

THIS AGREEMENT is made at Mumbai this \_\_\_\_\_ day of \_\_\_\_\_ 2011 ,

BETWEEN:

(1) AVENUES (INDIA) PVT. LTD., a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at 2, Krishna Villa, Ground Floor, Chapel Lane, Santa Cruz(West), Mumbai 400 054 and its Corporate office at Plaza Asiad, Second Floor, Station Road, Santa Cruz(West), Mumbai 400054 (hereinafter referred to as "the Master Merchant", which term shall, unless repugnant to the context or meaning thereof, mean and include its successors and permitted assigns) of the ONE PART;

AND

(2) \_\_\_\_\_, a company incorporated under the provisions of the Companies Act, 1956 / a partnership firm registered under the provisions of the Indian Partnership Act / a proprietorship firm / An Individual having its office at \_\_\_\_\_

(hereinafter referred to as "the Sub Merchant", which expression shall unless it be repugnant to the context or meaning hereof shall be deemed to mean and include (i) in the case of the Sub Merchant being a sole proprietary concern / individual - the heirs, administrators, executors, legal representatives and permitted assigns of the Proprietor; (ii) in the case of the Sub Merchant, being a partnership firm - the partners for the time being and from time to time of the firm, the survivor or survivors of them, their respective heirs, administrators, executors, legal representatives and permitted assigns and (iii) in the case of the Sub Merchant, being a company - its successors and assigns (as the case may be) (iv) in the case of the Sub Merchant being a Trust- The trustees from time to time of the trust, administrators, beneficiaries and the survivor or survivors of them, executors, legal representatives and permitted assigns (as the case may be) of the OTHER PART

Sub Merchant contact details are listed below:

a) Sub Merchant Name, Key Contact's name and complete Mailing address: \_\_\_\_\_

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b) Telephone number/s including mobile number of Key contact: \_\_\_\_\_

c) Facsimile number : \_\_\_\_\_

d) E-mail address : (Corporate Email) \_\_\_\_\_

e) Website URL as well as Corporate URL \_\_\_\_\_

f) Residential address and contact info of key contact personal \_\_\_\_\_

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g) Bank Details:

1.	Bank :	
2.	Branch address:	
3.	City:	
4.	IFSC code of beneficiary bank:	
5.	Beneficiary A/c Type & No.: (Current/Saving)	
6.	Full Name of beneficiary : (Pay to Name)	
7.	signing Authority/ies	
8.	Customer Id (if any) :	

h) Description of Products / Services / Donations etc. on the above mentioned website, for which the Payment gateway will be used \_\_\_\_\_

WHEREAS:-

- (i) Various banks and financial institutions, (hereinafter referred to collectively as 'Acquiring banks') as well as third party service providers (hereinafter referred to collectively as 'Facility Providers') offers various facilities to the Master Merchant through the internet, which facilities and services including Net Banking facilities and providing authorization (from third party clearing house networks) and settlement facilities in respect of payment instructions initiated by the Sub Merchants customers on the Sub Merchants websites. These facilities will be hereinafter be referred to as the "Net Banking Facilities" and/or "Acquiring Bank's services";
- (ii) Various Banks, Financial Institutions, various software providers who have signed with the Master Merchant from time to time (herein after collectively referred to as the 'facility providers') are in the business of providing information technology services including but not limited to Internet based electronic commerce, Internet payment gateway and electronic software distribution services. These facility providers allows the Master Merchant to use the Internet Payment Gateways developed by them to route credit/charge/ debit card and / or other modes of payment transaction entered into on the internet to third party clearing houses/ Acquiring banks.
- (iii) Payment Mechanism means the payment mechanism through the Internet utilizing the Net Banking facility of various Acquiring banks and through such other modes and mechanisms of payment and delivery as may be notified by the Master Merchant from time to time.
- (iv) The Master Merchant is inter alia engaged in the business of accepting instructions from its Sub Merchants through the internet in respect of payments to be made by the Customers of the Sub Merchants to the Sub Merchant using the facility providers facilities, the Acquiring Bank's services and Net Banking facilities provided by the acquiring banks and accordingly transfer funds from the Customer's Bank Account to the Sub Merchant for providing goods and/or services to the customers on the Internet through Websites owned by the Sub Merchants.
- (v) The Master Merchant has also established a web-site with the domain name www.CCAvenue.com ("the Site") to enable its Sub Merchant to link up with various payment gateways and Acquiring banks so as to enable the Sub Merchant's customers to place orders for purchase and pay for the goods and services through the Internet;
- (vi) The Master Merchant has signed up with various banks/ financial institutions and are in process of signing up with more banks and companies offering such Payment gateway facilities, Acquiring bank services and Net banking services through Master Merchant , as well as third party service providers and have requested all them to accept instructions from the Customers of its Sub Merchants through the internet in respect of payments to be made by the Customer to the Sub Merchant and accordingly transfer funds from the Customer's Bank Account to the Master Merchant's Current Account;
- (vii) Various banks, financial institutions and third party service providers are rendering such services to the Master Merchant., and the Master Merchant is in process of approaching other banks offering such services and the Master Merchant is desirous of passing on all these services to its appointed Sub Merchants as more particularly hereinafter provided on the terms and conditions hereinafter appearing and subject to the Sub Merchant giving the indemnities and the declarations hereinafter contained.
- (viii) The Parties hereto are desirous of executing this Agreement to record the terms and conditions of the services as under:

NOW THE PARTIES HEREBY AGREE AS FOLLOWS:

1. DEFINITIONS:

- 1.1 "Agreement" shall mean this agreement, declaration and indemnity and any and all schedules, appendices, annexures and exhibits attached to it or incorporated in it by reference. This Agreement if signed by a firm, the expression "the Sub Merchant" shall include the person or persons from time to time carrying on the business of such firm and, if there are two or more signatories hereto, the expression "the Sub Merchant" shall include all and each of them and their liabilities under this agreement shall be joint and several.
- 1.2 "Customer" means any person holding a Valid Credit Card/Debit card/Net Banking Account and who desires to purchase Services or Products from the Sub-merchants and makes payment for the same over the Internet on Master Merchant's Web site using a Valid Credit Card/Debit Card/Net Banking Account.
- 1.3 "Customer Order" shall mean an order for purchase of goods or availing of services provided by the Sub Merchant at the Sub Merchant's Site and made by the Customer at the Sub Merchant's Site and which Customer Order shall be specifically designated by a Customer Order Number on mention or use of which the details of the order could be obtained by the Customer from the Sub Merchants on-line at the Site, including without limitation details of the status of the order.
- 1.4 "Customer Charge" means the sale price of the Product/ Service purchased by the Customer plus the shipping charge (if any) and all other taxes, duties, costs, charges and expenses in respect of the Product / Service that are to be charged to the Customer's Valid Credit Card/Debit Card/Bank Account.
- 1.5 "Delivery" means, in respect of a Product, delivery of the Product by a reputed courier /parcel service to the Customer at the address specified by the Customer in this behalf, or in respect of a Service, delivery/performance of the Service, proof of which shall be submitted by the Sub merchant to the Master Merchant electronically through their CCAvenue account backend to the satisfaction of the Master Merchant, the facility providers and the Acquiring Banks. The Master Merchant, the facility providers and the Acquiring Banks reserve the rights to call for physical proof of delivery in respect of a Service, delivery/performance of the Service. All proof of delivery of Products shall be maintained by the Sub-Merchant for a period of atleast one year from the date of delivery by the Sub Merchant and shall be open to inspection by Master Merchant, the facility providers and the Acquiring Banks at any time whatsoever.
- 1.6 "Dispatch" shall mean, in respect of a Product, proof to the satisfaction of the Master Merchant, the Facility Providers and the Acquiring Banks that the Product has been dispatched to the address specified by the Customer, and in respect of a Service, delivery/performance of the Service, proof of which shall be submitted by the Sub merchant to the Master Merchant electronically through their CCAvenue account backend to the satisfaction of the Master Merchant, the facility providers and the Acquiring Banks. The Master Merchant, the facility providers and the Acquiring Banks reserve the rights to call for physical proof of dispatch in respect of a Service, delivery/performance of the Service. All proof of dispatch of Products shall be maintained by the Sub-Merchant for a period of at least one year from the date of delivery by the Sub merchant and shall be open to inspection by Master Merchant, the facility providers and the Acquiring Banks at any time whatsoever.
- 1.7 "Effective Date" means the date of execution of this Agreement by the Sub Merchant.
- 1.8 "Issuing Bank" in respect of a Customer, means the bank which has issued the Valid Credit Card to the Customer with which Customer makes the payment for the Products / Services.

- 1.9 "Order" means an order for the purchase of Product(s) / Services placed by the Customer on the Sub Merchants/ Master Merchant's website.
- 1.10 "Product" means a tangible product that is manufactured or distributed by the Sub-merchants, and that is purchased by the Customer, the payment for which is to be made on the Customer's Valid Credit Card/Debit Card/Bank Account.
- 1.11 "Transaction Discount Rate" means, with respect to a Customer Charge, as mentioned in the Annexure A of the Agreement Provided however that the Transaction Discount Rate may be revised quarterly by the Master Merchant, and the Master Merchant will advise Sub Merchant of any such change not less than 30 days in advance of its effectiveness.
- 1.12 "Service" means any service that the Sub-Merchant offers to provide, and that is availed of by the Customer, the payment for which is to be made on the Customer's Valid Credit Card.
- 1.13 "Transaction" means every order that results in the Delivery by the Sub-merchant to the Customer of the Product(s) / Services in respect of which the Order was placed.
- 1.14 "Valid Credit Card" means a Visa or a MasterCard credit card or any other card acceptance facility provided by the Master Merchant, the Facility Providers or the Acquiring Banks and which is not listed in Visa/MasterCard's and other current warning bulletins.
- 1.15 "Master Merchants Site" shall mean the web-site with the domain name "[http:// www.CCAvenue.com](http://www.CCAvenue.com)" established by the Master Merchant for the purposes of enabling on-line trading instructions by the Customers of the Sub Merchant to the Master Merchant.
- 1.16 "Sub Merchants Site" shall mean the web-site with the domain name <http://www.> established by the Sub Merchant for the purposes of enabling its Customers to place orders for purchase of goods and services through the Internet.
- 1.17 "Card Associations" shall mean and include Master Card, Visa, Diners, Amex etc. which authorizes and enables credit card transactions.

