**SERVICE AGREEMENT**

This Service Agreement (hereinafter referred to as “**Agreement**”) is executed at [●] on the [●] day of [●], 2018;

**BY AND BETWEEN**

**ECOWISE TRADING PRIVATE LIMITED**, a company duly incorporated under the Companies Act, 1956 and having its registered office at C-92, Defense Colony, New Delhi - 110024 (hereinafter referred to as “**ETPL**” which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns) acting through its duly authorized signatory Mr. Manik Thapar of the **FIRST PART**.

**AND**

**SWAROVSKI INDIA PRIVATE LIMITED**,a company duly incorporated under the Companies Act, 1956 and having its registered office at 1A & 1D, Vandana Building, Tolstoy Marg, New Delhi, Central Delhi – 110001 (hereinafter referred to as “**SIPL**” which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors, affiliates and permitted assigns) acting through its duly authorized signatory [●] of the **SECOND PART**.

ETPL and SIPL are hereinafter collectively referred to as the “**Parties**” and individually as a “**Party**”.

**WHEREAS**

1. ETPL is *inter alia* engaged in the business of collection and management of waste.
2. SIPL is engaged in the business of [●].
3. SIPL is desirous of engaging ETPL exclusively for the purpose of collection and destruction of stock, fixtures and packaging items as generated at [●], Gurgaon (“**Location**”). Accordingly, ETPL has agreed to provide the Services (as defined herein after) for the Consideration as specified under this Agreement.

**NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES, REPRESENTATIONS, WARRANTIES, COVENANTS, CONDITIONS AND OTHER OBLIGATIONS HEREIN AND GOOD CONSIDERATION WHICH THE PARTIES ACKNOWLEDGE AS ADEQUATE, THE PARTIES HERETO MUTUALLY AGREE AS FOLLOWS:**

1. **DEFINITIONS AND INTERPRETATIONS**
2. In this Agreement, except where the context otherwise requires, the following words and expressions shall have the following meanings:
   1. “**Agreement**” shall mean this service agreement and any amendments or modifications made together thereto by the Parties in writing, including any annexes, schedules or exhibits attached to this Agreement or incorporated herein by reference.
   2. “**Confidential Information**” shall mean any information that is not publicly available and is provided by one Party to the other Party for the purpose of implementing this Agreement. Confidential Information shall include any and all information obtained or disclosed, including, but not limited to, all data, documents, applications, statements, processes, plans and/or any business/customer information, marketing strategies/ plans and any and all other trade secrets, know how, confidential knowledge or information of a Party relating to its business, practices and procedures which is not otherwise publicly available including the terms of this Agreement. Confidential Information excludes information or data which is: (i) known to the receiving Party without limitation or obligation of confidentiality prior to its receipt of same from the disclosing Party; (ii) independently developed by the receiving Party without the use of any Confidential Information, unless such information or data is developed in accordance with the terms of this Agreement; (iii) in the public domain at the time of disclosure other than as a result of disclosure by the receiving Party; or (iv) received from a third party with a legal or contractual right to disclose such information or data.
   3. “**Consideration**” shall have the meaning ascribed to it under Clause 5 of this Agreement.
   4. “**Effective Date**” shall mean [●].
   5. “**Force Majeure**” shall refer to such events or circumstances, which are beyond the control of the affected Party and the happening of which could not have been reasonably foreseen or anticipated by the affected Party upon the exercise of due care and diligence, including, but not limited to, acts of god, death, disability, earthquakes, floods, riots, lockouts, war, civil disturbance, fire, accidents, armed conflict etc.
   6. “**Term**” shall have the meaning ascribed to it under Clause 8 of this Agreement.
   7. “**Waste**” shall mean the Waste generated by SIPL and collected by ETPL from the Location including, without limitation, non-hazardous, recyclable and non-recyclable waste items such as trading stock, fixture items and packaging items like cardboard (e.g: swarovski jewellery box), crystal (e.g: imitation jewellery stones), metal items (e.g: metals from jewellery or fixtures), and wood (e.g: from fixtures) etc., excluding any hazardous waste.
3. Interpretation:

Unless the context otherwise requires:

1. The words “include” and “including” are to be construed without limitation;
2. The terms “herein”, “hereof”, “hereto”, “hereunder” and words of similar purport refer to this Agreement as a whole;
3. Any reference to a statutory provision shall be deemed to include a reference to any rules or regulations thereunder and any statutory modification or reenactment thereto;
4. The annexures to this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the annexures;
5. Headings are for convenience only and do not affect the interpretation of this Agreement.
6. **SCOPE OF SERVICES**
   1. Based on the terms and conditions of this Agreement ETPL shall provide the Services of collection and destruction of Waste including baling and sending of recyclable items as collected from the Location to its respective recyclable units (herein referred to as “**Services**”)
   2. ETPL and SIPL shall follow the step-wise process for product destruction as specified in **Annexure 1**.
7. **RIGHTS AND OBLIGATIONS OF SIPL**

1. SIPL hereby agrees and undertakes that the representatives of ETPL shall have reasonable access at the Location in order to perform the obligation set out under this Agreement.
2. SIPL shall provide all the information, as may be reasonably required by ETPL in a manner enabling ETPL to carry out its obligations under this Agreement. Any information provided under the Agreement shall be provided by the SIPL to ETPL without any consideration.
3. SIPL specifically agrees and undertakes that the Waste to be collected by ETPL at the Locations is not hazardous in nature and ETPL shall not at any point in time be required to collect any hazardous waste.
4. The representative of SIPL shall in his/her presence ensure sealing and unsealing of the vehicle carrying Waste and escort the vehicle from the Location to ETPL’s site, to ensure safety in transit.
5. SIPL shall ensure proper internal scrapping process for store fixtures which shall include the following :-
   * 1. The representative of SIPL shall inform ETPL to arrange for the pickup and destruction of Waste;
     2. The representative of SIPL shall ensure that SIPL takes pictures and videos of all the Waste collected by ETPL and shall also ensure that SIPL takes pictures and videos of the loading process;
     3. The representative of SIPL shall ensure the removal of branding from fixtures before handing the Waste to ETPL at the Location;
     4. The representative of SIPL shall identify the assets for the purpose of scrapping at the Location;
     5. SIPL shall ensure the assets which are disposed as Waste shall be removed from fixed assets from the books of accounts;
     6. The representative of SIPL shall receive information from RA and team
6. It is agreed by SIPL that in the event a holiday coincides with the collection day or a Force Majeure event occurs, ETPL shall be excused for such days, however, ETPL may collect the Waste on the day succeeding to the collection day.
7. **RIGHTS AND OBLIGATIONS OF ETPL**
   1. Subject to timely receipt of the Consideration, ETPL shall provide SIPL with a Certificate of Destruction and Sustainability Report at the end of the completion of the Services and after the receipt of full remittance of the service invoice, stating the total Waste collected, recycled and disposed of and further stating that the entire Waste has been destroyed as per SWM Rules 2016. It is clarified that Sustainability Report will be based on the GHG (Green House Gas) protocol and GRI standards that captures the GHG emissions emitted as by the waste management efforts of SIPL delivered through ETPL and its environmental impact on trees, water and electricity saved.
   2. ETPL shall provide SIPL pictures and videos of the entire process of product destruction performed by ETPL.
8. **CONSIDERATION**
   1. SIPL herby agrees and undertakes to pay to ETPL the following amounts for the Services, which shall be exclusive of any and all applicable taxes including, but not limited to, goods and services tax:
      1. Rs. 30,000 (Rupees Thirty Thousand Only) plus GST (18%) for quantity less than 700 kg;
      2. Rs. 9.25 (Rupees Nine and Twenty Five Paise Only) per kg plus GST (18%) for quantity equal to or greater than 700 kg.

The amounts under Clause 4.1.1 and 4.1.2 are inclusive of collection, transportation and disposal charge and shall be collectively referred to as “**Consideration**”.

* 1. All applicable taxes including, but not limited to, goods and services tax on the payments made to ETPL shall be borne by SIPL.
  2. ETPL shall raise an invoice upon SIPL on monthly basis for any part of the Consideration and SIPL shall within fifteen (15) days from the receipt of the invoice pay the same to ETPL via online transfer, details of which are provided herein below:

Name of the Bank: Yes Bank

Name of the Account Holder: Eco Wise Trading Pvt Ltd

Account No.: 001461900003673

IFSC Code: YESB0000014

1. **REPRESENTATIONS AND WARRANTIES**
   1. Each Party hereby represents, undertakes and warrants to the other that:
      1. It is duly incorporated and organized, validly existing under the laws of the jurisdiction of their formation and remain in good standing;
      2. It has all necessary consents, approvals, powers, licenses, waivers, exemptions and authorities and approvals to enter into this Agreement and perform the obligations herein;
      3. This Agreement shall, when executed, constitute legal, valid and binding obligations of such Party, enforceable against it in accordance with its terms;
      4. Neither the execution, delivery of this Agreement fulfillment nor the performance of its obligations, compliance with the terms and provisions hereof will conflict with, or result in a breach of, terms, conditions or provisions of, or constitute a default under, or result in any violation of law, rules, regulations, authorization or approval of any governmental authority, restrictions, instrument, order, judgment, decree, statute, to which it is a subject, or of any agreement to which it is a party;
      5. It will comply with all applicable laws, rules and regulations relating to this Agreement.
   2. Except as specifically set forth in this Agreement, each Party shall be responsible for compliances with all applicable central, state and local laws and regulations, including all applicable rules of self regulatory organizations in their respective jurisdictions.
   3. Each Party herein agrees and undertakes not to divulge or disclose any Confidential Information of the disclosing Party to any third party without prior written consent of such Party disclosing the information.
2. **INDEMNITY**
   1. SIPL agrees to fully indemnify, hold harmless and defend ETPL, its subsidiaries, affiliates and their respective officers, directors, employees, shareholders and agents (“**Indemnified Parties**”), from:
      1. Any claim raised by any third party with regard to any loss whatsoever caused as a result of any act, commission or omission on part of SIPL and/or its subsidiaries or affiliates.
      2. Any losses, claims, damages, charges, costs, fines, penalties that the Indemnified Parties may sustain as a result of any act or failure on SIPL’s part or on behalf of SIPL to comply with applicable law.
      3. Any claims, demands, suits, penalties or actions at law or in equity, fees, costs, fines and expenses (including, without limitation, legal fees and expenses incurred in establishing the right to indemnification hereunder), whether arising from contract, tort (including negligence), warranty, strict liability, or from violation of any governmental law or regulation or otherwise from breach of this Agreement or the acts or omissions of SIPL relating, indirectly or directly, to performance of its obligations hereunder.
3. **TERM AND TERMINATION**
   1. This Agreement shall be valid and binding upon the Parties from the Effective Date and continue for a period of [●] from the Effective Date (“**Term**”). The Parties agree that this Agreement may be renewed on terms as mutually agreed between the Parties in writing.
   2. This Agreement may be terminated in the following events:
      1. The Parties enter into unanimous written agreement to terminate; or
      2. Either Party may terminate this Agreement by providing a 30 (thirty) days prior notice in writing to the other Party if the other Party commits a material breach of the terms of this Agreement which remains unremedied for a period of thirty (30) days from the date of the written notice to cure the breach. Without limiting the generality of the term ‘material breach’, this will include any delay, deficiency or negligence in performance of the obligations of either Party; or
      3. Any Party passes a resolution for winding-up (otherwise than for the purposes of a solvent amalgamation or reconstruction) or a court makes an order to that effect or becomes or is declared insolvent or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors or has a liquidator, receiver, administrator, administrative receiver, manager, trustee or similar officer appointed over any or all of its assets or ceases to carry on business or threatens to cease carrying on business or ceases to exist or threatens to cease to exist, or is unable to pay its debts as they fall due.
   3. In the event of termination and/or expiration of this Agreement, SIPL shall be liable to pay to ETPL the entire Consideration as may be due and payable to ETPL. In the event, SIPL fails to pay to ETPL the Consideration within the stipulated time period, SIPL shall be liable to pay to ETPL the Consideration with an interest @ 18% per annum from the date it became due and payable until it is paid to ETPL.
4. **GOVERNING LAW AND DISPUTE RESOLUTION**
   1. **Governing Law:** This Agreement will be governed by and construed under the laws of India (without reference to rules of conflict of laws thereof). Subject to arbitration mentioned below under Clause 9.2, the courts of competent jurisdiction at New Delhi shall have exclusive jurisdiction.
   2. **Arbitration and Conciliation:** If any claim, dispute or difference of any kind whatsoever shall arise between the Parties in connection with or arising out of this Agreement including any question regarding its existence, validity or termination of the execution of this Agreement, whether before or after the termination, abandonment or breach of this Agreement (“**Dispute**”), the Parties shall seek to resolve any such Dispute by mutual consultation and negotiation in good faith. In the event, the Parties are unable to, within ten (10) days, reach a resolution, such Dispute shall be settled by binding arbitration as mentioned in this Sub-Clause. The Dispute shall be referred to final and binding arbitration under the (Indian) Arbitration and Conciliation Act, 1996. Such arbitration shall be held in New Delhi. All proceedings of such arbitration shall be in the English language. A sole arbitrator shall be mutually appointed by the Parties. The award pronounced by the arbitrator shall be final, conclusive and binding upon the Parties.
5. **MISCELLANEOUS** 
   1. **No Waiver:** Save and except as expressly provided in this Agreement, no exercise, failure to exercise, or delay in exercising any right, power, or remedy vested in any Party under or pursuant to this Agreement shall constitute a waiver by that Party of that or any other right, power, or remedy.
   2. **Assignment:** No right or obligation under this Agreement may be assigned or transferred by either Party to any third party without the prior written consent of the other Party.
   3. **Notice:** All notices served under this Agreement shall be in writing and may be served by personal delivery, or by post on the Parties at their address as set out in this Agreement or such other address as notified to the other Party from time to time. Notices shall be deemed to have been served at the time of delivery if sent by personal delivery or within two (2) business days after posting by post.
   4. **Amendment:** No amendments and/or modifications to this Agreement shall be valid unless executed in writing and signed by both the Parties.
   5. **Severability:** If any provision of this Agreement is adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, or its validity or enforceability, and the unenforceable provision shall be performed to the extent valid and enforceable.
   6. **Counterparts:** This Agreement and any document to be provided under this Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year first written above.

For and on behalf of **ECOWISE TRADING PRIVATE LIMITED**

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Through its authorized signatory Mr. Manik Thapar

For and on behalf of **SWAROVSKI INDIA PRIVATE LIMITED**

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Through its authorized signatory [●]

**WITNESS**

**Annexure 1**

**STEP-WISE PROCESS FOR PRODUCT DESTRUCTION**

1. ETPL shall collect the Waste from SIPL’s site/ Location at the scheduled time.
2. The empty truck, used for the purpose of collecting the Waste, shall be weighed.
3. SIPL shall ensure that all Waste items should be kept in separate bins/ boxes with labels of the waste items i.e Waste like trading stock shall be packed in carton box by SIPL.
4. ETPL shall be responsible for loading the Waste i.e trading stock and fixtures items loaded onto the truck.
5. After loading the Waste, the loaded truck shall be weighed to find out the net weight of the Waste items loaded, which shall be recorded and shared with SIPL.
6. That a declaration must be given by SIPL to ETPL, stating that Waste items given to ETPL are of no sale value and are given for the purposes of destruction only.
7. The collected waste shall be then brought from the Location to ETPL’s site at Greater Noida, where the items will be removed from the carton box and segregated according to their waste type.
8. Further, all crystal items will be filled in sacks and crushed into miniscule parts and sent for disposal in the authorised dump site. Further, the glass of all fixtures shall be broken manually and sent for recycling or disposed of.
9. All the recyclable items will be removed manually or mechanically and sent to the recycling unit after bailing.
10. The destruction and recycling process of various packing items is as mentioned below:-

|  |  |  |
| --- | --- | --- |
| S No. | Waster Items with examples | Destruction Process |
| 1. | Cardboard  (eg.: Swaroski’s jewellery Box) | Cardboard boxed are compressed using a baling machine and send to recycling unit. |
| 2. | Crystal  (eg.: Imitation jewellery stones) | All the crystal items after being crushed into minutest parts will be filled in sacks and disposed of in the authorized dump sites to ensure no further use. |
| 3. | Metal Items  (eg.: Metal from jewellery and fixtures) | All the metal items will be separated from the crystal items using a magnet or by manual sieving.  Metal items will then be baled using a baling machine and sent to the respective recycling unit. |
| 4. | Wood (eg: from fixtures) | Wood removed from the fixtures will again be sent to the refurbishing plant. |