

1. Definitions

For the purpose of this Agreement, the following words and phrases shall have the meaning assigned to them under this Article.

- 1.1. **"Say Expert"** shall mean Say Expert.
- 1.2. **"Customer"** shall mean any individual, group of individuals, firm, Company or any other entity placing an order for the Services/Products of the Service Provider/Vendor through the Online Store/ E_Shop.
- 1.3. **"Price"** shall mean the cost at which the Services/Products are to be delivered to the Customer exclusive of Shipping/ Delivery charges, if any.
- 1.4. **"Effective Date"** shall mean the date on which this Agreement is executed.
- 1.5. **"Form"** shall mean Form for Ecommerce Service Agreement to be filled in and executed by the Service Provider/Vendor at the time of execution of this Agreement annexed hereto as Annexure "A".
- 1.6. **"Service Provider/Vendor"** shall mean the entity incorporated or otherwise more specifically described hereinabove, which sells its Services/Products through the Online Store/ E_Shop and more particularly described in the attached "Form".
- 1.7. **"Online Store/ E_Shop"** shall mean a virtual electronic store created on the Say Expert Shopping online portal for sale of the Service Provider/Vendor's Services/Products either through website or app of the Say Expert or any other gadget or instrument displaying the particulars of the Service Provider/Vendor's Services/Products available for sale, or any other means by which the Customer places an order for the Product of the Service Provider/Vendor.
- 1.8. **"Order"** shall mean an order for purchase of Services/Products wherein customer has agreed to purchase the product upon the terms and conditions and at the Price, given by Service Provider/ Vendor or indicated on the Online Store/ E_Shop of the Service Provider/Vendor.
- 1.9. **"Services/Products"** shall mean merchandise items/Services of the Service Provider/Vendor put up for sale on the Online Store/ E_Shop by the Service Provider/Vendor.
- 1.10. **"Price"** means the sale price of a product inclusive of delivery charges and applicable taxes.
- 1.11. **"Say Expert Online Platform"** means an online platform owned and operated by the Say Expert that facilitates the Online Platform transaction between the Service Provider/Vendor and the Customer.
- 1.12. **"Shipping/ Delivery Charges"** shall mean the logistics/courier/postal/Delivery/Rider charges including all taxes incurred for delivering the product(s) to the Customer.
- 1.13. **"Delivery Cost"** shall mean the cost and taxes recovered by the Say Expert from the Service Provider/Vendor per order for handling the logistics.
- 1.14. **"Sign-up Fees"** shall mean the non-refundable fees payable by the Service Provider/Vendor at the time of execution of this Agreement towards the initial creation of Online Store/ E_Shop.
- 1.15. **"Annual Maintenance Charge (AMC)"** shall mean the non-refundable Annual fees charged by Say Expert towards the maintenance of Online Platform and Marketing expenses from the Service Provider/Vendor at the time of execution of this Agreement and than charged annually as per the rates agreed to between the parties.
- 1.16. **"Service charge"** shall mean the margin per transaction charged by the Say Expert to the Service Provider/Vendor at the rates agreed to between the parties, upon the sale of product on Online Store/ E_Shop.

2. Arrangement

- 2.1. The Say Expert shall offer to the Service Provider/Vendor its services for facilitating online sale of the Service Provider/Vendor's product which shall include hosting and technology, customer support, logistics services (if availed by the Service Provider/Vendor), payment services and all the other related services to ensure customer satisfaction on behalf of the Service Provider/Vendor. For this arrangement, the Service Provider/Vendor shall pay service charges as specified under these presents, to the Say Expert for the sale being effected through the Online Store/ E_Shop created on the Say Expert website and/or App of the Say Expert.

- 4.2. Service Provider/Vendor shall ensure not to upload any description/image/text/graphic that is unlawful, illegal, objectionable, obscene, vulgar, opposed to public policy, prohibited or is in violation of intellectual property rights including but not limited to Trademark and copyright of any third party. Service Provider/Vendor shall ensure to upload the product description and image only for the product which is offered for sale through the Online Store/ E_Shop and for which the said Online Store/ E_Shop is created.
- 4.3. Service Provider/Vendor shall provide full, correct, accurate and true description of the product so as to enable the customers to make an informed decision.
- 4.4. Service Provider/Vendor shall be solely responsible for the quality, quantity, merchantability, guarantee, warranties in respect of the Services/Products offered for sale through their Online Store/ E_Shop.
- 4.5. At all times have access to the Internet and its email account to check the status of approved orders,
- 4.6. On receipt of the order, Service Provider/Vendor will immediately respond and shall dispatch / deliver the Services/Products within the time so as to make a timely delivery as and when required by the customer and specified in the Online order received.
- 4.7. In respect of the orders for Services/Products placed through the Online Store/ E_Shop, Service Provider/Vendor shall submit proof of dispatch to the satisfaction of Say Expert by timely updating the order status and/or shipping/delivering the product through Say Expert rider channel. Say Expert has right to terminate the Service provider if timely response to orders/booking is not given by the vendor/Service provider, specially responding within 5 minutes on receipt of new order/booking..
- 4.8. In the event the Services/Products are not accepted by the Customer due to any wrong / damaged Services/Products dispatched, then the same shall be replaced by the Service Provider/Vendor at no extra cost to the aggrieved customer. Since the Say Expert is a Facilitator, the Service Provider/Vendor hereby authorizes the Say Expert to entertain all claims of return of the Product in the mutual interest of the Service Provider/Vendor as well as the Customer.
- 4.9. The Service Provider/Vendor shall, timely update the Order Status on a daily/hourly basis.
- 4.10. The Service Provider/Vendor shall not send any of its promotional or any other information with the Services/Products ordered by the customer and also shall ensure that no material or literature is sent which may be detrimental to the business/commercial interests of the Say Expert.
- 4.11. The Service Provider/Vendor shall dispatch the Services/Products of same description, quality and quantity and price as are described and displayed on the Online Store/ E_Shop and for which the Customer has placed the order.
- 4.12. Service Provider/Vendor shall raise invoice in the name of Customer. Service Provider/Vendor further undertakes and agrees to raise the invoice of an amount equivalent to the amount displayed on the Online Store/ E_Shop to the customer and paid by/charged to the customer.
- 4.13. The Service Provider/Vendor shall not offer any Services/Products for Sale on the Online Store/ E_Shop, which are prohibited for sale, dangerous, against the public policy, banned, unlawful, illegal or prohibited under the Indian/local Government laws.
- 4.14. The Service Provider/Vendor shall ensure that they own all the legal rights in the Services/Products that are offered for sale on the Online Store/ E_Shop.
- 4.15. The Service Provider/Vendor shall pass on the legal title, rights and ownership in the Services/Products sold to the Customer.
- 4.16. Service Provider/Vendor shall be solely responsible for any dispute that may be raised by the customer relating to the goods, merchandise and services provided by the Service Provider/Vendor.
- 4.17. The Service Provider/Vendor shall at all time during the pendency of this agreement endeavour to protect and promote the interests of the Say Expert and ensure that third parties rights including intellectual property rights are not infringed.
- 4.18. The Service Provider/Vendor shall at all times be responsible for compliance of all applicable laws and regulations including but not limited to Intellectual Property Rights, Local Sales Tax, Central Sales Tax, Service tax, GST, Standards of Weights & Measures legislation, Sale of Goods Act, Excise and Import duties, Drugs and Cosmetics Act, Drugs and Remedial Magic Act, Code of Advertising Ethics, Food Security etc.
- 4.19. When you sell on Say Expert, you must follow federal, state, and local laws, and Say Expert policies that apply to your products and listings.

5. Warranties, Representations and Undertakings of the Service Provider/Vendor

The Service Provider/Vendor warrants and represents that

- 5.1. They have the right and full authority to enter into this Agreement with the Say Expert.
- 5.2. All their obligations under this Agreement are legal, valid and binding obligations enforceable in law.
- 5.3. There are no proceedings pending, which may have a material adverse effect on their ability to perform and meet their obligations under this Agreement;
- 5.4. That they are an authorized business establishment and hold all the requisite permissions, authorities, approvals and sanctions to conduct their business and to enter into an arrangement with the Say Expert. They shall at all times ensure compliance with all the requirements applicable to their business and for the purposes of this arrangement including but not limited to Intellectual Property Rights, Sales Tax, Central Sales Tax, Service tax, Standards of Weights & Measures legislation, Sale of Goods Act, GST, Excise and Import duties, etc. They confirm that they have paid and shall continue to discharge all their obligations towards statutory authorities.
- 5.5. That they have adequate rights under relevant laws including but not limited to various Intellectual Property Legislation(s) to enter into this Agreement with the Say Expert and perform the obligations contained herein and that it has not violated/ infringed any intellectual property rights of any third party
- 5.6. That they shall provide the Say Expert with copies of any document required by the Say Expert for the purposes of this performance of its obligations under this arrangement within 24 hours of getting a written notice from the Say Expert.
- 5.7. That the complete service/product responsibility and liability shall solely vest with Service Provider/Vendor and that the Service Provider/Vendor shall be solely responsible to the customer for the sale of the Product by Service Provider/Vendor including but not limited to its delivery to the Customer and that Service Provider/Vendor shall not raise any claim on the Say Expert in this regard.
- 5.8. Service Provider/Vendor agrees and undertakes not to upload any text, images, graphics (for description and display of product on the Online Store/ E_Shop) that is vulgar, obnoxious, inaccurate, false, incorrect, misleading, intimidating, against the public policy.
- 5.9. Service Provider/Vendor shall pay the Say Expert a service charge as specified by the Say Expert on every transaction it enables and that Service Provider/Vendor shall provide all completed transaction details to the Say Expert for record keeping and reconciliation.
- 5.10. That Service Provider/Vendor shall draw the invoice / bill directly in the name of the Customer.
- 5.11. Service Provider/Vendor shall prior to release of any promotion/advertisement material seek prior written approval for the same from the Say Expert, in so far as the same relates to services offered pursuant to the terms of this Agreement.

6. Say Expert reserves the right:

- 6.1. Service Provider/Vendor agrees and acknowledges that the Say Expert, at all times during the continuance of this Agreement, shall have the right to remove/block/delete any text, graphic, image(s) uploaded on the Online Store/ E_Shop by the Service Provider/Vendor without any prior intimation to Service Provider/Vendor in the event the said text, image, graphic is found to be in violation of law, breach of any of the terms of this Agreement, terms and conditions of Say Expert Platform, Website/App. In such an event, the Say Expert reserve the right to forthwith remove/close the Online Store/ E_Shop of the Service Provider/Vendor without any prior intimation or liability to the Service Provider/Vendor.
- 6.2. Say Expert reserves the right to provide and display appropriate disclaimers and terms of use on Say Expert Online Platforms (website and apps).
- 6.3. At any time if the Say Expert believes that the services are being utilized by the Service Provider/Vendor or its Customer in contravention of the terms and provisions of this Agreement, Terms and conditions of use of Say Expert Platform, the Say Expert shall have the right either at its sole discretion or upon the receipt of a request from the legal / statutory authorities or a court order to discontinue/terminate the said service(s) to Customer or the End user as the case may be, without liability to refund the amount to the Service Provider/Vendor to forthwith remove/block/close the Online Store/ E_Shop of the Service Provider/Vendor and furnish such details about the Service Provider/Vendor and/or its customers upon a request received from the Legal/ Statutory Authorities or under a Court order.

7. Indemnity

7.1. The Service Provider/Vendor indemnifies and shall hold indemnified the Say Expert, its owner, directors, officers, employees, representatives, agents from and against all losses, damages, claims, suits, legal proceedings and otherwise howsoever arising from or in connection with any claim including but not limited to claim for any infringement of any intellectual property rights or any other rights of any third party or of law, concerning quality, quantity and any claim in relation to the Service Provider/Vendor's product, the breach of any of the Service Provider/Vendor's warranties, representations or undertakings or in relation to the non-fulfilment of any of its obligations under this Agreement or arising out of the Service Provider/Vendor infringing any applicable laws, regulations including but not limited to Intellectual Property Rights, Local Sales Tax, Central Sales Tax, Service tax, GST, The Standards of Weights & Measures legislation, Excise and Import duties, etc. For the purpose of this clause reference to the Say Expert shall also include the Mobile Operators and such other agencies through whom the Say Expert shall make the Online Store/ E_Shop available to the Customers.

7.2. The Say Expert agrees to indemnify and to keep indemnified the Service Provider/Vendor in respect of all claims losses and expenses (including the cost of litigation if any) arising out of any breach or default part of the Say Expert to perform its obligations under this Agreement.

7.3. This article shall survive till the termination or expiration of this Agreement.

8. Say Expert not Liable

8.1. The Say Expert on the basis of representation by the Service Provider/Vendor has created the Online Store/ E_Shop of the Service Provider/Vendor on Say Expert online platform to enable Service Provider/Vendor to offer the Service Provider/Vendor's Services/Products for sale through the said Online Store/ E_Shop. This representation is the essence of the Contract.

8.2. The Say Expert shall under no circumstances be liable or responsible for any loss, injury or damage to the Service Provider/Vendor, or any other party whomsoever, arising on account of any transaction under this Agreement or as a result of the Services/Products being in any way damaged, defective, in unfit condition, infringing/ violating any laws / regulations /intellectual property rights of any third party.

8.3. Service Provider/Vendor agrees and acknowledges that, Service Provider/Vendor shall be solely liable for any claims, damages, allegation arising out of the Services/Products offered for sale through its Online Store/ E_Shop (including but not limited to quality, quantity, price, merchantability, use for a particular purpose, or any other related claim) and shall hold the Say Expert harmless and indemnified against all such claims and damages.

8.4. Further the Say Expert shall not be liable for any claims, damages arising out of any negligence, misconduct or misrepresentation by the Service Provider/Vendor or any of its representatives.

8.5. The Service Provider/Vendor hereby agrees, confirms and acknowledges that the Product is owned by the Service Provider/Vendor and that the Say Expert is merely a facilitator for sale of the Service Provider/Vendor's Service/Product, hence the Say Expert is not responsible/ liable for the Service/Product, its design, its function and condition manufacturing and selling and financial obligations, warranties, guarantees whatsoever. The Say Expert reserves its right to state appropriate Disclaimers on its website/ Online Store/ E_Shop.

9. Term, Termination and effects of Termination

9.1. Term:

The Term of this Agreement shall commence on the date of execution of the contract and shall continue for a period of **12 months unless terminated earlier**. The Agreement may be extended for such further period as may be mutually agreed by and between the parties hereto in writing to this effect.

9.2. This Agreement may be terminated by the Say Expert in the event:

9.2.1. Service Provider/Vendor fails to make payment of the agreed amount, by giving 48 hours written notice.

9.2.2. Service Provider/Vendor commits a material breach of any representation, obligations, covenant, warranty or term of this agreement and the same is not rectified within 10 days after written notice given by the Say Expert.

- 9.2.3. If a Petition for insolvency is filed against the Service Provider/Vendor.
- 9.2.4. If the Service Provider/Vendor is in infringement of the third party rights including intellectual property rights.
- 9.2.5. This Agreement may be terminated by either party giving the other 30 days written notice.

9.3. **Effect of Termination:**

In the event of termination/expiry of this Agreement, the Say Expert shall remove the Links and shall discontinue display of the Services/Products on Online Store/ E_Shop with immediate effect.

Say Expert shall not be liable for any loss or damages (direct, indirect or inconsequential) incurred by the Service Provider/Vendor by virtue of termination of this agreement.

During the period under notice both the parties shall be bound to perform its obligations incurred under this agreement and this sub-clause shall survive the termination of this agreement.

10. **Arbitration**

10.1. Any dispute arising out of or related to or connected with any provisions under this Agreement shall be referred to the arbitration of a single arbitrator to be appointed jointly by the parties.

10.2. The arbitration shall be conducted in Sikar in accordance with the Arbitration and Conciliation Act 1996 or any modification or re-enactment for the time being in force.

10.3. The language of arbitration shall be English/Hindi. The arbitration shall be held at Sikar (Rajasthan), India.

10.4. The award of the arbitrator or arbitrators as the case may be shall be final and binding on the parties.

11. **Jurisdiction and Governing law**

11.1. The obligations, performance, interpretation and contents shall be governed by Indian law.

11.2. Subject to the provisions of negotiation and arbitration each Party irrevocably and unconditionally submits to the jurisdiction of Courts at Sikar .

12. **Notices**

All notices and other communication under this Agreement shall be in writing and in English/Hindi and either delivered by hand or sent by Email, fax or courier in each case to the addresses set out at the beginning of this Agreement.

13. **Intellectual Property Rights**

It is expressly agreed and clarified that, except as specified agreed in this Agreement, each Party shall retain all right, title and interest in their respective trademarks and logos and that nothing contained in this Agreement, nor the use of the trademark / logos on the publicity, advertising, promotional or other material in relation to the Services shall be construed as giving to any Party any right, title or interest of any nature whatsoever to any of the other Party's trademarks and / or logos.

14. **Entire Agreement**

This Agreement embodies the entire agreement and understanding of the Parties and supersedes any and all other prior and contemporaneous agreements, arrangements and understandings (whether written or oral) between the Parties with respect to its subject matter.

15. Assignment

Neither this Agreement nor any part of it is assignable, transferable, sub-licensable, sub-contractable or conveyable by Service Provider/Vendor, either by operation of law or otherwise, without the express, prior, written consent of the Say Expert signed by an authorized representative of such Party.

16. Confidentiality:

Service Provider/Vendor agrees and undertakes to maintain the confidentiality of the information and user/customer data disclosed, generated or made available to Service Provider/Vendor under this Agreement.

The said information shall not be used by the Service Provider/Vendor for any purpose other than for the performance of its obligations under this Agreement. Service Provider/Vendor agrees that the unauthorized disclosure or use of such Information would cause irreparable harm and significant injury, the degree of which may be difficult to ascertain. Accordingly, Service Provider/Vendor agrees that the Say Expert shall have the right to obtain an immediate injunction from any court of competent jurisdiction enjoining breach of this Agreement and/or disclosure of the Confidential Information. Say Expert shall also have the right to pursue any other rights or remedies available at law or equity for such a breach.

17. Limitation of liability:

Under no circumstances, except in case of breach of contract, will either party be liable to the other party for lost profits, or for any indirect, incidental, consequential, special or exemplary damages arising from the subject matter of this Agreement, regardless of the type of claim and even if that party has been advised of the possibility of such damages, such as, but not limited to loss of revenue or anticipated profits or loss business, unless such loss or damages is proven by the aggrieved party to have been deliberately caused by the other party.

18. Relationship of Parties

Nothing in this Agreement will be construed as creating a relationship of partnership, joint venture, agency or employment between the Parties. The Say Expert shall not be responsible for the acts or omissions of the Service Provider/Vendor, and Service Provider/Vendor shall not represent neither has, any power or authority to speak for, represent, bind or assume any obligation on behalf of the Say Expert.

19. Waiver and Amendment

19.1. No waiver of any breach of any provision of this Agreement constitutes a waiver of any prior, concurrent or subsequent breach of the same or any other provisions, and will not be effective unless made in writing and signed by an authorised representative of the waiving Party.

19.2. Except as expressly set out in this Agreement, no amendment is binding on the Parties unless it is in writing and signed by a duly authorized representative of each of the Parties.

20. Force Majeure

Neither Party shall be responsible or liable for any delay or failure to perform its obligations (other than an obligation to make payment) under this Agreement due to unforeseen circumstances or any event which is beyond that Party's reasonable control and without it's fault or negligence, but not limited to, acts of God, war, riots, embargoes, strikes, lockouts, acts of any Government authority, delays in obtaining licenses or rejection of applications under the Statutes, failure of telephone, internet, connections or power failure, fire or floods.

This Agreement may be executed in two (2) counterparts, each of which shall be deemed an original and which shall together constitute one Agreement.

In witness whereof the parties have hereto caused their respective Signatures and Say Expert seal to be affixed the day and year first hereinabove mentioned.

For **Say Expert**

For _____
