

E-Commerce Seller Agreement

This Seller Agreement, dated as of ____, 2020, (“**Effective Date**”) is made and entered into by and between INDISPARE SELLER SERVICES PRIVATE LIMITED, a company duly registered under the provisions of the Indian Companies Act 2013 with its registered office at Address: Indispare, 3rd FLOOR, PLOT NO.5, SY NO.62, CoKarma, Durgam Cheruvu Road, Madhapur, Hyderabad, Rangareddy, Telangana, 500081 (hereinafter referred to as "**Indispare**").

AND

_____ Company registered under ----- having its registered office at _____ (herein after referred to as “**Seller**”).

Whereas Indispare is into the business of among other things, developing and operating an e-commerce platform (“**Platform**”) and business dealing with industrial spare parts for retailers and manufacturers and enables them to sell their products/merchandise on their Platform.

Whereas Seller is into the business of manufacturing and selling industrial spare parts and accessories and desires to display its products on the Platform and sell them to customers through Indispare during the term of this Agreement.

Whereas Seller desires to avail the e-commerce services from Indispare in a manner that allows it to protect its Trademarks.

Now, Therefore, in reliance of above recitals, and in consideration of mutual promises and covenants contained in this Agreement, Indispare and the Seller (collectively known as “**Parties**”) agree as follows.

This Agreement sets forth the terms and conditions governing supply, purchase, and sale of the products between both the Parties.

1. Definitions

For the purpose of this Agreement, the following terms shall have the specified meaning as mentioned herein.

- a. Indispare Website/Platform - means that Web Site, the primary home page which is identified by the URL, _____ (and any successor or replacement Website).
- b. Customer - means a person who accesses any of the Indispare’s Website/Platform in any manner, whether a purchase is made or not.

- c. Products – Industrial products, industrial accessories or any other goods that are displayed for sale on the Platform.
- d. Order - means an order for Merchandise made by a Customer.
- e. Sale Price - shall be the price at which the Product is offered for sale by the Seller on the Platform by using Platform Services to the Customer. Parties agree that Sale Price is dynamic and volatile and may vary at different times and points of sale and therefore can be periodically and from time to time changed or revised by the Seller within the norms specified by Platform admin which shall be specified in detail in the annexure.

2. Term

This Agreement shall commence on the Effective Date and, unless terminated as set forth in clause 16 (Termination), shall continue in effect for a period of one (1) year. Both the parties may desire to renew this Agreement with terms and conditions as agreed by them mutually.

3. Scope and Services

- a. Seller intends to avail the services of Indispire to sell its products and Indispire agrees to provide its Platform to the Seller to display, advertise, sell, and deliver its products to the Customer.
- b. Indispire in its sole and absolute discretion may refuse to provide any one or more of its services including Platform, Platform Services, Payment Facilitation Services and/or Transaction Support Services for any reason whatsoever and especially if providing such services to the Seller can be detrimental to the reputation, goodwill and competitiveness of its business or could cause any breach of any contractual commitments of Indispire and cause it to breach any applicable laws.
- c. Indispire being the owner of the Platform and Platform Services and rights holder of the brand name may at its sole discretion carry out advertising and marketing activities in relation to promotion of the Platform, Platform services and brand name in any manner and to any extent as may be deemed fit by Indispire and for such purposes may engage in certain sales promotion activities to increase the sales of Products on the Platform. Both the Parties may agree on certain terms on which the Seller shall support such sales and marketing activities including providing discounts on the Products or other free of cost goods and services to the end Customers.
- d. Seller agrees and acknowledges that Indispire shall have the sole right for the design, look and feel, architecture, layout, positioning, and all aspects of the Platform including listing, positioning, indexing, placement and tiering the Products offered for sale on the Platform by the Seller and the Seller shall not

question or dispute such exercise of right or discharge of responsibility by Indispare.

4. Advertising and Sales Promotion

- a. Indispare may at its sole and absolute discretion on reasonable commercial efforts basis market, promote or advertise the Products made available for sale by Seller on the Platform in compliance with this Agreement.
- b. Seller shall reasonably ensure that all advertisement/ promotion activities will be done to improve their sales:
 - i. do not contain any material that, in its knowledge, would infringe or violate any intellectual property rights or any other personal or proprietary right of any person; and
 - ii. are not obscene or libelous; and
 - iii. comply with all applicable laws including standards and rules set forth by the Advertising Standards Council of India or any other relevant government authority.
- c. Indispare at all times during this Agreement shall maintain the website/Platform and display all the products of multiple Sellers on its Platform for sale.

5. Orders

- a. Customer shall place order of the Products listed and displayed on the Website and the order shall have all the details like, items requested, quantity, date and time of order, place of delivery. Seller shall accept such orders and mention the date of delivery to the Customer at the time payment.
- b. Seller shall promptly communicate its acceptance or rejection of the order and any notice of rejection of order shall mention the reason of such rejection. In case of delay in delivery of any of the orders accepted, Seller shall promptly inform the Customer about the same through an SMS or email.

6. Delivery of items

- a. As time is the essence for the delivery of the Products ordered by the Customers, Seller shall make sure and make necessary arrangements for timely delivery.
- b. Delivery will be considered timely only if Products are delivered in the correct quantity, and at the time, date and location specified in the Order.
- c. Seller agrees to deliver the Products without any damage and in case of any such damage, Seller shall make arrangements to exchange those products for a fresh one or return the amount.

- d. If the Seller mentions against any product that it would be delivered on the same day (Lightening Delivery), Seller shall keep stock of such Products and deliver them on the specified time.
- e. In case of delay in the Lightening Delivery or delivering the product to the Customer and such delay is caused because of the Seller or its employees or agents, then, Seller shall be liable for any and all such loss or damages.
- f. If any Product is defective or damaged during shipment, or a wrong Product has been delivered, Seller shall accept return of such Products and replace them with a correct product within a specified time as against such product in the Platform. If the cost price of the Product has to be refunded to the Customer, Seller shall initiate the process accordingly through the Payment gateways that Indispire has tie up with.

7. Pick Up Facility

- a. Indispire shall make arrangements for pick-up of Products from the Seller and delivering them to the Customer. Indispire shall bear the expenses of all the courier or shipment charges and include these charges in their commission at the time of billing the Seller
- b. Indispire shall hire a third-party service for pick-up/shipment facility and shall make two (2) attempts of pick-up of Products from the Seller at the address provided by the Seller.
- c. Seller shall keep the Products ready with their invoice on the date specified by him by packing the products, labelling them and keep them ready for the delivery service person to pick-up.
- d. If the Seller fails to keep the Products ready during the two (2) attempts made by him delivery person, Seller shall make his own arrangement to deliver the Products to the Customer on their own and shall be liable for all the expenses incurred by Indispire while making the two (2) attempts.

8. Packaging and Invoicing

- a. Seller shall be responsible for appropriate packaging of the goods to protect them from damages during transit. Packaging should be done in a secured and standard manner to secure and protect the product from damages while in the possession of the Seller or during transit or at the time of delivery.
- b. Seller shall be responsible for proper and secured packaging of electronics, glass or any other fragile products accordingly to safeguard them from any damage and Seller shall label them accordingly (Electronics/Glass/Fragile). Proper care in handling such products must be taken by the Seller at their own expense.
- c. Seller shall pack all the products as per the SOP for each product category.
- d. Seller agrees to label the products inside and outside the packaging in a legible and clear manner. This labelling helps the pick-up agency to sort the products at the time of pick-up and delivery.

- e. Seller shall place the warranty card/guarantee card inside the packet for all the products with the seal of the company on the card. (Invoice, Technical Literature, Drawing Warrant/Guarantee card)
- f. Indispire shall not be responsible for packing or supplying any packaging material. Seller shall bear all expenses for packaging.
- g. Invoicing for the corresponding products shall be done and attached along with the labels and placed with the products. Seller can raise the invoices and settle the payments as per the terms mentioned in the Annexure – A which is agreed mutually by the Parties.

9. Product List and Description (missing/damage/labelling)

- a. Seller shall provide Indispire with product description information for each product that are to be displayed on the website for sale in the format reasonably requested by Indispire from time to time including information required to comply all legal disclosure requirements.
- b. All product descriptions must be accurate and match with the product displayed, and the Seller must provide with the list of the products that they want to display along with their expiry date if any. Seller shall not display any product that is beyond its expiry date or nearing expiry date.
- c. Seller assures that they shall display and sell genuine products on the Platform. Seller shall not sell any products that are damaged or not in fit for usage state. Described product shall be there as it is in the box/package and shall not go missing.
- d. In case of violation of any of the above clauses, it shall be treated a serious breach of this Agreement and Seller shall be liable for all the loss. Seller shall reimburse the customer with a fresh, genuine product and bear all such expenses incurred to re-deliver the product. It shall be the responsibility of the Seller to pick up the return good and replace it with fresh order.

10. Pricing (MRP)

- a. Selling price of the product shall be displayed as against the product along with its description and in case of any discount on the MRP, the same shall also be mentioned clearly against the product.
- b. Seller shall not fix the price of any product higher than the MRP mentioned on the Product and the end Customer shall be charged with an amount which would be inclusive of all applicable taxes (GST)
- c. Seller may at any time provide discount sales to any one or more of its Products and inform the same to Indispire to help them update the same in the Platform. Pricing of products shall be genuine and as per the market conditions.
- d. Seller agrees to provide discount within the specified range which is discussed, negotiated, and fixed after mutual agreement by both the Parties. The same shall be mentioned in detail in the Annexure A.

- e. If the Customer negotiates with the Seller for a further discount (which is beyond and above given on the Platform) on the Products listed, Seller may extend such discounts to the Customer after consenting with Indispare as this is beyond the lists mentioned in Annexure -A.
- f. MRP of the products sold on the Platform should be the same as the price list provided by the Seller at the given period and Indispare shall have the right to lock in MRP as per price list. Seller shall not change the pricing frequently on the Platform without the consent of Indispare.

11. GST

- a. Seller shall be responsible to pay GST for the Products and transactions that happen through Indispare's Platform and submit necessary documents supporting the compliance of taxation laws or any other law applicable in India to Indispare during the monthly cycle payments as mentioned in the Schedule -A of this Agreement.
- b. Non-payment of taxes or non-compliance of any of the applicable tax laws by the Seller shall be considered as serious breach. Seller shall be liable for any penalties or damages as applicable arising out of such breach.

12. Payment

- a. In consideration of the terms and conditions mentioned in this Agreement, Seller shall pay Indispare certain service fees/commission charges which shall be calculated in accordance with the commercial terms as mentioned in Annexure - A of this Agreement.
- b. Service fees, monthly cycle payments, invoice raising, and any other commercial terms as mutually agreed by both the Parties shall be clearly mentioned in the Schedule -A of this Agreement.
- c. Indispare shall avail the services of a third-party payment gateway to process all its payments and all such details including payment charges shall be provided in the Annexure -A.
- d. Indispare shall be entitled to make any deduction or withhold any payments in accordance with applicable law and shall provide the necessary tax deduction. Seller shall be informed about all such deductions in advance.

13. Obligation of Indispare

Along with the other obligations mentioned in other clauses in this Agreement, Indispare shall have the following Obligations:

- a. Indispare shall reasonably maintain the Platform services and other services needed to carry out the business by the Seller on the Platform.
- b. In order to process payments made by end Customers and to generally provide Payment Facilitation Services Indispare shall reasonably maintain appropriate contracts with payment gateways and shall comply with the applicable laws.

- c. Indispire, as a part of transaction support services, shall list the Products on the Platform for the Seller at the Sale Price provided or informed by the Seller. Indispire acknowledges that the Sale Price is dynamic and volatile and may vary at different times and points of sale and that the Seller reserves the right to change or modify the Sale Price of the Product at any time before the same is bought by the Customer on the Platform. The intimation of such revisions of the Sale Price could be oral or in writing. For any oral intimation, Service Provider may on reasonable basis confirm such oral intimation within reasonable time from such intimation and through written records including through electronic communications.

14. Obligations of Seller

Along with the other obligations mentioned in other clauses in this Agreement, Indispire shall have the following Obligations:

- a. Seller shall not use Indispire's business Platform/Website for any purpose other than Seller's Business and in relation to the Products.
- b. Seller assures that they shall not display or sell any Products or conduct any business prohibited by law through Indispire's website/Platform.
- c. Seller shall manage and maintain sufficient inventory of the Products which they offer to sell to Customer on the Platform through Platform Services and shall mandatorily deliver the Products as purchased by the Customer within the time as may be agreed.
- d. Seller shall deliver the same Product for which order was placed by the Customer. In case of change in delivery of the Product, Seller shall bear the expenses for return/exchange of such Product as mentioned in clause 9 of this Agreement.
- e. Products offered to be sold by the Seller and the subsequent delivery of the same shall not infringe any third party's intellectual property rights and not violate and trade practices.
- f. Seller shall pass on the full warranty or guarantee received on the Products from the third-party manufacturers or third-party suppliers to the Customer and shall fully support the Customer to enforce such warranty or guarantee. It shall be the responsibility of the Seller to provide service, repair, exchange, or replacement of the defective Product as per warranty and terms & conditions.
- g. The sale and purchase transaction between Seller and the Customer shall be a bipartite contract between them and Indispire is merely facilitating the transaction between the parties as an intermediary by making available its business and Payment facilitation services to Seller and end Customer.
- h. Seller shall not make any representation or do any act which may be taken to indicate that it has any right, title, or interest in or to the brand name, business, website/Platform of Indispire.

- i. Indispare acts as medium of communication between Seller and Customer and Seller agrees not to connect with the Customers directly without the consent of Indispare.
- j. Seller understands and acknowledges that the brand name and reputation of Indispare is of utmost importance for its business and that the conduct of Seller in performance of this Agreement and otherwise would have material impact and bearing on such reputation of Indispare. Further Seller understands and acknowledges that the obligations and covenants placed on them in this Section or elsewhere in the Agreement are essential for the maintenance of quality control and protection of brand name
- k. Seller shall assure that they shall sell and display only genuine and best quality products on the Platform.

15. Continuity of Supply

- a. Seller is responsible for anticipating the demand for products and maintain a continuous supply of its inventory without any interruption in delivery of goods to the Customer.
- b. Seller shall be liable for all the loss or expenses incurred by Indispare due to lack of continuity of supply of Products by the Seller.
- c. Frequent cancellation of orders by the Seller or delay in delivering the orders to Customer's may result in monetary loss to Indispare and damage its brand name, reputation, and good will. Seller shall be liable to compensate Indispare for all such losses which shall be determined by the Parties at that time.
- d. In case of interruption in supply, Seller shall notify Indispare the same in advance and provide with better alternatives whatsoever is possible.

16. Termination

- a. Either of the Parties shall have the right to terminate this Agreement and all the other existing commercial obligations by giving the other Party a prior written notice of thirty (30) days.
- b. Either Party may terminate this Agreement if the other party fails to perform any of the material obligations hereunder, or there is any material breach by any of the Parties provided that the non-breaching party gives the other Party a written notice of such breach and the breaching party fails to cure such breach within fifteen (15) days of such notice.
- c. Either party may terminate this Agreement with immediate effect if the other Party turns bankrupt or insolvent or initiated dissolution process of its company.

17. Effects of Termination

- a. Upon expiry or termination of this Agreement, all confidential information and other material of intellectual property of one party have been provided to the other shall be forthwith returned to its owner.

- b. Termination of this Agreement shall not relieve any Party of any of its obligations or liabilities and the effect the rights and remedies of a Party, which have accrued prior to the date of termination.
- c. Termination of this Agreement shall not relieve either Party from its obligation to pay any monies due to the other Party for any period prior to the effective date of termination.

18. Indemnity

Seller shall promptly on demand indemnify, defend and hold harmless Indispire, its affiliates and Customer and their representatives (“Indemnified Parties”) for and against all claims, liabilities, costs and expenses (including reasonable attorney’s fees) incurred or to be incurred by the Indemnified Parties that arise out of, in any way relate to, or result from any breach by the Seller of any of the provisions of this Agreement, or breach of any laws by the Seller, or negligence, fraud or willful misconduct of the Seller or its affiliates and their respective officers, directors, shareholders, employees, contractors, sub-contractors, agents and personnel. For the avoidance of doubt, it is further clarified that the right to indemnification in connection with any of the aforesaid claims of cause of action is independent and in addition to other rights and remedies of the Indemnified Person that may be available at law or in equity

19. Insurance

Each party at its own expense obtain an insurance policy that is relevant to their conduct of business or reasonably required by law or as per their respective commercial transactions. In addition, certificate of such insurance shall be provided to the other party if required or requested.

20. Intellectual Property Rights

- a. Seller acknowledges that Indispire has absolute ownership over title, ownership, all intellectual property rights over its Platform, brand name, design and business. Good will that is accrued by Indispire in pursuant to this Agreement shall belong exclusively to Indispire. No right or interest in the brand name or intellectual properties of Indispire are granted or deemed to be granted to Seller under any circumstances.
- b. Seller shall have all rights, interests, and intellectual properties over the Products and its make and quality. Indispire shall claim no rights or interests over such products or brand name of the Seller.

21. Confidentiality

Both the Parties may disclose to the other Party certain confidential information during the performance of this Agreement. The receiving party undertakes to the disclosing party:

- a. To keep all such information confidential and not disclose the information in whole or in part to any other third-party without the written consent of the disclosing party.
- b. To use the confidential information only for the purpose of this Agreement and not for any other use.
- c. Upon request of the disclosing party, the receiving party shall return or destroy all the confidential information as prescribed without any delay.
- d. This clause shall survive for a period of two (2) years after termination of this Agreement.

22. Dispute Resolution

Any dispute arising out of this Agreement shall be resolved by both the Parties amicably. In case the parties fail to settle the dispute amicably, it may be referred to an Arbitrator with the consent of both the Parties. Provisions of Arbitration and Conciliation Act 1996 shall govern the Arbitration. Hyderabad shall be the place of Arbitration.

23. Governing Law

This Agreement shall be governed by the laws of India and courts of Hyderabad shall have jurisdiction over any matter related to this Agreement.

IN WITNESS WHEREOF: The parties have executed this Agreement as of the date first above written

For Indispare	For Seller
Signature:	Signature:
Name:	Name:
Designation:	Designation:
Date:	Date: