

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement ("Agreement") is made and entered into on this Day of, 2018 between:

eMart Solutions India Pvt Ltd, having is registered office / residence at 102, # M001, Mezzanine Floor, Triguna Icon, # 21, Arekampanahalli, Hosur Road, Bangalore – 560 027 (hereinafter referred to as **"eMart"** which expression, unless repugnant to the context or meaning thereof, shall include its successors, representatives and permitted assigns) of the FIRST PART.

And

.....having registered office / residence
(hereinafter referred to as "....." which expression, unless repugnant to the context or meaning thereof, shall include for each of them, their successors, representatives and permitted assigns) of the SECOND PART.

(Whereas and shall be collectively referred to as the **"Parties"** and individually as the **"Party"**.)

WHEREAS:

A. For the purpose of the eMart wishes to disclose to and/or allow access to Confidential Information (*as defined hereinafter*).

B. eMart wishes to regulate how the Confidential Information (*as defined hereinafter*) is to be treated while in the possession of and accordingly, agree to the terms of this Agreement.

NOW, THEREFORE, in consideration of the covenants contained herein and the disclosures made by each Party in reliance of the covenants contained herein, the sufficiency and adequacy of which is acknowledged by the Parties, the Parties, intending to be legally bound, agree as follows:

1. DEFINITIONS AND INTERPRETATION**1.1 Definitions**

For the purpose of this Agreement, unless the context otherwise requires, the following words and expressions shall have the meanings assigned to them in this Clause 1.1:

"Applicable Laws" shall mean the laws of India, including all orders, rules, regulations, executive orders, decrees, policies, judicial decisions, notifications or other similar directives made pursuant to such laws.



"Business Day" shall mean a day on which the commercial banks are generally open for business in India.

"Confidential Information" shall mean all information of whatever nature (financial, technical, commercial, legal or otherwise), whether or not proprietary or marked specifically as "Confidential" by eMart, and disclosed by eMart to _____ in connection with the Purpose, either directly or indirectly. Confidential Information shall include, without limitation non-public financial and business information, any proposals, draft agreements, letters of intent, correspondence (both in written and electronic form), meeting notes, presentations, , prices, rates, costs, data, drawings, passwords and program designs, proprietary computer software designs and hardware configurations, proprietary technology, new product and service ideas, marketing, financial, trading, research ,trade secrets and all other information marked as 'confidential' or otherwise, whether of a technical, financial or business nature or otherwise whether in whole or in part and regardless of the medium by which such information is supplied (including all copies and derivative works subsequently generated from such information).

"Definitive Documents" shall mean the agreements, if any, entered into between the Parties to achieve the Purpose.

"Disclosing Party" shall mean the Party disclosing the Confidential Information to Recipient (For the purpose of this agreement eMart is Disclosing Party).

"Person" shall mean any natural person, limited or unlimited liability company, corporation, partnership (whether limited or unlimited), proprietorship, Hindu undivided family, trust, association, government or any agency or political subdivision thereof or any other entity that may be treated as a person under Applicable Laws.

"Purpose" means the interactions between the Parties to facilitate an agreement for the purpose of _____.

"Recipient" shall mean a Party that receives Confidential Information from the Disclosing Party (For the purpose of this agreement Proeffessor is Recipient).

"Representatives" shall have the meaning assigned to the term in Clause 2.3.

1.2 Interpretation

In this Agreement, unless the context or meaning thereof otherwise requires:

1.2.1 The singular includes the plural and vice versa.

1.2.2 References to the words 'including' and 'inter alia' shall be deemed to be followed by 'without limitation' or 'but not limited to', whether or not those words are followed by such phrases or words of like import.

1.2.3 All approvals and/or consents to be granted by the Parties under this Agreement shall be deemed to mean approvals and/or consents in writing.



2. CONFIDENTIALITY OBLIGATIONS

The Recipient undertakes to:

2.1 treat as confidential all Confidential Information which is supplied to the Recipient and not to disclose to any Person, other than as permitted in Clause 2.3 of this Agreement and except to the extent required by Applicable Law;

2.2 use the Confidential Information only for, or in relation to, the Purpose.

