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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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+ **O.M.P. No. 664 of 2013**

OPEN SOLUTIONS LLC Petitioner
Through: Ms. Jasleen Oberoi with Ms. Surbhi
Mehta, Advocates.

versus

BIRLASOFT INC Respondent
Through: Mr. Atul Shankar Mathur with
Ms. Shruti Verma, Advocates.

CORAM: JUSTICE S. MURALIDHAR

ORDER
% **09.07.2013**

1. This is a petition filed by the Petitioner under Section 78 read with Order XXVI Rules 19 and 20 (a) of the Code of Civil Procedure 1908 ('CPC') praying that a Commission be issued to give effect to the Letter of Request ('LOR') dated 13th May 2013 issued by the Connecticut State Superior Court ('CSSC'), Judicial District of Hartford, Complex Litigation Docket, which is at pages 2 to 20 of the documents.

2. The LOR dated 13th May 2013 has been made by the CSSC in an action initiated by the Petitioner, Open Solutions Inc., against the Respondent, Birlasoft Inc., in conformity with Article 3 of the Hague Convention of 18th May 1970 regarding 'Taking Evidence Abroad in Civil or Commercial Matters'. The LOR is for recording the evidence of one of the witnesses mentioned in Appendix A at Clause (e), i.e., Mr. Sanjay Gupta, who was

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formerly employed with the Defendant and who is residing at A-703, Vardhman Apartments, Mayur Vihar, Phase-1, New Delhi – 110 091 (India).

3. Learned counsel for the Respondent states that he will be filing his *vakalatnama* within two weeks from today. He states that as already agreed between the parties, the Respondent has no objection to the Petitioner's request being granted.

4. Learned counsel for the Petitioner states that the place for recording the deposition of the witness in Delhi has been set out in Clause (a) of para 13 of the LOR. Learned counsel further points out that in terms of the LOR, the recording of evidence may be completed by 15th September 2013. Learned counsel for the parties state that they have agreed that the convenient dates for recording the deposition of the witness in question are between 19th and 26th August 2013.

6. Accordingly, this Court appoints Ms. Amrita Sharma, Advocate (Mobile No. 9899094937) as Court Commissioner ('CC') to execute the commission for recording of the deposition of Mr. Sanjay Gupta. His examination-in-chief is to be conducted by the Petitioner, as he has been cited as a witness by the Petitioner. His cross-examination will be by the Respondent. The CC will issue summons to the witness, Mr. Sanjay Gupta, through the Registry.

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of this Court for which the process will be deposited by the Petitioner within one week. The CC will be provided with a complete set of the papers, including the documents filed by the Petitioner comprising the LOR and order of the CSSC.

7. The CC will endeavour to commence the recording of deposition of witness on 21st August 2013 and complete it not later than 26th August 2013. If there is any change required in the above dates, the parties will inform the CC at least one week in advance. The CC will be given full cooperation by the parties. He shall abide by the procedure as set out by the CSSC in the LOR and accompanying documents. The CC will deposit with the Registrar of this Court the complete transcript of the evidence of the witness in a sealed cover within three days of the completion of the exercise. The said sealed cover will be properly labelled and endorsed by the CC with the signature and date. The said sealed cover will be dispatched to the Connecticut State Superior Court, Judicial District of Hartford, Complex Litigation Docket, 95, Washington Street, Hartford, Connecticut, 06106, USA by the Registry through an approved international courier, the costs for which will be borne by the Petitioner. The tracking report evidencing the delivery of the packet to the concerned Court will be placed on record.

8. The fees of the CC is fixed at Rs. 1 lakh which will be paid to her by the Petitioner within four weeks from today. This is independent of the expenses

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for secretarial assistance and incidentals which will be paid by the Petitioner separately on production of vouchers.

9. The petition is disposed of in the above terms.

10. A copy of this order be given *dasti* to learned counsel for the parties under the signature of the Court Master. A certified copy of this order be delivered to the learned CC forthwith.



S. MURALIDHAR, J

JULY 09, 2013

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