## 2. TERM; NON-EXCLUSIVE

- a) Term: This Agreement shall become effective on the Effective Date and shall remain in full force until a notice of cancellation by the Master Merchant or the Sub Merchant is given, or until terminated under other provisions of this Agreement. The Master Merchant reserves the right to terminate this Agreement without cause upon notification to the Sub Merchant. The Master Merchant may further terminate this Agreement immediately without notice at any time if the Sub Merchant breaches any part of this Agreement, or if any program or facility used by Master Merchant to implement this Agreement is disrupted or terminated for any reason.
- b) Non-exclusive: Nothing in this Agreement shall prohibit the Master Merchant from furnishing the services similar to those provided under this Agreement to others, including competitors of the Sub Merchant.

## 3. PAYMENT TO THE SUB MERCHANT

### a) Payments on Proof of Delivery

Subject to the provisions of Clause 8, Clause 15, clause (c) of Clause 16, Clause 17 and clauses (b) and (c) of this Clause 3, the Master Merchant agrees to pay the Sub Merchant the Customer Charge less:

the sum of all Customer Charges denied, refused, or charged back by the Customer or the credit card service provider during the period;  
 all inquiries, disputes, cancellations and refunds processed on account of Sub-Merchant's Customer Charges during the period;  
 any taxes, penalties, rolling reserves, charges or other items reimbursable under any of the provisions of this Agreement or otherwise occurring during the period;  
 any amounts due which the Master Merchant is entitled to receive with respect to any other transactions with the Master Merchant  
 any charges, penalties or any amount imposed by the Card Associations, Acquiring Banks or Facility providers upon the Master Merchant with respect to any transaction done through Sub Merchant's site.  
 any bank fees, transaction fees or service penalty fees incurred by the Master Merchant due to charge backs or excessive refunds.  
 the Master Merchant's transaction discount rates for all Products / Services sold on the Internet subject to the proof of Delivery being submitted to the Master Merchant and all inquiries, disputes, and refunds processed on account of Sub Merchant's Customer Charges during the period.

### b) Rejection of Payment

The Master Merchant, the Facility Providers and the Acquiring Banks may reject payment in respect of Orders where:

- i) The Sub Merchant has not obtained a necessary authorisation under Clause 5 or Master Merchant, the Facility Providers and the Acquiring Banks are entitled to reject payment in terms of Clause 13 hereof;
  - ii) Any Order which the Customer refuses to pay because the Product / Service was not as promised or was defective or was not delivered;
  - iii) The card-issuing bank advises that the credit card number does not match any number on file;
  - iv) Payment in respect of the Order or the relevant instalment of the purchase price has already been made;
  - v) The Order was placed more than 12 calendar days prior to the date of claim in respect thereof.
- c) Where the Master Merchant, the Facility Providers and the Acquiring Banks is entitled to reject payments in respect of an Order or demand a refund, the Master Merchant shall be entitled to set off and deduct from any payment due to the Sub Merchant, and in doing so the Master Merchant may:-
- i) debit the Sub Merchants Account held with the Master Merchant, forthwith; and/or;
  - ii) deduct the outstanding amount from subsequent credits to the Sub Merchants Account, and/or;

- iii) if there is insufficient funds available therein; claim from the Sub Merchant the amount paid to the Sub Merchant by the Master Merchant in respect of the relative sales; which the Sub Merchant on receipt of the claim from the Master Merchant undertakes forthwith to pay to the Master Merchant, the amount of the refund to the extent to which such funds proves inadequate.
- d) If the Master Merchant, the Facility Providers and the Acquiring Banks suspects, on reasonable ground, that the Sub Merchant has committed a breach of this agreement or dishonestly or fraud against the Master Merchant, the Facility Providers, the Acquiring Banks or any customer, the Master merchant shall be entitled to suspend all payment under this agreement to the Sub Merchant pending enquiries by the Master Merchant.
- e) Time of making payments  
 Payment of Customer charge in respect of an Order shall be made as per the Payment schedule selected by the Sub-Merchant on the Master Merchant's site and on receipt of proof of Delivery of the relevant Product / Service and the Master Merchant will deliver its payments to the Sub Merchant as promptly after these dates as is practicable.

#### 4. COVENANTS OF THE SUB MERCHANT:

In consideration of the Master Merchant performing the Services as mentioned above, the Sub Merchant hereby declares, assures, undertakes and covenants as under:

- 4.1. The Sub Merchant shall duly fulfill all Customer Orders in accordance with the instructions of the Customer. The Sub Merchant will not acknowledge an order as "Shipped/Order executed" until after the merchandise has already been shipped or the order is completed/executed. Sub Merchant agrees to deliver all merchandise to Customers and/or complete/ execute all orders as expeditiously and without delay. Sub Merchant will not offer "backordered" or out-of-stock products for sale. If Sub Merchant is unable to ship any part of any Customer order within 10 days, the Sub Merchant will cancel the order using Master Merchant's site's client administration functions. Sub Merchant will not make partial shipments due to backordered or unavailable items.
- 4.2. The Sub Merchant shall prior to accepting any instructions from the Customer ensure that appropriate agreements have been executed with the Customer in accordance with the requirements of applicable law and regulations.
- 4.3. The Sub Merchant shall carry out all verifications for the Customer as may be required on an independent basis. The Sub Merchant is aware that the Master Merchant, the Facility Providers and the Acquiring Banks are not guaranteeing any transactions with the Customers in any manner whatsoever. The Sub Merchant assures that the Customers will place the orders themselves and agree not to place orders on behalf of customers.
- 4.4. The Master Merchant, the Facility Providers and the Acquiring Banks shall not be a party to the Agreement between the Customers and the Sub Merchant in any manner whatsoever. All contracts are directly between the Sub Merchant and the Customers.
- 4.5. Notwithstanding the aforesaid, the Sub Merchant assures and guarantees to the Master Merchant, the Facility Providers and the Acquiring Banks the due performance of all Customer Orders for which the payment has been transferred through the Payment Mechanism.
- 4.6. In the event of any Customer complaining of any deficiency in Service, the Sub Merchant shall take such measures as may be required to rectify the same. In the event the Sub Merchant is unable to rectify the same, the Sub Merchant shall forthwith compensate the Customer for any loss caused to the Customer.
- 4.7. The Sub Merchant shall ensure that the best service standards in the industry are adopted and shall ensure delivery of all goods and services purchased for Customers in accordance with the highest standards. The Sub Merchant shall ensure that all licenses and registrations required by the Sub Merchant are in full force and effect to enable the Sub Merchant to carry on the business of sale of goods and services. The Sub Merchant assures and guarantees to the Master Merchant, the Card Associations, Acquiring Banks, Facility Providers that the Sub Merchant shall comply with all rules, byelaws and standards set by the Card Associations, Acquiring Banks, the Facility Providers and the Master Merchant and further assures and guarantees that the following products and services shall not be sold on the Sub Merchants site and / or any transactions processed through the Payment Gateway:-  
 1) **Adult goods and services which includes pornography and other sexually suggestive materials (including literature, imagery and other media); escort or prostitution services**  
 2) **Alcohol which includes Alcohol or alcoholic beverages such as beer, liquor, wine, or champagne**  
 3) **Body parts which includes organs or other body parts**  
 4) **Bulk marketing tools which includes email lists, software, or other products enabling unsolicited email messages (spam)**  
 5) **Cable descramblers and black boxes which includes devices intended to obtain cable and satellite signals for free**  
 6) **Child pornography which includes pornographic materials involving minors**  
 7) **Copyright unlocking devices which includes Mod chips or other devices designed to circumvent copyright protection**  
 8) **Copyrighted media which includes unauthorized copies of books, music, movies, and other licensed or protected materials**  
 9) **Copyrighted software which includes unauthorized copies of software, video games and other licensed or protected materials, including OEM or bundled software**  
 10) **Counterfeit and unauthorized goods which includes replicas or imitations of designer goods; items without a celebrity endorsement that would normally require such an association; fake autographs, counterfeit stamps, and other potentially unauthorized goods**  
 11) **Drugs and drug paraphernalia which includes illegal drugs and drug accessories, including herbal drugs like salvia and magic mushrooms**  
 12) **Drug test circumvention aids which includes drug cleansing shakes, urine test additives, and related items**  
 13) **Endangered species which includes plants, animals or other organisms (including product derivatives) in danger of extinction**  
 14) **Gaming/gambling which includes lottery tickets, sports bets, memberships/ enrollment in online gambling sites, and related content**  
 15) **Government IDs or documents which includes fake IDs, passports, diplomas, and noble titles**  
 16) **Hacking and cracking materials which includes manuals, how-to guides, information, or equipment enabling illegal access to software, servers, websites, or other protected property**  
 17) **Illegal goods which includes materials, products, or information promoting illegal goods or enabling illegal acts**  
 18) **Miracle cures which includes unsubstantiated cures, remedies or other items marketed as quick health fixes**  
 19) **Offensive goods which includes literature, products or other materials that: a) Defame or slander any person or groups of people based on race, ethnicity, national origin, religion, sex, or other factors b) Encourage or incite violent acts c) Promote intolerance or hatred.**  
 20) **Offensive goods, crime which includes crime scene photos or items, such as personal belongings, associated with criminals**  
 21) **Prescription drugs or herbal drugs or any kind of online pharmacies which includes drugs or other products requiring a prescription by a licensed medical practitioner**  
 22) **Pyrotechnic devices and hazardous materials which includes fireworks and related goods; toxic, flammable, and radioactive materials and substances**  
 23) **Regulated goods which includes air bags; batteries containing mercury; Freon or similar substances/refrigerants; chemical/industrial solvents;**