2.3 permit access to Confidential Information only to its employees, legal counsel and investment advisor(s) and its investment advisors' employees, directors, and professional advisors ("**Representatives**") who need to know such Confidential Information strictly for the Purpose and to acknowledge and ensure that each of such Representatives are made aware in advance and observe the obligations set out in this Agreement and adhere to the terms thereof as if he had been a party thereto;

2.4 not release any press statement or issue any other publicity regarding the relationship between the Parties without the prior written consent of eMart. In addition, the Parties agree that neither _____ nor any of its Representatives, may directly or indirectly, use or refer to any other Party, or any derivation of its name or identity or any marks associated with its identity for any purpose whatsoever (including, without limitation, in any filing with any governmental authority, any press release, any public announcement or statement, advertisement or in any interview or other discussion with any reporter or other member of the media), without the prior written consent of eMart with respect to each such use or reference.;

2.5 not disclose to any third party (other than as permitted herein) the identity of the Disclosing Party;

2.6 if and when requested to do so by the Disclosing Party, supply to the Disclosing Party a list of persons to whom Confidential Information has been disclosed by the Recipient in accordance with the terms of this Agreement;

2.7 rely on the Confidential Information at its own risk and agrees and acknowledges that a Disclosing Party does not, and shall not be deemed to be, making any representations or warrant the accuracy or reliability of any such information;

2.8 promptly notify the Disclosing Party if any negotiations or discussions or any Confidential Information are required to be disclosed in accordance with Applicable Law and (i) where reasonably practicable to do so, shall co-operate with the Disclosing Party in relation to the manner of any such disclosure, and (ii) shall take any action which the Disclosing Party may reasonably elect to take to prevent (to the extent permissible under law) such disclosure and/or to challenge the validity of any such requirement.

Parties further agree that Confidential Information may be in any form or medium, tangible or intangible, and may be communicated/disclosed in writing, orally, or through visual observation or by any other means or medium (provided any information shared orally or through visual observation or



Communicated through other non tangible means shall be reduced to writing within 7 business days of such communication/disclosure if it is feasible to do so).

3. EXCEPTIONS

The obligations set out in Clause 2.1 to 2.8 shall not apply to information which, without breach of this Agreement by Recipient, (i) was lawfully in the Recipient's possession at the time of disclosure on a non-confidential basis at the time that it was first supplied by the Disclosing Party to the Recipient and can be evidenced by the records of the Recipient, (ii) is lawfully in the public domain otherwise than as a result of breach of any undertakings or of any other duty of confidentiality to any Person, (iii) the Recipient lawfully obtains from a third party who is not bound by any obligation of confidentiality in relation thereto and can be evidenced by the records of the Recipient (iv) is independently or in conjunction with third parties, lawfully developed by the Recipient or its Representatives without the use of the Confidential Information and can be evidenced by the records of the Recipient.

4. FURTHER PERMITTED DISCLOSURE

Except as otherwise provided in this Agreement, a Recipient may not disclose Confidential Information of the Disclosing Party except in the following circumstances:

4.1 The disclosure is made only to their Representatives strictly on a 'need to know' basis;

4.2 the disclosure is authorised in writing by the Disclosing Party to the extent as so authorised;

4.3 the disclosure is made pursuant to a directive or order of a government entity or statutory authority or any judicial or governmental agency provided however that the Recipient shall promptly notify the Disclosing Party so as to enable the Disclosing Party to seek a protective order or other appropriate remedy;

4.4 the disclosure is made to any arbitrator or expert appointed, either mutually or through a court directive, to resolve disputes under any final agreement entered into between the Parties under or in connection with the negotiations and discussions in respect of the Purpose; or

4.4 subject to Clause 2.8 of this Agreement, the disclosure is made pursuant to Applicable Laws or direction of statutory or regulatory authority or stock exchange or order of a relevant court of law.

