute a default under, any agreement, commitment or other instrument to which either it or one of its partners is a Party or bound;

(b) since the incorporation of the JVCO, they have operated its business in the ordinary course and that they have not caused the JVCO to do anything that is calculated to result in any adverse change in the business, financial condition or operations of JVCO.

(c) JVCO has no liability, contingent or crystallised as on the date of the Agreement except as declared under the provisions of clause 2.2 ;

(d) except for the creditors in the normal course of business (as mentioned in Schedule III to the Agreement) Firm has no liability, contingent or crystallised as on the date of the Agreement;

(e) the promoters warranty that they have joint and several liability for the actions of each other and guarantee due performance of each other's obligations.

15. Dispute Resolution/Arbitration

Any dispute, controversy or claim arising out of or relating to or in connection with this Agreement, or the breach, termination or validity hereof shall be finally settled by arbitration in accordance with the Rules of arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the Parties. The seat of arbitration will be at (place).

16. General

16.1 Waiver: There shall be no waiver of any term, provision or condition of this Agreement unless such waiver evidenced in writing and signed by the

waiving party. No omission or delay on the part of any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or of any other right, power or privilege. The rights and remedies herein provided are cumulative with, and not exclusive of, any rights or remedies provided by law.

16.2 Modifications of and amendments to this Agreement shall be effective only if made in writing and signed by the parties and in their absence, the duly authorised representatives of the Parties.

16.3 Notice. Any notice required or permitted to be given hereunder shall be in writing and sent by registered airmail, postage prepaid or facsimile transmission or by Regd . Post AD and shall be addressed to the addresses mentioned below:

If addressed to the ABC,
Mr.

.....
.....

If addressed to XYZ,
Mr.

.....

If addressed to JVCO,

At the registered office of JVCO or such other addresses and numbers as any of the Parties may from time to time designate by notice in writing to the other. The notice shall be deemed to be served when first received.

16.4 Severability.—The invalidity of any portion of this Agreement shall not affect the remaining portion of this Agreement or any part thereof and this Agreement shall be construed as if such invalid portion or portions had not been inserted therein. The Parties will replace an invalid provision or fill a gap with valid provision, which most closely approximates the intent and economic effect of the invalid provision.

16.5 Assignment.—Save as otherwise expressly provided under this Agreement, all rights and obligations hereunder are personal to the Parties hereto and may, not be assigned at law or in the equity without the prior written consent of the other Party.

16.6 Entire Agreement.—This Agreement (together with the documents referred to herein) constitutes the entire agreement between the parties in connection with the subject matter of this Agreement. All previous documents, undertakings or agreements, whether verbal, written or otherwise between the Parties concerning the subject matter hereof including the memorandum of understanding (dt.) are hereby superseded by this Agreement and shall not affect or modify any of the terms or obligations set forth in this

Agreement.

IN WITNESS whereof the Parties hereto have duly executed this Agreement the day and year first above written.

OIL ABC

Witnesses

1.

2.

SCHEDULE I

Terms and Conditions of the Appointment of Whole Time Director

Salary

Perquisites

Term of Appointment

Responsibilities

Termination of Appointment

SCHEDULE II

Management Information System

SCHEDULE III

Sundry Creditors and other Liabilities of the Firm