- government uniforms; car titles; license plates; police badges and law enforcement equipment; lock-picking devices; pesticides; postage meters; recalled items; slot machines; surveillance equipment; goods regulated by government or other agency specifications 24) Securities which includes stocks, bonds, or related financial products 25) Tobacco and cigarettes which includes cigarettes, cigars, chewing tobacco, and related products 26) Traffic devices which includes radar detectors/jammers, license plate covers, traffic signal changers, and related products 27) Weapons which includes firearms, ammunition, knives, brass knuckles, gun parts, and other armaments 28) Wholesale currency which includes discounted currencies or currency exchanges 29) Live animals 30) Multi Level Marketing collection fees 31) Matrix sites or sites using a matrix scheme approach 32) Work-at-home information 33) Drop-shipped merchandise 34) Any product or service which is not in compliance with all applicable laws and regulations whether federal, state, local or international including the laws of India. The Sub-Merchant further confirms, undertakes and assures the Master Merchant, the Card Associations, the Acquiring banks and the facility providers that in the event of violation of any of the byelaws and standards of the Card Associations, Acquiring Banks, Facility Providers and Master Merchant by the Sub Merchant AND any penalty imposed by the Card Associations, Acquiring Banks, Facility Providers on the Master Merchant for any violation for any reason whatsoever, the Sub Merchant shall on receipt of the claim from the Master Merchant undertakes forthwith without any demur, protest, dispute or delay, to pay to the Master Merchant, the amount of the penalty / fine imposed by the Card Associations, Acquiring Banks, Facility Providers on the Master Merchant.
- 4.8. The Sub Merchant shall ensure confidentiality of all information submitted by the Customers at the Sub Merchant's Site. The Sub Merchant shall ensure that there are proper encryption and security measures at the Sub Merchant's Site to prevent any hacking into the information of the Sub Merchant's customers and other data. In the event of any loss being due to any act, which is beyond the control of the Sub Merchant, including any hacking into the Sub Merchant's Site, the loss shall be borne by the Sub Merchant and not the Customer;
  - 4.9. The Sub Merchant shall ensure that he is acting in compliance with and shall at all time act in compliance with all laws, rules and regulations and shall at all times comply with the guidelines set by Visa/Master Card/Master Merchant/Acquiring Banks and the Facility Providers. In the event of any dispute between the Sub Merchant and the Customer whether in relation to any deficient, improper or incomplete service provided by the Sub Merchant or otherwise, the Master Merchant, the Facility Providers and the Acquiring Banks shall not be made a party to any litigation, arbitration or other proceeding instituted in respect of such disputes. The Sub Merchant shall take all necessary steps and/or precautions to ensure that the services offered by the Sub Merchant on its Site or otherwise are not mistaken or misrepresented as being associated with, being offered by the Master Merchant, the Facility Providers and the Acquiring Banks. The Sub Merchant undertakes to ensure that the appropriate notices and disclaimers are made to the Customer on the Site informing the Customer that it is placing the order or purchase / sale of securities solely with the Sub Merchant.
  - 4.10. The Master Merchant, the Facility Providers and the Acquiring Banks shall be entitled to require the Sub Merchant to add to its Site such disclaimers, warranties and indemnities as the Master Merchant, the Facility Providers and the Acquiring Banks may require from time to time. The Sub Merchant shall not carry out any activity, which is banned or illegal or immoral.
  - 4.11. The Sub Merchant shall ensure that the Sub Merchant accesses the Master Merchant's Site at least once a day in order to access the orders, respond to queries and to address all other matters, which the Sub Merchant is required to address. The Sub Merchant shall ensure accuracy and correctness in downloading and performing all orders placed by Customers. The Sub Merchant shall furnish to the Master Merchant forthwith, the original copy/copies of proof of transactions, invoices or other records of the Sub Merchant pertaining to the any order placed by the Customers on the Sub Merchants and the Master Merchant's Sites.
  - 4.12. The Sub Merchant hereby grants to the Master Merchant, the Acquiring Banks and the Facility providers, a non-exclusive, royalty-free, limited license to use, display and reproduce the trademarks, service marks and logos of the Sub Merchant solely in connection with the marketing of their facilities and services to the public. The Sub Merchant shall prominently display, on its Website and in other online marketing materials if applicable, a statement/logo/image provided by CCAvenue. This statement/logo/image must be prominently displayed to all customers as notified by the Master Merchant from time to time. The Sub Merchant shall disclose its privacy policy on the Site and ensure that the Sub Merchant conducts its business in accordance with the same. The Sub Merchant shall be solely responsible for the accuracy of all information and/or validity of the prices and any other charges and/or other information relating to the goods and services, which are offered through or included in the Sub Merchant's Site.
  - 4.13. The Master Merchant, the Facility Providers and the Acquiring Banks shall be entitled to prohibit the display of any material on the Site if the act or manner of such display is contrary to any applicable law, regulation, government policy, order or guideline including all applicable foreign laws and regulations or which is detrimental or harmful to the interest of the Master Merchant, the Facility Providers and the Acquiring Banks, in the sole and exclusive opinion of the Master Merchant and/or the Facility Providers and/or the Acquiring Banks.
  - 4.14. The Master Merchant, the Facility Providers and the Acquiring Banks shall be entitled to publish notices, disclaimers and indemnities at the Sub Merchant's Site in the manner and extent deemed necessary by the Master Merchant, the Facility Providers and the Acquiring Banks in accordance with the Master Merchant, the Facility Providers and the Acquiring Banks internal operational and/or policy guidelines. The Sub Merchant shall render the necessary modifications at the Sub Merchants Site, so requested by the Master Merchant, the Facility Providers and the Acquiring Banks within seven days of the Master Merchant, the Facility Providers and the Acquiring Banks requesting the same.
  - 4.15. The Sub Merchant shall take all precautions as may be feasible or as may be directed by the Master Merchant, the Facility Providers and the Acquiring Banks to ensure that there is no breach of security and that the integrity of the link between the Sub Merchants Site, the Master Merchant's site and the Payment Mechanism is maintained at all times during the term of this Agreement. In the event of any loss being caused as a result of the link being breached or as a consequence of the link being improper or being in violation of the provisions of this clause, the loss shall be to the account of the Sub Merchant and the Sub Merchant shall indemnify and keep indemnified the Master Merchant, the Facility Providers and the Acquiring Banks from any loss as may be caused in this regard.
  - 4.16. The Sub Merchant shall bear and be responsible for the payment of all relevant taxes (including any applicable withholding taxes) due upon the services related to the Customer Orders received through the Sub Merchants and the Master Merchants Sites.
  - 4.17. The Sub Merchant shall not (whether on-line or otherwise):
    - a. describe itself as agent or representative of the Master Merchant, the Facility Providers and the Acquiring Banks;
    - b. make any representations to Customer or any third party or to give any warranties which may require the Master Merchant, the Facility Providers and the Acquiring Banks to undertake to or be liable for, whether directly or indirectly, any obligation and/or responsibility to Customer or any third party.

- 4.18 The Sub Merchant has the full right and/or authority to offer the services on the Sub Merchants Site and that it has and shall observe and comply with the applicable laws and regulations in each applicable jurisdiction including without limitation, all applicable licensing, securities, stamp duty, income-taxes and other taxes and other censorship regulations and laws whether in India or otherwise. The Sub Merchant shall provide the Master Merchant, the Facility Providers and the Acquiring Banks with such information and/or assistance as is required by the Master Merchant, the Facility Providers and the Acquiring Banks for the performance of the Services and/or any other obligations of the Master Merchant, the Facility Providers and the Acquiring Banks under this Agreement.
- 4.19 The Sub Merchant shall not at any time require the Customer to provide the Sub Merchant with any details of the accounts held by them with the Acquiring Banks including, the passwords, account number, card numbers and PIN which may be assigned to them by the Acquiring Banks from time to time.
- 4.20 The Sub Merchant shall use the Master Merchant's services and other facilities offered on the Master Merchant's site only for the Sub Merchants site described in Clause 1.16 above and for no other site/s. The Sub Merchant shall use the Master Merchant Payment Gateway services only for products and services mentioned in "clause h" above and for no other products or services.
- 4.21 The Sub Merchant shall not use the Master Merchant's services and facilities in any manner or in furtherance of any activity, which constitutes a violation of any law or regulation or which may cause the Master Merchant, the Acquiring Banks and/or the Facility Providers to be subject to investigation, prosecution or legal action. The Sub Merchant shall use the information regarding a customer (including name, address, e-mail address, telephone numbers and other data) conveyed to the Sub Merchant by the Master Merchant, only for the purpose of completing the transactions for which it was furnished, and not to sell or otherwise furnish such information to others unless the Sub Merchant has an independent source of such information or obtains the express consent of such customer.
- 4.22 The Sub Merchant shall not input the Credit Card data on the Master Merchant and the Service Providers Payment Gateway themselves or their authorised employees, agents or any other person acting by through or under the Sub Merchant's instructions, failing which it will be considered as breach of trust of the Master Merchant and the Service Provider by the Sub Merchant.
- 4.23 The Sub Merchant shall inform the Master Merchant of its change of ownership or legal status or its cessation of business in writing 30 working days prior to its effective date.
- 4.24 The Sub Merchant understands and agrees to comply with all applicable standards, including the rules set by the Card Association including Master Card, Diners, Visa , Amex etc.,
- 4.25 The Sub Merchant agrees and undertakes that on an ongoing basis the Sub Merchant will promptly provide the Master Merchant, Acquiring Banks, Facility Providers, Card Associations etc., with the current addresses of each of its offices.
- 4.26 In the event of any inconsistency between any provision of this agreement and the standards set out by Card Associations the standards shall govern.
- 4.27 The Sub Merchant acknowledges that the Card Associations, Acquiring banks, Facility Providers and the Master Merchant are the sole and exclusive owners of their respective Marks and agrees that the Sub Merchant will not contest the ownership of the said Marks for any reason whatsoever. The Sub Merchant agrees that the Card Associations, Acquiring banks, Facility Providers and the Master Merchant may at any time, immediately and without advance notice, prohibit the Sub Merchant from using any of the Marks for any reason.
- 4.28 The Sub Merchant acknowledges that the Card Associations, Acquiring banks, Facility Providers and the Master Merchant have the right to enforce any provision of the standards and to prohibit any Sub Merchant conduct that may injure or may create a risk of injury to the Card Associations, Acquiring banks, Facility Providers and the Master Merchant including injury to reputation, or that may adversely affect the integrity of the Card Associations, Acquiring banks, Facility Providers and the Master Merchant's core payment systems, information or both. The Sub Merchant agrees that he will not take any action that might interfere with or prevent exercise of this right by the Card Associations, Acquiring banks, Facility Providers and the Master Merchant.
- 4.29 The Sub Merchant hereby agrees, assures and covenants as under, as far as American Express Card processing is concern:-
  - a. The Sub-Merchant must indicate its acceptance of the American Express Card whenever it communicates the payment methods it accepts to customers and display the American Express Card Marks according to the American Express Card guidelines and as prominently and in the same manner as any Other Payment Product.
  - b. The Sub-Merchant must not (i) try to dissuade American Express Card members from using the American Express Card; (ii) criticize or mischaracterize the American Express Card or any of its services or programs; (iii) try to persuade or prompt American Express Card members to use any Other Payment Products or any other method of payment (e.g., payment by check); (iv) impose any restrictions, conditions, or disadvantages when the American Express Card is accepted that are not imposed equally on all Other Payment Products (except where expressly permitted under applicable national law); or (v) promote any Other Payment Products (except the Sub Merchant's own card that it issues for use solely at its Establishments) more actively than it promotes the American Express Card.
  - c. The Sub-Merchant must not (i) engage in activities that harm American Express Card's business or brand; or (ii) indicate or imply that it prefers, directly or indirectly, any Other Payment Products over the American Express Card. If American Express provides notice to Master Merchant that Sub Merchant has breached this provision, Master Merchant reserves its right to cease submitting Charges within 2 business days and require Sub Merchant to remove all American Express identification, logos and decals from Sub Merchant's website immediately. If American Express determine that Master Merchant on behalf of the Sub Merchant vide this Agreement has failed to cease submitting Charges after receipt of such information from American Express and that Master Merchant have breached this provision due to default of Sub Merchant , Master Merchant shall be penalized the amount of Five Thousand United States (\$5,000.00 USD) or in equivalent Indian Rupees for continuing to submit Charges. This penalty will apply on a monthly basis. Accordingly, if Master Merchant submit Charges during July and again in August, Master Merchant will be penalized twice. If penalized, Master Merchant agree to remit payment to American Express within 30 days of your receipt of an invoice. If Master Merchant fail to remit such payment, American Express may debit all relevant amounts from the bank account Master Merchant have designated to receive payments from American Express pursuant to this Agreement. The Master Merchant in event of such penalty been imposed by American Express reserve its right to impose the same on Sub Merchant and the Sub Merchant agrees to pay such penalty to Master Merchant forthwith without any demur or protest, dispute or delay.
  - d. The Sub Merchant shall maintain customer service information that is readily available for review by American Express Card member transacting with Sub Merchant . The customer service information should include clear instructions on how to contact Sub Merchant if the American Express Card member has any question about a transaction. At a minimum, the instructions must provide an active customer service e-mail address and a customer service telephone number for the Sub-Merchant and for Master Merchant an email address and web page address on Master Merchant's web site where American Express card members can access transaction information.



## 5. AUTHORISATIONS

The Sub Merchant shall obtain authorisation from the Master Merchant, the Facility Providers and/or the Acquiring Banks before accepting any Order.

## 6. DISCLOSURE OF CREDIT CARD INFORMATION

The Sub Merchant shall not, without the prior written consent of the Master Merchant, the Facility Providers and the Acquiring Banks, disclose the identity of any cardholder or any information whatsoever relating to any transactions to any other person or otherwise use any information acquired by it in relation to the cardholders other than for the purposes of this Agreement. Provided however that any information required to be disclosed by any order of a court or regulatory authority of competent jurisdiction may be disclosed to such court or regulatory authority to the extent specified in the order.

## 7. GUARANTEE OF SUPPLY AND DISPUTES REGARDING PRODUCTS/SERVICES

a) If the Sub-merchant is unable to ship the whole or any part of the Customer's Order within 12 calendar days from the date on which the Order was placed, the Sub-Merchant shall wholly cancel or partly cancel the amount of the Order which the Sub Merchant is unable to ship.

b) Disputes regarding Product: - The Master Merchant, the facility providers and the Acquiring Banks shall not be responsible for the quality or merchantability of the Products sold to the Customer. The Master Merchant, the facility providers and the Acquiring Banks shall also not be responsible for any non-delivery of the Products/Services to the Customer. The Sub-Merchant shall ensure that the transfer of property in the Products to the Customer is completed only on actual delivery and verification thereof. All risks associated with the delivery of the Products shall be solely that of the Sub-Merchant and not the Customer. Provided that any and all disputes regarding quality, merchantability, non-delivery and delay in delivery of the Products/Service or otherwise will be dealt with by and between the Sub-Merchant and the Customer directly and the Master Merchant, the facility providers and the Acquiring Banks shall not be a party to such disputes.

1. Provided that in the event of a Customer making a purchase by a Valid Card which is a credit card and the Customer or the bank / institution with whom the Customer has taken the credit card requesting the Master Merchant, the facility providers and/or the Acquiring Banks for a refund on any grounds whatsoever within a period of 15 days from the actual delivery of the Products , then the Master Merchant, the facility providers and the Acquiring Banks shall be entitled to cancel Authorization and refuse to make any payments to the Sub-Merchant. If there is insufficient funds available therein; the Sub Merchant shall on receipt of the claim from the Master Merchant undertakes forthwith to pay to the Master Merchant, the amount of the refund to the extent to which such funds proves inadequate.

2. Provided that in the event of a Customer making a purchase by a Valid Net Banking account and requesting the Master Merchant, the facility providers and the Acquiring Banks for a refund on any grounds whatsoever within a period of 15 days from the actual delivery of the Products/services, or in the event of the Customer raising any dispute in respect of the Products/services whatsoever within the aforesaid 15 day period, the Master Merchant, the facility providers and the Acquiring Banks shall forthwith inform the Sub-Merchant of the same and shall debit the payment to be made to the Sub-Merchant's Account and make an intermediate credit in the 'Pending Enquiry' Account. If the Sub-Merchant and the Customer are unable to arrive at a satisfactory resolution of the a problem within a period of fourteen days thereafter, the Master Merchant, the facility providers and the Acquiring Banks shall be entitled to make a direct credit to the disputing Customer's Account for the disputed amount. Such a debit to the Sub-Merchant's Account and the direct credit to the disputing Customer's Account shall not be disputed by the Sub-Merchant in any manner whatsoever. In the event of the Customer and the Sub-Merchant arriving at a settlement within the said fourteen day period, the Master Merchant, the facility providers and the Acquiring Banks shall deal with the said moneys in accordance with the terms of the settlement arrived at.

## 8. ACCEPTANCE OF CHARGES WITH FULL RECOURSE

The Sub Merchant agrees that payment made in respect of any Order, which proves to be uncollectible from the Customer and/or in respect of which the Issuing Bank raises a claim on any of the Master Merchant or the Facility Providers or the Acquiring Banks or the facility providers shall be the financial responsibility of the Sub Merchant. The Sub Merchant agrees to the non-payment of such Order or the charging back of such uncollectible charge as the case may be without any demur or protest, dispute or delay. The Sub-Merchants further agrees, confirms, undertakes and guarantees that the non-payment of such order or the charging back of such uncollectible charge as the case may be, shall be the personal responsibility / liability of all the promoters and directors in their individual capacity if the Sub- Merchant is a Limited Company. Without prejudice to the provisions of the aforesaid, the following payments shall be deemed to be uncollectible:

- a) Any payments involving the alleged forgery of the Customer's Card Number and PIN, or that of the Card Number, Card Expiry date, Customer Name, Transaction amount, etc. of whatsoever nature. In such an event , the Master Merchant, the facility providers and the Acquiring Banks shall not be required to check the veracity of any alleged fraud and shall be entitled to rely upon the allegation made by the Customer.
- b) Any payment which the Customer refuses to honour or demands a refund of because the Product/services purchased from the Sub-Merchant was not as promised or was defective, deficient, incomplete and /or unsatisfactory for any reason whatsoever.
- c) Any charge/debit which is a suspect charge.
- d) Any charge/debit made on a card other than a Valid Card.
- e) Any charge/debit for merchandise or services in an amount in excess of the Price.
- f) Any charge/debit for undelivered merchandise or services.
- g) Any charge / debit arising out of any alleged hacking, breach of security or encryption (if any) that may be utilised by the Master Merchant, the facility providers and the Acquiring Banks from time to time.

The Sub Merchant hereby authorises the Master Merchant to appropriate the Sub Merchant's current balance amounts with the Master Merchant to the extent of the aforesaid uncollectible amounts and any other moneys due to the Master Merchant by the Sub Merchant in terms of this Agreement in respect of a Customer Charge without any demur, protest, dispute or delay. If there is insufficient funds available therein; the Sub merchant shall on finding out negative balance in his Merchant Accounting and Research System (M.A.R.S) Interface and/or on receipt of the e-mail from the Master Merchant and/ or claim from the Master Merchant undertakes forthwith without any demur, protest, dispute or delay, to pay to the Master Merchant, the amount of the dispute / refund to the extent to which such funds proves inadequate. Without prejudice to any other of Master Merchants rights and remedies, in the event that the Sub-Merchant does not make any payment to Master Merchant by its due

date or on demand as required under this Agreement, the Master Merchant shall be entitled to charge daily interest on such overdue amount from the due date of demand (as the case may be) until the date of payment in full, at the rate of 2.5% per month, as well after as before judgment.

#### 9. INDEMNITY

(1) The Sub Merchant hereby undertakes and agrees to indemnify the Master Merchant, the Facility Providers and the Acquiring Banks and hold Master Merchant, the Facility Providers and the Acquiring Banks harmless and keep the Master Merchant, the Facility Providers and the Acquiring Banks at all times fully indemnified and held harmless from and against all actions, proceedings, claims, liabilities (including statutory liability), penalties, demands and costs (including without limitation, legal costs of the Master Merchant, the Facility Providers and the Acquiring Banks on a solicitor / attorney and own client basis), awards, damages, losses and/or expenses however arising directly or indirectly as a result of:

- a. any breach or non-performance by the Sub Merchant of any of the Sub Merchant's undertakings, warranties, covenants, declarations or obligations under this Agreement; or
- b. any claim or proceeding brought by the Customer or any other person against the Master Merchant, the Facility Providers and the Acquiring Banks in respect of any services offered by the Sub Merchant; or
- c. any act, neglect or default of the Sub Merchant's agents, employees, licensees or customers; or
- d. any loss or liability arising to the Master Merchant or the Acquiring Banks or the Facility Providers Banks in respect of any services offered by the Sub Merchant; or
- e. any claim by any other party against the Master Merchant, the Facility Providers and the Acquiring Banks arising from sub-clause (a), (b),(c) or (d) above.

(2) The Sub Merchant shall also fully indemnify and hold harmless the Master Merchant, the Facility Providers and the Acquiring Banks against any loss, costs, expenses, demands or liability, whether direct or indirect, arising out of a claim by a third party that the Sub Merchant's services infringes any intellectual or industrial property rights of that third party.

(3) The Sub Merchant shall also fully indemnify and keep indemnified the Master Merchant, the Facility Providers and the Acquiring Banks from all loss that the Master Merchant, the Facility Providers and the Acquiring Banks may incur as a consequence of any failure whether temporary or permanent of the Payment Mechanism (as modified from time to time).

(4) In the event of the Master Merchant, the Facility Providers and the Acquiring Banks being entitled to be indemnified pursuant to the provisions of this Agreement, the Master Merchant shall be entitled to accordingly and to such extent debit the Sub Merchant's Account with the Master Merchant irrespective of any dispute that the Sub Merchant may have in respect of such payment.

(5) The indemnities under this Article are in addition to and without prejudice to the indemnities given elsewhere in this Agreement and all the indemnities provided herein shall survive the termination of this Agreement.

#### 10. NO WARRANTY

(1) The Master Merchant, the Acquiring Banks and the Facility Providers disclaims all warranties, express or implied, written or oral, including but not limited to warranties of merchantability and fitness for a particular purpose. The Sub Merchant acknowledges that the Master Merchant, the Facility Providers and the Acquiring Bank's services may not be uninterrupted or error free. The Sub Merchant also acknowledges that the services provided by the Acquiring banks and the facility providers to the Master Merchant which is passed on to the Sub Merchant under this agreement, can be in any event be brought to an abrupt end in any event whatsoever by any of the acquiring banks or the facility providers for any reason whatsoever.

(2) The Master Merchants sole obligation and the Sub Merchant's sole and exclusive remedy in the event of interruption to the Services or loss of use and/or access to the Master Merchant's Site, the facility Providers facilities and the Acquiring Bank's Payment Mechanism and services, shall be to use all reasonable endeavors to restore the Services and/or access to the Payment Mechanism as soon as reasonably possible.

Without prejudice to any other provision of this Agreement, the Master Merchant, the Facility Providers and the Acquiring Banks does not warrant that: -

- a. The Master Merchants site and services, the facility providers facilities and the Acquiring Bank's Payment Mechanism will be provided uninterrupted or free from errors or that any identified defect will be corrected; or
- b. is free from any virus or other malicious, destructive or corrupting code, program or macro; or

(3) For the avoidance of doubt, in no event shall the Master Merchant, the Facility Providers and the Acquiring Banks be liable to the Sub Merchant or any other third party for any of the following:

- a. amounts due from Customer in connection with any service obtained by the Customer at the Sub Merchant's Site;
- b. any applicable taxes and Government levies;

#### 11. NO CONSEQUENTIAL DAMAGES

Without prejudice to any other provisions of this Agreement, Master Merchant, the Facility Providers and the Acquiring Banks shall not be liable to the Sub Merchant for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the Master Merchant's site and services, the facility providers facilities and the Acquiring Bank's Services and/or this Agreement, including without limitation any: -

- a. loss of data;
- b. interruption or stoppage to the Customer's access to and/or use of the Master Merchant's site and services and the Payment and Delivery Mechanism;
- c. any consequential loss or damage or loss of profit, business, revenue, goodwill or anticipated savings arising out of the performance of the Services or otherwise.

#### 12. PRICES

Prices to be charged by the Sub-Merchant shall be inclusive of all taxes and delivery charges and shall be uniform to all Cardholders. In case of any difference in prices due to shipping or any other charges, the same shall be made explicit to the customer.

#### 13. TRANSACTION LIMITS

The Master Merchant, the Facility Providers and the Acquiring Banks reserves the right to impose limits on the number of purchases which may be charged on an individual credit card account during any time period, and reserves the right to refuse to make payments in respect of Orders exceeding such limit. The Master Merchant, the Facility Providers and the Acquiring Banks also reserves the right to refuse to make payments in respect of Orders from Customers with a prior history of questionable charges.

#### 14. CUSTOMER SUPPORT

The Sub Merchant shall provide a commercially reasonable level of customer support to Customers. Such support shall include appropriate notice to Customers of (i) a means of contacting Sub Merchant in the event the purchaser has questions regarding the nature or quality of the goods or services that the Sub Merchant offers for sale and (ii) procedures for resolving disputes. If the Master Merchant or any of the Facility Providers or any of the Acquiring Banks determines in good faith that Sub Merchant's failure to comply with this paragraph is causing an unacceptable burden on its customer support facilities, the Master Merchant may suspend or terminate this Agreement as per Clause 16 below.

#### 15. FEES and other charges

In consideration of the services provided by the Master Merchant, the Sub Merchant agrees to pay to the Master Merchant the Transaction Discount Rate and an annual software up gradation charges (which are payable on 1<sup>st</sup> April, every year) as detailed in Annexure 'A' which shall be deducted by the Master Merchant from the amounts payable to the Sub Merchant in terms of Clause 3 hereof in respect of a Customer Charge. The Sub Merchant shall also pay to the Master Merchant, a non refundable, one time set up fee as detailed in Annexure 'A'

#### 16. TERMINATION

##### a) Termination for Breach.

The Sub Merchant may terminate this Agreement with prior written notice to the Master Merchant of at least 30 days or forthwith by the Master Merchant if the Sub Merchant commits any breach of the terms of this Agreement.

##### b) Termination in Case of Violation of Law.

In addition to any other termination rights granted by this Agreement, the Master Merchant may terminate this Agreement immediately without liability upon verbal or written notice if (i) the Master Merchant or the Facility Providers or the Acquiring Banks is notified or otherwise determines in good faith that the Sub Merchant or is using the Master Merchants services and facilities in furtherance of any activity which violates any law, rule, or regulation or (ii) the Master Merchant, the Acquiring Banks or the Facility Providers or any of their directors, officers, stockholders, employees or agents are made the subject of a criminal or civil action or investigation or are threatened by such action as a consequence of use of the Facility or services by the Sub Merchant. (iii) if the Card Associations, Acquiring banks de-registers the Sub Merchant or if the Sub Merchant ceases to be member of Card Associations, Acquiring banks.

##### c) Termination by notice

In addition to any other termination rights granted under this Agreement, either Party may terminate this Agreement on 30-days written notice to the other.

##### d) Termination for non use

The Master Merchant may terminate this Agreement, if the Sub Merchant fails or neglects to use the facilities and services of the Master Merchant and the acquiring Banks for a continuous period of 180 days

##### e) Withholding of charge on termination

In the event that either of the Parties serve a notice of termination of this Agreement on the other party, the Master Merchant shall be entitled to withhold for a period of 210 days from the date of such notice, 40 % of amounts payable to the Sub Merchant in terms of Clause 3 of this Agreement in respect of each Customer Charge arising after the date of such notice. In the event that the Master Merchant terminates this Agreement as a result of breach of any of the terms of this Agreement by the Sub Merchant, the Master Merchant shall be entitled to withhold for a period of 210 days from the date of such breach 100 % of amounts payable to the Sub Merchant in terms of Clause 3 of this Agreement in respect of each Customer Charge arising after the date of such breach.

#### 17. SUB MERCHANT'S MINIMUM DEPOSIT ACCOUNT BALANCE

As security for the obligations of the Sub Merchant arising in terms of this Agreement, It is mutually agreed by the Sub Merchant and the Master Merchant, that the Master Merchant shall retain a minimum Rs. 1000/- of the amounts payable to the Sub Merchant in terms of Clause 3 hereof. The Sub Merchant agrees that the Master Merchant will impose Transaction Limits or additional Reserve Deposit Amounts, either temporarily or permanently, which are more restrictive than limits placed on the Sub Merchants in order to reduce Master Merchant's reasonable apprehension of risk of loss under varying circumstances. The Master Merchant shall use this Reserve Funds in order to protect against catastrophic loss due to fraud, theft, human error, or excessive customer disputes. The Sub Merchant Agrees that the Master Merchant is in no way responsible for any losses sustained by the Sub Merchant, including claims for lost profits, on account of the imposition of Transaction Limits or Reserve Deposit Amounts for any reason.

#### 18. SECURITY OF CARDHOLDER DATA

The Sub Merchant shall ensure that there are proper encryption and security measures at its Site to prevent any hacking into the information of the Sub Merchant. It shall be the obligation of Sub Merchant to verify the IP address of [www.CCAvenue.com](http://www.CCAvenue.com) in the return/confirmation message URL. In the event of any loss being due to any act, which is beyond the control of the Sub Merchant, including any hacking into the Sub Merchants Site, the loss shall be borne by the Sub Merchant alone and not the Customer;

#### 19. Force Majeure:

The Master Merchant, the Facility Providers and the Acquiring Banks shall not be liable for any failure to perform any of its obligations under this Agreement if the performance is prevented, hindered or delayed by a Force Majeure Event (defined below) and in such case its obligations shall be suspended for so long as the Force Majeure Event continues. Each party shall promptly inform the other of the existence of a Force Majeure Event and shall consult together to find a mutually acceptable solution. "Force Majeure Event" means any event due to any cause beyond the reasonable control of the Master Merchant, the Facility Providers and the Acquiring Banks, including, without limitation, unavailability of any communication system, breach or virus in the processes or Payment and Delivery Mechanism, sabotage, fire, flood, explosion, acts of God, civil commotion, strikes or industrial action of any kind, riots, insurrection, war, acts of government, computer hacking unauthorized access to computer data and storage devices, computer crashes, etc.

## 20. GENERAL PROVISIONS.

- a) Entire Agreement: This Agreement constitutes the entire agreement between the Master Merchant and the Sub Merchant pertaining to the subject matter hereof and supersedes in their entirety all written or oral agreements between the Parties.
- b) Relationship between Parties: The Parties to this Agreement are independent contractors and nothing in this Agreement shall make them joint ventures, partners, employees, agents or other representatives of the other Party hereto. Neither Party shall make any representation that suggests otherwise.
- c) Severability: If any provision of this Agreement is determined to be unenforceable for any reason, then the remaining provisions hereof shall remain unaffected and in full force and effect.
- d) Variations of Agreement: The Master Merchant reserves the right at all times to vary or amend these terms and conditions or to introduce new terms and conditions. Any such variations or amendment or introduction will become effective and binding on the Sub Merchant upon notification to the Sub Merchant by ordinary post and if the Sub Merchant is unwilling to accept such variation or amendment or introduction, the Sub Merchant shall notify the Master Merchant in writing by Registered Post within five days from the receipt of the notification by the Master Merchant.
- e) Assignment: This Agreement may not be assigned by the Sub Merchant without the prior written consent of the Master Merchant. The Master Merchant may assign all its rights, titles, benefits under this Agreement to any of its affiliates. This Agreement shall apply to and bind any successor or permitted assigns of the Parties hereto.
- f) Rights And Remedies; Waiver: All rights and remedies hereunder shall be cumulative and may be exercised singularly or concurrently. If any legal action is brought to enforce any obligations hereunder, the prevailing Party shall be entitled to receive its attorney's, fees, court costs and other collection expenses, in addition to any other relief it may receive. If either Party fails to perform its obligations under any provision of this Agreement or the other Party does not enforce such provision, failure to enforce on that occasion shall not prevent enforcement on later occasions.
- g) Survival of Provisions: Notwithstanding any other provision to the contrary herein, terms which by their nature survive termination or expiration of this Agreement shall bind the parties following any expiration or termination of this Agreement.
- h) Liability upon Expiration: Neither Party shall be obligated to extend or renew this Agreement.
- i) Jurisdiction and governing law: The laws of India only and no other nation shall govern this Agreement. The Parties agree to submit to the exclusive jurisdiction of the Courts located in Mumbai, India as regards any claims or matters arising under or in relation to these terms and conditions.
- j) Headings and sub – headings: The headings and sub headings in this Agreement are for convenience only and do not affect the meaning of the relative section / clause.
- k) Disclosure of information: The Master Merchant will be entitled at any time to disclose information concerning the Sub Merchant to a third party in connection with the Master Merchant facilities provided by the Master Merchant. This clause shall survive the termination of this Agreement.
- l) The individual signing this Avenues Account Application ("Application") certifies that he/she is an authorized principal, partner, officer, or other authorized representative of Merchant identified above, is thereby fully authorized to bind Merchant to contractual obligations and is authorized to provide the information contained in this Application. The signatory of this Application also certifies that all information and documentation submitted in connection with this Application are complete and correct in all material respects. Sub Merchant authorizes Avenues to obtain and verify, and to continue to obtain and verify, any information submitted in this Application, including banking information, financial credit, or other information about Merchant, any relevant information regarding principals, partners, officers, or other authorized representatives of Merchant, and any other individuals listed on this Application, including the individual signing below, and for Avenues to use such information as reasonably necessary during the course of providing the services contemplated here under as well as for Avenues to share such information with its affiliates or as otherwise allowed by applicable law.
- m) Notices
  - 1. Any notice, direction or instruction given under this Agreement shall be in writing and delivered by hand, post, cable, facsimile or telex to

In the case of the Sub Merchant

In the case of the Master Merchant:

Name: _____	Name: AVENUES (INDIA) PVT. LTD.,
Address: _____ _____ _____	Address: PLAZA ASIAD, SECOND FLOOR, STATION ROAD, SANTACRUZ (WEST), MUMBAI 400 054. INDIA.
Fax: _____	Fax: 91-22-26480772,91-22-67425542
Email: _____	Email: <a href="mailto:accounts@ccavenue.com">accounts@ccavenue.com</a>
ATTN:- _____	ATTN:- Mr. Vishwas Patel

2. Notice will be deemed given :
  - a. in the case of hand delivery or registered mail or overnight courier upon written acknowledgement of receipt by an officer or other duly authorized employee, agent or representative of the receiving party;
  - b. in the case of facsimile upon completion of transmission as long as the sender's facsimile machine creates and the sender retains a transmission report showing successful transmission. Provided that in case of the date of receipt not being a business day, notice shall be deemed to have been received on the next business day. Provided further that in case of a notice being forwarded by facsimile, a copy of the notice shall also be forwarded by hand delivery, registered mail or overnight courier services.
3. The address for notice may be changed by either party by giving notice to the other party as provided herein.
4. Nothing in the aforesaid clauses shall affect any communication given by way of the internet or other electronic medium as otherwise provided in this Agreement for the purpose of rendering the services.

n) Arbitration:

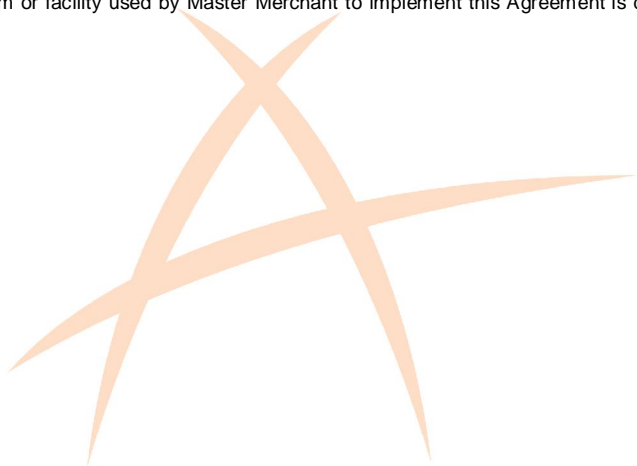
The parties will endeavor to settle amicably by mutual discussion any disputes, differences or claims whatsoever related to this agreement. Failing such amicable settlement the dispute shall be settled by arbitration. The Arbitration and Conciliation Act 1996 shall govern the arbitration proceedings. The arbitration shall be held in Mumbai, India. The language of arbitration shall be English and the arbitral award shall be final and binding on both the parties. The arbitration proceedings will be held before the sole Arbitrator appointed by the Master Merchant. Any arbitration award will be final and binding on the parties, and judgment there on may be entered in any court of competent jurisdiction. This agreement (including its jurisdiction clause) shall be governed by, construed and take effect in accordance with the laws of India. The courts of Mumbai shall alone have jurisdiction in all matters.

The parties hereto have hereunto set their hands on the date first above written.

On Behalf of the Sub Merchant	On Behalf of the Master Merchant:
<p>_____</p> <p>(Signature and Stamp)            Name:-            Title:-            Date:-</p>	<p>_____</p> <p>(Signature)            Name:-Vishwas Patel            Title:-CEO            Date:-</p>

**ANNEXURE 'A'**

Term/Duration of the Agreement: The term of this Agreement shall continue until a notice of cancellation by the Master Merchant or the Sub Merchant is given, or until terminated under other provisions of this Agreement. The Master Merchant reserves the right to terminate this Agreement without cause upon notification to the Sub Merchant. The Master Merchant may further terminate this Agreement immediately without notice at any time if the Sub Merchant breaches any part of this Agreement, or if any program or facility used by Master Merchant to implement this Agreement is disrupted or terminated for any reason.



**Consideration –**

- The Sub Merchant shall pay to the Master Merchant:

Set Up fees [One time Non Refundable]	Rs. _____ / + Taxes as applicable
* TDR For (Master Card/ Visa/ Diners/ Debit Cards)	_____ % + Taxes as applicable
* TDR For (Amex / JCB/ Cash Card & Mobile Payment)	_____ % + Taxes as applicable
* TDR For (Net Banking)	_____ % + Taxes as applicable
* TDR For (Phone Pay)	_____ % + Taxes as applicable
Annual Software Maintenance Cost payable per annum payable in advance in April of every Year OR Pro Rata thereof.	Rs. _____ / + Taxes as applicable
NEFT/RTGS and processing charges Rs. 5/- plus Taxes as applicable on every payout made to Sub Merchant	
<p>*TDR= Transaction Discount Rate (A fee deducted from each transaction for bank and gateway processing).</p> <p>Taxes as applicable (Service Tax inclusive of Education Cess) will be levied on set up fees, ASMC and Transaction Discount Rate (TDR) charged by CCAvenue.</p>	

- The Payment Schedule is Weekly.



## Annexure ' B'

### TRIPARTITE AGREEMENT

This Agreement (hereinafter 'Agreement') is being executed at Mumbai on \_\_\_\_\_ between:

**CITIBANK LTD.** a national banking association duly constituted, registered and in existence in accordance with the laws of the United States of America now in force and having its Head Office at 399 Park Avenue, Borough of Manhattan, City of New York, and having an office in India among other places at Citibank card centre, Citi Tower, 61, Dr S.S.Rao Road, Parel, Mumbai 400 012 hereinafter referred to as "**Citibank**" (which expression shall unless repugnant to the meaning or context thereof also mean and include its successors and assigns) of the **One Part**

And

Avenues India Pvt Ltd., , a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at \_ 2, Krishna Villa, Ground Floor, Chapel Lane, Santa Cruz(West), Mumbai 400 054 and its Corporate office at Plaza Asiad, Level II, S.V.Road, Santa Cruz (West), Mumbai 400054. India. (herein after referred to as "**Super Merchant**", which term shall, unless repugnant to the context or meaning thereof, mean and include its successors and permitted assigns) of the **Second Part**.

And

\_\_\_\_\_, a company incorporated under the provisions of the Companies Act, 1956 / a partnership firm registered under the provisions of the Indian Partnership Act / a proprietorship firm / An Individual having at office at \_\_\_\_\_

\_\_\_\_\_(hereinafter referred to as "**Merchant**", which expression shall unless it be repugnant to the context or meaning hereof shall be deemed to mean and include (i) in the case of Merchant being a sole proprietary concern / individual - the heirs, administrators, executors, legal representatives and permitted assigns of the Proprietor; (ii) in the case of Merchant, being a partnership firm - the partners for the time being and from time to time of the firm, the survivor or survivors of them, their respective heirs, administrators, executors, legal representatives and permitted assigns and (iii) in the case of Merchant, being a company - its successors and assigns (as the case may be) (iv) in the case of Merchant being a Trust- The trustees from time to time of the trust, administrators, beneficiaries and the survivor or survivors of them, executors, legal representatives and permitted assigns (as the case may be) of the **Third Part**;

Citibank / Super Merchant / Merchant are, wherever the context so admits, hereinafter collectively referred to as the "**Parties**" and individually as a "**Party**".

**Definitions:**

**“Agreement”** means this Agreement and includes Agreement dated \_\_\_\_\_ between the Super Merchant and the Merchant and the Agreement dated 15<sup>th</sup> October 2001 and addendums dated 18<sup>th</sup> July 2008 and 22<sup>nd</sup> January 2009 between Citi Bank and Super Merchant and any and all schedules, appendices, annexures and exhibits attached to it or any future modifications made by exchange of letters or in writing from time to time subject to the written acknowledgement thereon of both parties hereto.

**“Transaction Discount Rate”** Transaction Discount Rate for the Merchant, means the charges of Super Merchant as specified in the Agreement dated \_\_\_\_\_ between the Super Merchant and the Merchant AND Transaction Discount Rate for the Super Merchant, means the charges of Citi Bank as specified in addendum dated 22<sup>nd</sup> January 2009 between Citi Bank and the Super Merchant.

**WHEREAS:-**

- 1) Citibank is engaged in the business of providing banking and other financial services through the Internet, which includes the service of facilitating payments through an internet payment gateway on the internet.
- 2) The Super Merchant have established and hosted an internet payment gateway website with the domain name of “<http://www.CCAvenue.com>” for processing electronic payments through the internet
- 3) Citibank have entered into an agreement dated 15<sup>th</sup> October 2001 and addendums dated 18<sup>th</sup> July 2008 and 22<sup>nd</sup> January 2009 with the Super Merchant for the service as more particularly described in the agreement thereto.
- 4) The Super Merchant has entered into an agreement dated \_\_\_\_\_ with the Merchant for the services as more particularly described in the agreement thereto.
- 5) The Parties utilize MasterCard/Visa services and other payments for settlement and payment through internet.
- 6) Citibank has registered the Super Merchant with MasterCard and MasterCard has approved the Super Merchant as a Member Service Provider (Acquiring TPP, Acquiring ISO, and DSE) registration number being 9185.
- 7) One of the conditions stipulated in the Card Companies Registration Program User's Manuals, is that the Citibank, Super Merchant and the Merchant shall enter into an agreement for the services as more particularly mentioned in this present Agreement.

NOW THE PARTIES HEREBY AGREE AS FOLLOWS:

1. CITI Bank agrees to provide with the services / internet payment gateway to the Super Master on the terms and conditions as more particularly mentioned in the agreement thereto.

2. Further, Super Merchant also agrees to provide with the services to the Merchant on the terms and conditions as more particularly in the agreement thereto.

3. Subject to any earlier termination pursuant to Clause 15 of the agreement, the term of this Agreement shall be effective as of the Reference Date and shall remain in full force until a notice of cancellation by any Party, or until terminated under other provisions of the Agreement. Either party may terminate this Agreement with prior written notice to the other party of 30 days.

4. Citibank hereby agrees and confirms that the Bank will at all times and be entirely responsible for, and in control of, Super Merchant's performance. Further the Super Merchant shall approve, in advance, any fee to or obligation of the Merchant arising from or related to performance of this agreement

5. The Super Merchant hereby agrees that they shall not subcontract, sublicense, assign, license, franchise, or in any manner extend or transfer to any third party, any right or obligation of the Super Merchant set forth in the agreement entered into between the Merchant and Citibank. Further, Citibank hereby agrees that Citibank will not waive, forgive, release, assign, or in any manner fail to insist on strict performance of each requirement set forth in the Master Card Circular and the agreement entered with the Super Merchant.

6. Right of Super Merchant to sign up, appoint Merchant/s: Citi Bank has approved and appointed the Super Merchant to recruit various Merchant/s from time to time.

**7. PAYMENT TO THE MERCHANT BY THE SUPER MERCHANT:**

Subject to the provisions of Clause 9, the Super Merchant agrees to pay to Merchant the amount processed less Transaction Discount Rate less service taxes as applicable as agreed between the Super Merchant and the Merchant by Agreement dated

#### **8. PAYMENT TO THE SUPER MERCHANT BY CITI BANK:**

In consideration of the Facility provided by Citi Bank, Citi Bank agrees to pay to Super Merchant the amount processed less Transaction Discount Rate as agreed between Citi Bank and Super Merchant by addendum dated 22<sup>nd</sup> January 2009 which shall be deducted by Citi Bank from the amounts payable to the Super Merchant and less service tax as applicable from time to time, in respect of the transactions processed by the Merchant through Super Merchant. Citi Bank agrees that the payments will be deposited by Citi Bank in the Bank Account ie current account (Receipt Account) opened by Super Merchant with Citi Bank specifically mentioned in the Agreement dated 15<sup>th</sup> October 2001 between Citi Bank and Super Merchant.

#### **9. ACCEPTANCE OF CHARGES WITH FULL RECOURSE BY THE MERCHANT**

The Merchant agrees that if the Issuing Bank raises a claim on CITI Bank/Super Merchant for a payment made by the Customer to the Merchant for any Transaction processed through Super Merchant, and for any penalty of the Card Companies/ Banks etc the financial responsibility of settling the claim/penalty will at all times rest on the Merchant without any recourse to CITI Bank. The Merchant shall be responsible for the non-payment in respect of such Order or the charging back of such uncollectable charges/ penalties as the case may be without any demur or protest. CITI Bank shall therefore be authorised either to debit the Super Merchant's bank account to the extent of the aforesaid uncollectable amounts and any other amounts due by the Merchant to CITI Bank, or to deduct the same from amounts payable to the Merchant. In addition the Merchant agrees to provide all relevant documents as may be required by CITI Bank / Super Merchant with respect to any chargeback/penalty. Upon default by the Merchant in cases where chargeback has arisen, the Super Merchant shall bear all expenses, losses, damages that may accrue upon CITI Bank with respect to the defaulted chargeback amounts and keep CITI Bank indemnified for the same. Such defaulted amounts or expenses, losses, damages with respect to the chargeback that has been recovered by CITI Bank from the Super Merchant on account of Merchant or any amounts which the Super Merchant is entitled to receive/recover, the Super Merchant shall recover the same from the Merchant. The Merchant does hereby undertake forthwith without any demur, protest, dispute or delay, to pay to the Super Merchant, any such amount/penalty. Without prejudice to any other of Super Merchants rights and remedies, in the event that the Merchant does not make any payment to Super Merchant by its due date or on demand as required under the Agreement, the Super Merchant shall be entitled to charge daily interest on such overdue amount from the due date of demand (as the case may be) until the date of payment in full, at the rate of 2.5% per month, as well after as before judgment.

**10.** Citibank hereby agrees that the Citibank may not assign or otherwise transfer an obligation to pay or reimburse a Merchant arising from, or related to, performance of this agreement to the Super Merchant.

**11.** The parties shall take, and has appropriate mechanisms and means to ensure adequate precautions to protect the privacy and confidentiality of all data pertaining to the Merchant, the Customers, any other third party in relation to this Agreement or the Services and shall take appropriate precautions not to breach the privacy of the Merchant, the Customers, or any third party during the course of performance of its obligations herein.

**12 A.** Super Merchant and Merchant hereby undertakes and agrees to indemnify and hold Citibank harmless and keep at all times fully indemnified and held harmless from and against all actions, proceedings, claims, liabilities (including statutory liability), penalties except as mentioned in addendum dated 22<sup>nd</sup> January 2009, demands and costs (including without limitation, legal costs of either of the parties), awards, damages, losses and/or expenses however arising directly or indirectly as a result of:

- a) any breach or non-performance of either of their undertakings, warranties or obligations under this Agreement; or
  - b) any claim or proceeding brought by either of the party in respect ;or
  - c) any act, neglect or default of the either of the parties agents, employees, licensees; or
  - d) any act or omission by either of the parties in respect of the said Agreement; or
  - e) any claim by any other party against either of the parties arising from sub-clause as mentioned herein above.
- a) Any fines, penalties except as mentioned in addendum dated 22<sup>nd</sup> January 2009, interest on delayed payments imposed directly or indirectly on either of the parties on account of the breach or non-performance under the Agreement; or

**12 B.** The Super Merchant and the Merchant shall also fully indemnify and hold harmless Citibank against any loss, costs, expenses, demands or liability, whether direct or indirect, arising out of a claim by a third party that the Super Merchants Products/the Merchant's products infringes any intellectual or industrial property rights of that third party.

**12 C.** The Super Merchant and Merchant shall also fully indemnify and keep indemnified Citibank from all loss that Citibank may incur as a consequence of any failure whether temporary or permanent of the Payment Mechanism (as modified from time to time) to the extent such failure results in any wrongful or incorrect payment to the Merchant.

**12 D.** In the event of Citibank being entitled to be indemnified pursuant to the provisions of this Agreement, Citibank shall be entitled to accordingly and to such extent debit the payments to be made to the Super Merchant irrespective of any dispute that the Merchant may have in respect of such debit and shall be also entitled to collect the said money in the manner provided in the sub-clauses of the agreement thereto.

**13.1** Without prejudice to any other provisions of this Agreement, Citibank shall not be liable to the Merchant/the Super-Merchant for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the Services and/or this Agreement, including without limitation any :-

- i) loss of data contained in the Site and/or the Server arising directly or indirectly by reason of use of any of the Services. It is however clarified that the loss of data would not affect the payment of dues by Citibank to the Super Merchant in accordance with the other provisions of this Agreement;
- ii ) interruption or stoppage to the customer's access to and/or use of the Payment Mechanism arising out of the performance of the Services or otherwise, provided that Citibank acted in good faith and with reasonable diligence.

**13.2** Notwithstanding the generality of Clause 14 .1 above, Citibank expressly excludes liability for consequential loss or damage or loss of profit, business, revenue, goodwill or anticipated savings which may arise in respect of:

- a) the Services;
- b) the Payment Mechanism; and/or
- c) the use or implementation of (a) and/or (b) above or otherwise.

**13.3** Notwithstanding anything contained in this Agreement, Citibank shall not be liable to the Merchant, the Super-Merchant in any event for any damages in excess of the Charges collected by Citibank under this Agreement.

**14.1** Without prejudice to any other provision for termination in the agreements entered into between the parties, each party shall have the right to terminate this Agreement forthwith, by notice in writing to the other party upon the occurrence of any of the following events:

- a) If the other party commits any breach of any of the terms and conditions of this Agreement;
- b) If the other party engages in fraud or other illegal or unethical activities, or in any activities which the first party, in its reasonable judgment, believes could adversely affect the reputation of the either of the party;
- c) If either of the party enters into liquidation whether compulsory or voluntary (save for the purpose of amalgamation or reconstruction) or makes an assignment for the benefit of or compounds with its creditors or has a manager or receiver appointed in respect of all or any part of its business or a petition for winding-up or judicial management is presented against the other party or the other party ceases to carry on any part of its business or threatens to do any of these things.
- d) If the Merchant breaches any of the provision of this agreement or its agreement with Super Merchant and if the Super Merchant is unwilling to terminate the agreement with the Merchant on the request of Citibank.

**14.2** If Citibank changes its policy in respect of provision of any Services and/or refuses to render such Services for any reason whatsoever, Citibank shall be entitled to forthwith terminate this Agreement.

**14.3** A party's right to terminate this Agreement above shall be in addition to any other rights or remedies that such party may have at law or in equity as a result of the other party's breach of this Agreement.

**14.4** Either Party shall be entitled to terminate this Agreement without cause at any time by service of a thirty (30) day notice in writing to the Other Party.

**14.5** Notwithstanding the aforesaid, Citibank shall be entitled to terminate this Agreement with immediate effect in the event of Citibank being of the view that the risks involved in continuing with the Agreement outweigh the benefits or in the event of Citibank receiving any Customer complaints. The view of Citibank in this regard shall be final and binding on the Parties. This termination shall take place forthwith on notice of the same being provided to the Super Merchant.

**15.1** Notices, writings and other communications under this Agreement may be delivered by hand, by registered mail, by overnight courier service, or facsimile to the addresses and numbers specified as follows or to such other addresses and numbers as may be specified in writing to the Parties in the manner provided in this clause:-

<b><u>In case of Citi Bank:</u></b>	<b><u>In the case of Super Merchant (Avenues (I) Pvt Ltd.)</u></b>	<b><u>In case of Merchant :</u></b>
Address: No 2, Club House Road, Anna Salai, Chennai 600 002	Address: PLAZA ASIAD, SECOND FLOOR, STATION ROAD, SANTACRUZ (WEST), MUMBAI 400 054. INDIA.	Address: _____
Fax: - 044 8522625	Fax: 91-22-26480772, 91-22-67425542	Fax: - _____
Email: _____	Email: <a href="mailto:accounts@ccavenue.com">accounts@ccavenue.com</a>	Email: _____
ATTN:- _____	ATTN:- Mr. Vivek Nayak	ATTN:- _____

**15.2** Notice will be deemed given:

- (a) in the case of hand delivery or registered mail or overnight courier upon written acknowledgement of receipt by an officer or other duly authorised employee, agent or representative of the receiving party;
- (b) in the case of facsimile upon completion of transmission as long as the sender's facsimile machine creates and the sender retains a transmission report showing successful transmission. Provided that in case of the date of receipt not being a business day, notice shall be deemed to have been received on the next business day. Provided further that in case of a notice being forwarded by facsimile, a copy of the notice shall also be forwarded by hand delivery, registered mail or overnight courier services.

**15.3** The address for notice may be changed by either party by giving notice to the other party as provided herein.

**15.4** Nothing in the aforesaid clauses shall affect any communication given by way of the internet or other electronic medium as otherwise provided in this Agreement for the purpose of rendering the Services.

**16.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal successors.

#### **17. Entire Agreement:**

Subject to Agreement dated 15<sup>th</sup> October 2001 and addendums dated 18<sup>th</sup> July 2008 and 22<sup>nd</sup> January 2009 between the Super Merchant and Citi Bank and Agreement dated \_\_\_\_\_ between the Super Merchant and the Merchant, this Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior undertakings, agreements, representations and warranties. Provided that this Agreement shall not govern the utilisation of cards by the Customers other than on the internet in the manner provided in this Agreement and Citibank / Merchant / Super Merchant could have executed other agreements in respect of all such Authorisations and debits and all such agreements shall continue to be valid, binding and enforceable in accordance with their terms thereof.

#### **18. Counterparts:**

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute the same Agreement.

#### **19. Force Majeure:**

No party shall be liable for any failure to perform any of its obligations under this Agreement if the performance is prevented, hindered or delayed by a Force Majeure Event (defined below) and in such case its obligations shall be suspended for so long as the Force Majeure Event continues (provided that this shall not prevent the accrual of interest on a principal amount which would have been payable but for this provision). Each party shall promptly inform the other of the existence of a Force Majeure Event and shall consult together to find a mutually acceptable solution. "**Force Majeure Event**" means any event due to any cause beyond the reasonable control of Citibank, including, without limitation, unavailability of any communication system, breach or vices in the processes or Payment Mechanism, Internet Payment Gateway, sabotage, fire, flood, explosion, acts of God, civil commotion, strikes or industrial action of any kind, riots, insurrection, war, acts of government, computer hacking, unauthorised access to computer data and storage device, computer crashes, breach of security and encryption, etc.

**20. Non-partnership:**

Nothing in this Agreement shall be deemed to constitute a partnership between the parties nor have authority to bind Citibank for any purpose or Citibank to have authority to bind the other party for any purpose. All authorities to each of the parties shall be as specified in this Agreement.

**21. Variation:**

Other than as otherwise provided by this Agreement, all alterations to this Agreement shall only be in writing by mutual consent of the Parties hereto.

**22. Severability:**

If any provision of this Agreement is agreed by the parties to be illegal, void or unenforceable under any law that is applicable hereto or if any court of competent jurisdiction in a final decision so determines, this Agreement shall continue in force save that such provision shall be deemed to be deleted herefrom with effect from the date of such agreement or decision or such earlier date as the Parties may agree.

**23. Interpretation:**

In this Agreement, unless otherwise stated :-

A reference to a clause or to an appendix is to a clause in, or an appendix to, this Agreement; Words in the singular shall include the plural and vice versa; The headings in this Agreement are for convenience only and are not intended to have any legal effect; and Words denoting persons shall include bodies corporate, unincorporated associations and partnerships.

**24. Waiver:**

A failure by any Party hereto to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.

**25. Survive Termination:**

Clauses which are intended to survive the term and termination of this Agreement shall survive the term and termination hereof.

**26. Governing Law and Jurisdiction:**

The construction, validity and performance of this Agreement shall be governed in all respects by the laws of India. The parties hereby submit to the exclusive jurisdiction of the Indian Courts at Mumbai.

**IN WITNESS WHEREOF** the parties hereof have hereunto set and subscribed their respective hands and seal the day and year herein above written.

<u>On Behalf of Citi Bank:</u>	<u>On Behalf Super Merchant (Avenues (I) Pvt Ltd.):</u>	<u>On Behalf of Merchant:</u>
<p>_____</p> <p>(Signature) Name:- Title:- Date:-</p>	<p>_____</p> <p>(Signature) Name:-Vivek Nayak Title:- Director - Operations Date:-</p>	<p>_____</p> <p>(Stamp &amp; Signature) Name:- Title:- Date :-</p>



**Annexure 'C'**

**Information Required**

**NAME OF COMPANY**

Constitution : Proprietor /Partnership / Pvt Ltd Co. / Public Ltd Co,/ Huf

Location : \_\_\_\_\_

Office Address : \_\_\_\_\_

Pin Code : \_\_\_\_\_

Contact : Tel No. \_\_\_\_\_ Mobile No. \_\_\_\_\_  
like(02226537777)

Vendor Email Id \_\_\_\_\_ URL: \_\_\_\_\_

Office Status : Rented / Owned / Leased

Landlord (If Rented / Leased): First Name \_\_\_\_\_ Middle Name \_\_\_\_\_  
Last Name \_\_\_\_\_

Mob No. \_\_\_\_\_

No of years at Current address \_\_\_\_\_

Existing activities from this office \_\_\_\_\_

**Banker's Details :**

Bank Name : \_\_\_\_\_

Branch Name : \_\_\_\_\_

Account No.: \_\_\_\_\_

Organization Pan number : \_\_\_\_\_

**Trade Reference 1:**

Name : \_\_\_\_\_

Address: \_\_\_\_\_

Pin Code :- \_\_\_\_\_

Contacts No.: Tel. no.- \_\_\_\_\_ Mob. No.  
\_\_\_\_\_

**Trade Reference 2:**

Name : \_\_\_\_\_

Address: \_\_\_\_\_

Pin Code :- \_\_\_\_\_

Contacts No.: Tel. no.- \_\_\_\_\_ Mob. No.  
\_\_\_\_\_

**Details of Proprietor/Partner/Director:**

Name: \_\_\_\_\_

**Current Residence Address:** \_\_\_\_\_

Pin Code: - \_\_\_\_\_

Contacts : Tel No. \_\_\_\_\_ Mobile No.  
\_\_\_\_\_

Residence Status :        Rented / Owned/leased

Landlord(if rented/leased): First Name \_\_\_\_\_ Middle Name \_\_\_\_\_ Last  
Name

Contact No. \_\_\_\_\_

No. of years at current address \_\_\_\_\_

**Permanent Address**

Address\_\_\_\_\_

PinCode\_\_\_\_\_

Telephone NO. landline \_\_\_\_\_

Residence\_\_\_\_\_

Date Of Birth : \_\_\_\_\_

Pan No. : \_\_\_\_\_

Personal Vehicle Details : Registration Number \_\_\_\_\_

Make &amp; Model\_\_\_\_\_

**Previous Experience /other Business Details:**Has the proprietor vendor ever worked with ICICI Bank Yes\_\_\_\_\_ No  
\_\_\_\_\_

Name Of Organization: \_\_\_\_\_

Address : \_\_\_\_\_

Pin Code :-\_\_\_\_\_

Contacts : Tel No. : \_\_\_\_\_ Mob. No.:  
\_\_\_\_\_

Type Of Business: \_\_\_\_\_

Designation: \_\_\_\_\_

Period Of association:From \_\_\_\_\_ To  
\_\_\_\_\_

Reason of Leaving: \_\_\_\_\_

Contact Person Name : \_\_\_\_\_

Mobile No. \_\_\_\_\_