5. No Rights Granted: Any Confidential Information disclosed or acquired hereunder shall remain the property of the Disclosing Party or the originator of such Confidential Information. The Recipient agrees that it shall not acquire any right, whether expressly or by implication, under any patent, copyright, trademark or other intellectual property right or any other right or title to or licence in respect of Confidential Information communicated by the Disclosing Party. The disclosure of such Confidential

Information shall not constitute any representation or warranty, express or implied, with respect to the accuracy or completeness of any information made available to the Recipient or any of its Representatives. In particular but without prejudice to the generality of the foregoing, no responsibility or liability is or will be accepted by the Disclosing Party or its Representatives regarding the accuracy and completeness (or otherwise) of any Confidential Information made available to the Recipient or its Representatives. All the Confidential Information is provided "ASIS" without warranty of any kind, and Recipient agrees that neither Disclosing Party nor its suppliers shall be liable for any damages whatsoever arising from or relating to Recipient's use or inability to use such Confidential Information.



6. Degree of Care: The Recipient agrees that it shall exercise the same degree of care that the Recipient utilizes to protect its own Information of a similar nature which shall be no less than reasonable care, to protect the secrecy of and avoid disclosure and use of Information disclosed by the Disclosing Party. The Recipient agrees to notify the Disclosing Party of any misuse, misappropriation or unauthorized disclosure of Information of the Disclosing Party which may come to the Recipient's attention.

7. Duration and Termination: This Agreement shall be effective and binding upon the Parties from the date of this Agreement and will continue until and unless terminated in accordance with the provisions herein below.

This Agreement shall and all rights and obligations contained herein shall terminate on the occurrence of the earlier of the following events: (a) by the execution of Definitive Agreements between the Parties in relation to the Purpose, or (b) by written agreement between the Parties, or (c) 12 months from the date of execution of this Agreement. The Parties agree the obligation to maintain confidentiality of the information disclosed shall, continue to survive and subsist for a period of 5 (five) years from the date of receipt of the Confidential Information.

8. Return of materials: Upon termination of this Agreement, or at any time on receipt of a written request from the Disclosing Party, the Recipient shall be required to destroy or return all Confidential Information and confirm through a certificate signed by its duly authorised officer, within seven business (7) days of termination that all Confidential Information in its possession or control has been destroyed but such destruction of Confidential Information shall not relieve either Party from their respective obligations incurred before the termination of this Agreement. Notwithstanding the foregoing, the Recipient has advised the Disclosing Party that, in the ordinary course of the Recipient's business and as a part of the Recipient's customary practices, after the destruction and deletion of other copies of the Confidential Information, electronic copies of such Confidential Information may still remain on hard drives, backup tapes and similar formats, and the Disclosing Party acknowledges that, provided such Confidential Information is not used or disclosed by the Recipient or its Representatives contrary to the terms of this Agreement, such remaining copies shall not be deemed a breach of this Agreement, provided that the Recipient had made best endeavours to prevent retention of such electronic copies and taken all reasonable steps to expunge such Confidential Information. Furthermore, notwithstanding anything to the contrary herein, the Recipient may retain copies of any Confidential Information in order to comply with the Recipient's legal and regulatory record-keeping obligations, and the Recipient does not have to return or destroy Confidential Information to the extent that the Recipient's retention of such Confidential Information is in order to comply with the Recipient's regulators' and/or auditors' expectations of best practices and/or Applicable Law or to defend the Recipient in litigation.

9. Remedies: Each Party agrees that its obligations set forth in this Agreement are necessary and reasonable in order to protect the Disclosing Party and its business. Each Party expressly agrees that due to the unique nature of the Disclosing Party's Information, monetary damages may be inadequate to compensate the Disclosing Party for any breach by the Recipient of its covenants and agreements set forth in this Agreement. Accordingly, the Recipient agrees and acknowledges that any such violation may cause irreparable injury to the Disclosing Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the Disclosing Party may be entitled to obtain specific or injunctive relief.



