**SERVICES AGREEMENT**

This Services Agreement (hereinafter referred to as “**Agreement**”) is entered into on this [] day of July, 2021 (“**Execution Date**”) and is effective from 1st July 2021 (“**Effective Date**”).

BY AND BETWEEN

**xxxxxxxxxxxx**.carrying on business as the sole proprietor ofyyyyyyywith GSTIN xxxxxxxxxx, and having its principal place of business at at aaaaaaaaaaaaa (hereinafter referred to as **“Company”**, which expression shall, unless it be repugnant or inconsistent with the context hereof, mean and include its successors and permitted assigns) of the ONE PART.

**AND**

**HIVELOOP TECHNOLOGY PRIVATE LIMITED**, a company incorporated under Companies Act, 2013 having its registered office at 1090G, 18th Cross, 14th Main, Sector – 3, HSR Layout, Bangalore – 560 102, hereinafter referred to as the ‘**HTPL**’, which term shall mean and include its successors and assigns of the OTHER PART.

Individually referred to as a ‘Party’ and collectively referred to as “Parties”.

**WHEREAS:**

1. HTPL is *inter alia* involved in the business of facilitating business to business electronic commerce by and between buyers and sellers, wherein third-party sellers list and offer to sell their products (“**Products**”) to various buyers including without limitation retailers, distributors, or vendors or such other legal or natural persons (“**Buyer(s)**”), through a technology platform located at the URL www.udaan.com and mobile application platform under the brand name and style of ‘Udaan’ (collectively, hereinafter referred to as the “**Platform**”).
2. The Company is engaged in the business of selling home & kitchen products, gifts, toys, and cycles.
3. HTPL has introduced a customer acquisition program for all buyers on the Platform to service its customers in locations where it is unserviceable. In this regard, the eligible buyers will be entitled to get certain Offerings (*as defined below*), where such eligible buyers purchase Products from the Platform and sell such Products to HTPL’s customers in locations which are unserviceable by HTPL (“**Program**”).
4. Pursuant to the Program, Company has approached HTPL that it is desirous of being a part of the Program and HTPL has agreed to onboard the Company as a buyer on the Platform as a part of the Program. The Parties have hereby agreed to enter into this Agreement to record the terms and conditions of such arrangement.

**NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

* 1. **INTERPRETATION:**

In this Agreement, unless the context otherwise requires:

1. Words importing persons or parties shall include natural person, entity, firm, organization, operation, company, voluntary association, partnership, joint venture, trust, limited organization, unlimited organization or any organization having legal capacity;
2. Words importing the singular shall include the plural and vice versa, where the context so requires;
3. References to any law shall include such law as from time to time enacted, amended, supplemented or re-enacted;
4. Reference to one gender shall include a reference to the other genders;
5. References to the words “include” or “including” shall be construed without limitation;
6. References to this Agreement or any other agreement, deed, instrument or document shall be construed as a reference to this Agreement, such other agreement, deed, instrument or document as the same may from time to time be amended, varied, supplemented or novated in accordance with the terms of this Agreement;

The headings and titles in this Agreement are indicative and shall not be deemed part thereof or be taken into consideration in the interpretation or construction of this Agreement.

1. **TERM:** The terms of this Agreement shall be valid for a period starting from the Effective Date of this Agreement for a period of 3 (three) months (“**Term**”), unless terminated earlier in accordance with the terms of this Agreement. The Parties may renew the Agreement for a further period and on such terms and conditions as mutually agreed between the Parties.
2. **SCOPE:**
3. As a part of the Program, Company agrees to place orders on the Platform for Products sold by third party sellers on a non-exclusive and contractual basis subject to the Terms of Use (*as defined hereunder*), unless specifically agreed otherwise herein. The Company shall be required to register and create an account on the Platform.
4. The Company shall be solely responsible to place orders as per its requirements from time to time. HTPL disclaims all its liability or responsibility for any discrepancy in placing orders using the Platform.
5. The rate/prices of individual Products along with the specifications and description shall be as displayed on the Platform by the third party sellers of such Products.
6. HTPL disclaims all liability in respect of the Products sold by the third party sellers to the Company.
7. **OBLIGATIONS OF THE COMPANY**:
8. The Company shall comply with the [terms of use](https://udaan.com/s/terms-oct-2020), [privacy policy](https://udaan.com/privacy), [IP infringement policy](https://udaan.com/ip-infringements), and [Returns Polic](https://udaan.com/pages/udaan-return-faq-oct-2020/md)y and Undelivered [Shipmen](https://udaan.com/pages/udaan-rto-policy-oct-2020/md)t Policy, Anti-Counterfeiting Policy and such other policy that may be available on the Platform from time to time. and any amendments thereto (collectively referred to as “**Terms of Use**”) and agrees to comply with such Terms of Use while using and accessing the Platform. The Terms of Use are incorporated herein by way of reference and the Company hereby agrees to be bound by the same, unless specifically agreed otherwise in this Agreement, and acknowledges that HTPL reserves its right to take appropriate measures as per the Terms of Use in case of any non-compliance by the Company while transacting on the Platform.
9. The Company shall at all times during the Term of this Agreement, adhere to the HTPL’s Code of Conduct available at https://udaan.com/pages/code-of-conduct/md, while discharging their obligations under this Agreement.
10. The Company shall comply with all applicable laws and regulations during the Term of this Agreement.
11. The Company agrees and acknowledges to provide HTPL certain sale information on the last day of every month at no additional cost.
12. **OFFERINGS**
    1. As a part of the Program, HTPL will give the following offerings to the buyer (“**Offerings**”):
13. HTPL agrees and acknowledges that the return period for the Products purchased by the Company shall be 15 days from the date of delivery of the order The process of returns of such Products shall be governed by the Return Shipment Policy displayed on the Platform.
14. HTPL has agreed to pay a consideration as set forth in Annexure A of this Agreement (“**Fee**”) to the Company. Such Fee shall be exclusive of all applicable taxes.
    1. Notwithstanding anything to the contrary contained in this Agreement, the following goods and service tax ("**GST**") Clauses shall be applicable:
15. The invoice shall be raised by the Company in accordance with the provisions of the central, state/ union territory, integrated Goods & Services Tax Act, 2017 and rules thereunder, as amended from time to time (“GST Laws”) and the said invoice shall be provided to HTPL immediately upon raising such invoice. In case of any breach in the aforesaid timelines and resultant loss of input tax credit to HTPL, HTPL shall be duly indemnified by the Company.
16. GST on the value of supply shall be calculated as per the rates applicable.
17. Both the Parties hereby undertake to submit all the necessary information and documents, including GSTIN of each Party, its billing location, its certificate of GST registration and such other documents as may be required by each Party to adhere to statutory compliances under GST Law. Either Party shall not be responsible for verification of GST registration number of each other.
18. HTPL shall be entitled to claim the input tax credit on the invoice issued as per the applicable GST Laws. In the event of denial of input tax credit to HTPL, on account of any non-payment of taxes or non-compliance of GST Laws by the Company, HTPL shall be entitled to recover from the Company such amount of tax credit as mentioned on the invoice along with interest at actuals.
19. In the event of price reduction subsequent to the supply, Company shall issue a GST compliant credit note linking such credit note to the original supply invoice so as to pass on such reduction to HTPL.
20. Further, Company agrees to issue an advance receipt voucher with appropriate GST break-up in terms of the provisions of GST Law, in the event of collection of any form of advances against the supplies agreed to be made by the Company. It is further agreed that where, on receipt of advance payment with respect to any supply of services, Company has issued a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, Company shall issue to a refund voucher in terms of the provisions of GST Law to HTPL.
21. Both the Parties acknowledge and agree that they would adhere to all the applicable GST compliance regulations including completion of any required compliance activities within the statutory timelines as may be prescribed from time to time by the Government of India.
22. In case of any liquidated damages / penalty to be levied by HTPL under any circumstances and any non- adherence of agreed, laid down norms, such liquidated damages / penalty amount will be excluding GST and GST will be levied additionally on the liquidated damages / penalty amount.
23. Both the Parties agree that in the event any enquiry, scrutiny, audit, assessment or any other tax proceedings are initiated against either Party in respect to this Agreement, both Parties shall fully support and co-operate each other by furnishing the relevant information and documents, in relation to this Agreement, on a timely manner as may be required by either of the Parties.
24. Both the Parties hereby agree that any tax liability consequent to non-compliance of GST Law or due to furnishing of incorrect registration number shall be borne by such defaulting Party itself.
    1. HTPL shall withhold the applicable income taxes against the amounts payable to the Company in accordance with the provisions of Income-tax Act, 1961 (“**Income-tax Act**”), except to the extent of nil/lower withholding certificate submitted by the Company. HTPL shall remit the taxes withheld to the relevant Income-tax authorities as per the timelines prescribed under the Income-tax Act. HTPL shall provide an appropriate and timely certificate as stipulated under the Income-tax Act, to enable the Company to claim such tax credit.
25. **SUPPLY AND DELIVERY OF PRODUCTS:**
26. The transportation and delivery of the Products including but not limited to the costs related to it shall be as per the Terms of Use.
27. The Company agrees and acknowledges that it shall only use pre-paid mode of payment while placing order on the Platform.
28. **TERMINATION:**
29. Either Party may terminate this Agreement at any point in time by giving 30 (thirty) days prior written notice to the other Party, without cause.
30. with immediate effect by either Party, if such other Party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due, (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, (iii) seeks reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or applies for or has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business, and (v) is in breach of this Agreement, provided that such breach has not been cured within five (05) days following receipt of notice of such breach from the non-breaching Party;
31. The termination of this Agreement shall not affect the rights and obligations of the Parties accrued prior to such termination, including payment related obligations.
32. **INDEMNIFICATION AND LIMITATION OF LIABILITY:**
33. Company shall indemnify, defend, and hold harmless HTPL, its officers, directors, employees, agents, or representatives, from and against all liabilities, losses, damages, claims, costs, and expenses incurred by or threatening to arise against them from any claims including third party claims, actions, settlements, judgments, governmental authority proceedings or actions arising from or out of or in connection with: (a) any breach of confidentiality by Company; (b) any violation of applicable laws by the Company; (c) infringement of intellectual property rights of HTPL or any third party; (d) fraud; and/or (e) any breach of the representation and warranties as set out in this Agreement.
34. LIABILITY ARISING UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT, OBJECTIVELY MEASURABLE DAMAGES AND NEITHER PARTY SHALL HAVE ANY LIABILITY FOR ANY INDIRECT OR SPECULATIVE DAMAGES INCLUDING, WITHOUT LIMITING THE FOREGOING, CONSEQUENTIAL, INCIDENTAL, AND SPECIAL DAMAGES, DAMAGES FOR LOSS OF USE, BUSINESS INTERRUPTIONS, AND LOSS OF PROFITS, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, AND IRRESPECTIVE OF WHETHER THE PARTIES HAVE ADVANCE NOTICE OF THE POSSIBILITY OF ANY SUCH DAMAGES. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, HTPL’S TOTAL LIABILITY TO THE COMPANY UNDER THIS AGREEMENT SHALL NOT EXCEED AN AMOUNT OF INR. 5,000/- (Rupees Five Thousand Only).
35. This Clause shall survive any termination or expiration of this Agreement.
36. **INTELLECTUAL PROPERTY RIGHTS:**
37. Neither Party shall use or refer to or authorize the use of or reference to any names, logos, trade names or trademarks of the other Party or those of any of their related companies/associations in any manner other than for the purposes of this Agreement.
38. Nothing herein shall grant a Party any right, associate, or interest in the other Party’s or its group company’s trademarks and trade names, other than for the purposes of this Agreement. At no time during or after the term of this Agreement shall a Party challenge or assist others to challenge the other Party’s or its group company’s trademarks or the registration thereof or attempt to register any trademark, marks or trade names confusingly similar to those of the other Party.
39. All the Intellectual Property Rights in the name, logo of the Parties and in the whatsoever manner of writing shall lie with the respective owners**.**
40. **MISCELLANEOUS:**
41. The Parties shall be responsible for the conformance to the applicable central and state laws, rules, regulations, guidance or standards issued there under as amended from time to time and for applying in India for all necessary and appropriate approvals from all central and state agencies responsible for administrating such laws.
42. The Parties hereto have agreed that their mutual relationship is that of independent contractors. Neither party is or shall be deemed to be the agent or legal representative of the other for any purpose. Neither party shall have the right to create or assume obligations of any kind express or implied, for or on behalf of the other, or to bind the other or its agents or principals in any way.
43. Neither Party will be in breach of its obligations under this Agreement to the extent that the failure or delay occurs because of a reason of war, epidemic, pandemic, lockdown, hostilities (whether or not war is declared) or riot, rebellion, or civil commotion or military or usurper power, order of the government, public or local authority, natural disaster, acts of God, each a (“**Force Majeure Event**”) and the affected Party will be granted a reasonable extension of time to complete its performance of any obligations affected by that Force Majeure Event. Each Party must (a) give written notice to the other party within 7 days after the Force Majeure Event begins or occurs of the nature of the Force Majeure Event and the way in which, and the extent to which, its obligations are prevented or delayed; and (b) use its reasonable efforts to limit the effects of the Force Majeure Event, notify the other Party of any material change in circumstances and promptly carry out its obligations as soon as, and to the extent that, it is able to do so.
44. If HTPL's performance is wholly or partly prevented or delayed by a Force Majeure Event, Company will be entitled to make alternative arrangements for the performance of these obligations while the Force Majeure Event continues to operate. If the Force Majeure Event continues for a period of 30 days or more, then Company may at any time, at its option, terminate this Agreement or any purchase order by 30 days' written notice to HTPL, notwithstanding the requirements around termination provided elsewhere in this Agreement.
45. This Agreement may be amended only with the prior written consent of the Parties.
46. The receiving Party will not disclose Confidential Information belonging to the disclosing Party, to any third parties, without the express written permission of disclosing Party, except for the purposes of this Agreement. The receiving Party shall use all reasonable efforts to maintain the confidentiality of all the Confidential Information of the disclosing Party that is in its possession or control, but in no event less than the efforts that it ordinarily uses with respect to its own Confidential Information. The receiving Party shall restrict all Confidential Information to its employees on a “need to know” basis and apprise them of the confidentiality requirements hereunder. This clause shall not apply to information that is:

(a) in the public domain;

(b) known to the receiving Party at the time of disclosure; or

(c) rightfully obtained by the receiving Party on a non-confidential basis from a third party.

For purposes of this Agreement, “**Confidential Information**” means any data or information that is proprietary to the disclosing Party, its affiliates, subsidiaries or affiliated companies, and not generally known to the public, whether in tangible or intangible form, whenever and however disclosed, including, but not limited to any marketing strategies, plans, financial information, or projections, operations, sales estimates and business plans relating to the past, present or future business activities of such Party or such other information that may be deemed as confidential from the nature of such information.

1. This Agreement shall be governed by the laws of India and courts of Bengaluru, India shall have exclusive jurisdiction over any disputes hereunder. All the disputes and differences arising between the parties under this agreement shall be referred to arbitration. Each Party shall appoint one arbitrator and the arbitrators appointed by both the Parties shall appoint third arbitrator who shall be the president of the arbitration tribunal. Such arbitration shall be governed by the provisions of the Arbitration and Conciliation Act, 1996 and its rules thereunder, as may be amended from time to time. The proceedings of arbitration shall be conducted in English and the venue for the same shall be at Bengaluru, Karnataka. The expenses involved in such arbitration proceedings shall be borne and paid by the parties in such manner as the arbitrators shall direct in their arbitral award. The award of the arbitration tribunal shall be final and binding on the Parties.
2. No remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy which is otherwise available at law, in equity, by statute or otherwise, and each and every other remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, in equity, by statute, by contract or otherwise. The election of any one or more of such remedies by a Party shall not constitute a waiver by such Party of the right to pursue any other available remedies.
3. Each provision of this Agreement shall be enforceable independently of the other provisions of this Agreement and its validity shall not be affected if any other provision is invalid. In the event that any provisions or any part of any provision of this Agreement shall be void or unenforceable for any reason whatsoever, then such provisions shall be stricken and shall be of no force and effect, and to the extent possible, shall be replaced by similar provisions or parts which are not void and/or are enforceable.
4. The section headings of this Agreement are for convenience of reference only and shall not be deemed to alter or affect any provisions hereof.
5. The Parties may assign any of its rights or transfer by novation of its rights and obligations under the Agreement with a prior written approval of the other Party, except that HTPL may assign its rights or obligations under this Agreement to any of its affiliates or group companies or sister concerns.
6. All notices, requests for written approval and other communication provided for in this Agreement shall be submitted in writing and transmitted by registered post, registered mail, courier service or facsimile transmission at the address of the Parties as given under the Agreement. Either Party may, inform the other Party in case of any address change.
7. This Agreement along with the Terms of Use sets forth the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes and replaces all prior agreements, arrangements and understandings, whether written or oral, relating to the subject matter hereof. The Parties have freely and fairly negotiated this Agreement and have each had full opportunity to have their respective legal counsel review this Agreement and have had full opportunity to modify the draft of this Agreement. Unless otherwise specifically agreed in this Agreement, the provisions of Terms of Use shall supersede and prevail.
8. This document may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same document.

IN WITNESS WHEREOF, the Parties hereto have set their hands to these presents on the day, month & year first hereinabove written:

**For COMPANY For Hiveloop Technology Private Limited**

…………………………………. ……………………..

(AUTHORISED SIGNATORY) (AUTHORISED SIGNATORY)

Name: Name:

Designation: Designation:

**ANNEXURE A**

**FEE**

“Company shall raise an invoice on HTPL on the first day of the month succeeding the expiry of the return period of the previous month to pay Fee which shall be divided and calculated in the manner given below. HTPL shall pay such Fess to the Company within 7 (seven) days from the date of such invoice raised by the Company. The net delivered invoice value shall be exclusive of applicable taxes.

|  |  |  |
| --- | --- | --- |
| Category | Portfolio | Fee |
| Metals | Steel Pawali, Steel Rack, Aluminium Tope, Steel Plate, Sheet Racks, Steel Tope, Steel Bucket and Basin | 3% of the net delivered invoice value |
| Other verticals in Metals | 5% of the net delivered invoice value |
| RoGM | Luggage | 3% of the net delivered invoice value |
| Baby Gear, Cycles, Sports, Toys | 5% of the net delivered invoice value |
| Non-Metals | Cookware, Home Electricals, Plastic, Others | 3% of the net delivered invoice value |
| Appliances, Cleaning, Kitchen Tools | 5% of the net delivered invoice value |
| The Fee for any other category not mentioned in the above list will be 3% of the net delivered invoice value | | |