

NOVATION AGREEMENT

This Novation Agreement (“**Agreement**”) dated this (Novation effective Date) is made at Mumbai by and among:

- A. “**TRANSFEROR**” as mentioned in Annexure A (Sr. No.1 and 2)hereto which expression shall unless repugnant to the meaning and context thereof, be deemed to mean and include its successors and permitted assigns) of the **FIRST PART**; and
- B. “**TRANSFeree**” as mentioned in Annexure A (Sr. No.3 and 4) hereto which expression shall, unless repugnant to the context hereof, include, wherever applicable, its respective heirs, executors, administrators’, representatives, successors and permitted assigns) of the **SECOND PART**; and
- C. **AVENUES INDIA PVT. LTD.**, a company incorporated and existing under the Companies Act, 1956 and existing under the Companies Act, 2013 with its corporate office at Plaza Asiad, Level II Station Road, Santacruz Station 400054 (hereinafter referred to as the “**Avenues/ Master Merchant**” which expression shall unless repugnant to the meaning and context thereof, be deemed to mean and include its successors and permitted assigns) of the **THIRD PART**.

(TRANSFEROR, TRANSFeree, and AVENUES are hereinafter individually referred to as "**Party**" and collectively referred to as "**Parties**")

WHEREAS:

- A. Transferor and Avenues have entered into a Principal Agreement on date as mentioned in Annexure A (Sr. No. 6) hereto under which Transferor has agreed to avail the services of the Avenues for providing payment services to URL as mentioned in Annexure A (Sr. No. 7) of and also to perform such other functions in relation to the same as mutually agreed as per the terms and conditions contained in the Principal Agreement and any addendum made thereto.
- B. There has been a transfer of Business from Transferor to Transferee date as mentioned in Annexure A (Sr. No.8) Pursuant to this transfer Transferor is desirous of substituting Transferee in place of Transferor under Principal Agreement and the Avenues has agreed to such substitution of transferor by Transferee with effect from Transfer date as mentioned in Annexure A (Sr. No. 9) “Novation Effective Date” as mentioned in Annexure A (Sr. no. 10) as per the terms and conditions contained herein:
- C. Transferee has further agreed to novate the Principal Agreement and substitute Transferor by assuming the rights and obligations of Transferor under the Principal Agreement on the terms and conditions contained herein.

NOW THEREFORE, based upon the foregoing, and in consideration of the mutual covenants, terms, conditions and understandings with the intent to be legally bound thereby, the Parties hereto agree as follows:

- 1. The Parties hereby agree and undertake that from, Novation Effective Date, Transferee shall have all the rights under the Principal Agreement and perform, comply with and be bound by the terms of the Principal Agreement as if it was originally a party to the said Principal Agreement, in lieu of the Transferor, and Transferor shall cease to have any rights, of any nature whatsoever, under the Principal Agreement.
- 2. The Parties further acknowledge and agree that all proceeds of transactions done on URL for the Transfer Months deposited by Avenues have been accepted by Transferor on behalf of Transferee.
- 3. The Parties further agree that the Transaction Discount Rate as specified under the Principal Agreement shall be same as mentioned in the principal agreement and be revised as mutually agreed between the Transferee and Avenues from time to time. All the revision in TDR shall be accepted by Transferee and Avenues in writing. Transferee undertakes to pay to Avenues the Revised TDR and the proceeds of transactions done on URL shall be deposited by Avenues in the Bank account details mentioned in Annexure B from the Novation effective date.

4. Transferor and Avenues hereby covenant, agree and undertake that by Transferee's execution of this Agreement, Transferee shall become a party to the Principal Agreement in place of Transferor and shall be entitled to all rights and privileges and shall be subject to all duties and obligations of Transferor under the Principal Agreement and from Novation Effective Date, Transferor shall have no rights, interests and obligations under the Principal Agreement. With effect from the date of this Agreement all references to Transferor under the Principal Agreement shall be construed to as references to Transferee. After Novation Effective Date, in future if there arises any liability arising on part of Transferor for the acts performed under the Principal Agreement shall be the liability of Transferor.
5. Transferor hereby agrees and undertakes to submit to Transferee all the documents, under the Principal Agreement including the original executed copy of the Principal Agreement.
6. Except as otherwise provided herein, all other terms and conditions of the Principal Agreement shall remain in full force and effect between Transferee and the Avenues. The Transferee in addition to the existing clauses of the principal agreement hereby undertakes the following :
 - a) The Transferee 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, demand, dispute or chargeback on the Master Merchant or the Facility Providers or the Acquiring Banks for any reason whatsoever shall be the financial responsibility of the Transferee. The Transferee agrees to the payment of the chargeback amount of such uncollectible charge as the case may be without any demur or protest, dispute or delay.
 - b) The Transferee hereby authorises the Master Merchant to appropriate the Transferee'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 Transferee 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 Transferee shall on finding out negative balance in his Merchant Accounting and Reporting 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 Transferee 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.
 - c) The Transferee release the Master Merchant, the Facility Providers and the Acquiring Banks from, and agree to indemnify, defend and hold harmless the Master Merchant, the Facility Providers and the Acquiring Banks (and its officers, directors, employees, agents and Affiliates) against, any claim, loss, damage, settlement, penalties, demands, cost, taxes, expense or other liability (including, without limitation, attorneys' fees) (each, a "Claim") arising directly or indirectly against any claim by the customers or any third party against the Master Merchant, Acquiring bank and the Facility Providers from or related to: (a) any actual or alleged breach or non-performance by the Transferee of any of the Transferee's undertakings, warranties, covenants, declarations or obligations under this Agreement; (b) any claim, proceeding, loss or liability brought by the Customer or any other person against the Master Merchant, the Facility Providers and the Acquiring Banks in respect of any Products or services offered by the Transferee including the offer, sale, fulfillment, refund, adjustment, return or any actual or alleged infringement of any Intellectual Property Rights by any of the foregoing, and any personal injury, death or property damage related thereto) (c) the Transferee's Taxes. 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 Transferee's Account with the Master Merchant irrespective of any dispute that the Transferee may have in respect of such payment.

- d) The Transferee undertakes to obtain and maintain all the requisite licenses and registrations necessary for operating the Transferee's business and to avail online payment services.
7. This Agreement shall be read in conjunction with the Principal Agreement and any capitalized terms used in this Agreement but not defined herein shall have the same meaning as assigned to such term in the Principal Agreement.
8. The Parties hereto are acting independently on principal-to-principal basis and nothing contained in this Agreement shall be deemed to constitute a partnership, Avenues or an association of persons between the Parties and no Party shall have any liability whatsoever on behalf of the other.
9. Unless otherwise stated, all notices, approvals, instructions and other communications for the purposes of this Agreement shall be given in writing and may be given by email, facsimile, by personal delivery or by sending the same by courier addressed to the relevant Party concerned at the address, or any other address subsequently notified to the other Parties
10. The Parties affirm and agree that this Agreement shall supersede contradictory provisions, if any, of the Principal Agreement.
11. This Novation Agreement shall be governed by and construed in accordance with the Governing Law and Jurisdiction clause in the Principal Agreement.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first herein above written.

For and on behalf of (TRANSFEROR) _____

Name:
Title:

For and on behalf of (TRANSFEREE) _____

Name:
Title:

For and on behalf of Avenues India Pvt. Ltd. (AVENUES) _____

Name:
Title:

Annexure A:

Sr. No.	Particulars	Details
1.	Transferor Name	
2.	Transferor Address	
3.	Transferee Name	
4.	Transferee Address	
5.	Transferee Legal Entity Status	
6.	Principal Agreement date	
7.	URL	
8.	Incase of change in URL	
9.	Transfer Date	
10.	Novation Effective date	

Annexure B

Transferee hereby instructs the Avenues to make Payment of Customer charge in respect of an Order in the bank account details mentioned in the Cheque/ Bank Statement provided by the Transferee.