10. Indemnity: The Recipient unconditionally agrees and undertakes to defend, indemnify, and save harmless the Disclosing Party and its Representatives from any and against damages, liabilities, losses, costs and expenses (including actions or proceedings in respect thereof), including reasonable attorneys fees, incurred or sustained by the Disclosing Party or its Representatives, due to the negligence, fraud, gross misrepresentation, or breach of any of the covenants contained in this Agreement by the Recipient or any of its Representatives.

11. Independent Contractors: This Agreement does not create a joint venture, partnership, co ownership or other formal business relationship or entity of any kind, or an obligation to form any such relationship or entity. Each Party shall act as an independent contractor and not as an agent of the other Party and neither shall have the authority to bind the other.

12. Assignment: The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties, provided that neither Party shall assign or disclose to its successors or assigns without the prior written consent of the other Party.

13. Severability: If one or more provisions of this Agreement are held to be unenforceable under applicable law, the Parties agree to renegotiate such provision in good faith. In the event that the Parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Agreement, (b) the balance of the Agreement shall be interpreted as if such provision were so excluded and (c) the balance of the Agreement shall be enforceable in accordance with its terms.

14. Amendment and Waivers: Any term of this Agreement may be amended with the written consent of the Parties and no waiver shall be effective unless in writing by the said Parties. Any amendment or waiver affected in accordance with this Section shall be binding upon the Parties and their respective successors and assigns. Failure to enforce any provision of this Agreement by a Party shall not constitute a waiver of any term hereof by such Party.

15. Trading: The Disclosing Party agrees that, notwithstanding any other provision of this Agreement, the trading activities of any account managed by or on behalf of any Party or any of its Representatives shall not be restricted in any way by the provisions of this Agreement so long as the persons directing such trading are not in receipt of any Confidential Information.

16. Similar Industry: The Disclosing Party acknowledges and agrees that the Recipient and its Representatives currently may be invested in, may invest in or consider investments in companies that compete either directly or indirectly with the Disclosing Party and that the execution of this Agreement shall in no way be construed to prohibit or restrict the Recipient or its Representatives or its affiliates' ability to maintain, make or consider such investments, provided that the Recipient complies with its obligations under this Agreement.

17. Counterparts: This Agreement may be executed in two counterparts, each of which shall be deemed an original and both of which together shall constitute one instrument.

18. Non-waiver: A failure or neglect by either Party to enforce or exercise (in whole or in part) at anytime any of the provisions of this Agreement shall not be construed or be deemed to be a waiver of its rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice such Party's rights to take subsequent action.



19. Prevent Infringement of Applicable Laws: The Parties recognise and accept, and will advise their Representatives, that the laws of certain jurisdictions (including, but not limited to, the Republic of India) prohibit persons with knowledge of non-public information on a listed company from dealing in securities of such company (or in investments whose value is referenced to such securities), disclosing such information to other persons (save in limited circumstances) or otherwise using such information for the purpose of dealing in securities of such company (or in investments whose value is referenced to such securities), or encouraging any other person to do any of the above, and may impose criminal sanctions in connection therewith. The Parties will not, and the Parties will advise their Representatives that they should not, in connection with the Purpose, take any action which constitute a breach of such laws.

20. Entire Agreement: This Agreement is the product of both of the Parties hereto, and constitutes the entire agreement between such Parties pertaining to the subject matter hereof, and merges all prior negotiations and drafts of the Parties with regard to the Purpose contemplated herein. Any and all other written or oral agreements existing between the Parties hereto regarding the Purpose are expressly canceled.

21. Governing Law and Jurisdiction: The laws of India will govern this Agreement and the Courts of Bangalore shall have exclusive jurisdiction.

22. Notices: All notices under this Agreement shall be in writing, sent by facsimile or first-class registered or recorded delivery post to the Party being served at its address specified above or at such other address of which such Party shall have given notice as aforesaid, and marked for the attention of that Party's signatory of this Agreement. The date of service shall be deemed to be the day following the day on which the notice was transmitted or posted as the case may be.

Signed for and on behalf of:

.....
eMart Solutions India Pvt Ltd

Name: Ms. Chitra Aggarwal
Title/AS: VP-Finance & HR

Signature: 

Date:

Name:
Title/AS:

Signature:
Date: