

# DIRECT SELLING AGREEMENT

THIS AGREEMENT (the "Agreement") is made on \_\_\_\_\_ (date), by and between WYNTASH E-COM PRIVATE LIMITED, a Company incorporated under the provisions of the Companies Act, 2013 and having its registered office at 35, Amman Kovil Street, Venkittapuram Coimbatore Coimbatore TN 641013 INDIA (the "Company") and the direct seller (mention name)

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a Company / an Individual, having office/residence at (mention address)

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These terms and conditions are construed in accordance with Direct Selling Guidelines issued by the Govt. of India, Ministry of Consumer Affairs Food & Public Distribution, Department of Consumer Affairs and it supersedes any prior terms and conditions, discussions or agreements between Company and Direct Seller.

The applicant intending to become a direct seller shall go through these terms and conditions and if he/she agrees and accepts these terms and conditions, he/she shall append his signature in the column provided hereunder as token of his/her acceptance. Choosing to join the above mentioned Company is the exclusive decision of the applicant. There is no role or any suggestion of the company in taking such a decision by the applicant. Further there is no charge /fees and there is no investment for becoming a direct seller of the company. The company exclusively uses its website / mobile application to display the details of the products, marketing method/plan, compensation method/plan, sales incentives and business monitoring etc.

## DEFINITIONS

As used herein, the following terms shall have the meanings set forth below:

- 1) "Direct selling entity" or "Company" means an entity which sells or offers to sell goods or services through a direct seller. The company WYNTASH E-COM PRIVATE LIMITED is the direct selling entity.
- 2) "Network of Direct Selling" shall mean any system of distribution or marketing adopted by the direct selling entity to undertake direct selling business and shall include the multi level marketing method of distribution of goods and services.
- 3) "Direct Seller" means a person appointed or authorized, directly or indirectly, by a direct selling entity to undertake direct selling business on a principal to principal basis.
- 4) "Direct selling" means marketing, distribution and sale of goods or providing of services through a network of direct sellers.

- 5) "Cooling-Off Period" means the duration of time counted from the date when the direct seller and the direct selling entity enter into an agreement and ending with the date on which the contract is to be performed and within which direct seller may repudiate the agreement without being subject to penalty for breach of contract.
- 6) "Website" means the official website of the company i.e. <https://wyntash.in/> or any other online publication means authorized by the Direct Selling Entity, which the company may notify from time to time.
- 7) "Product" shall mean the Company's product to be sold by Direct Seller and such product as may be communicated by the Company in writing to the Participant Direct Seller from time to time or be published on the website.
- 8) "Services" shall mean the Company's services to be sold by Direct Seller and such services as may be communicated by the Company in writing to the Participant Direct Seller from time to time or be published on the website.

## **APPOINTMENT**

The Company upon scrutiny and verification of the Application may register / appoint the Applicant as "Direct Seller" for selling the products / services of the Company. The Company shall be at liberty to accept or reject the application at its discretion without assigning any reason whatsoever.

### **The Applicant Direct Seller hereby agrees as under:**

1. That he/she has clearly understood the marketing methods/plan, compensation method/plan, the incentive plan, its limitations and terms & conditions. He/she agrees that he/she is not relying upon any misrepresentation/s or fraudulent inducement or assurance or commitment that is not set out in the terms and conditions of this agreement or marketing plan / incentive plan or any other officially printed or published materials of the Company.
2. The Direct Seller further confirms that he/she has read and understood the terms & conditions of this agreement carefully and agrees to be bound by them.
3. Relation between the Company and the Direct Seller shall be governed, in addition to terms & conditions of this agreement, by the rules and procedure mentioned in the marketing plan, available on website or provided by the company in any manner.
4. Direct Seller is an independent contractor, and nothing contained in this agreement shall be construed to the following :
  - a. Give any party the power to direct and control the day-to-day activities the other party
  - b. Constitute the parties as anything else but independent entities including but not limited to partners, agencies, joint ventures, co-owners
  - c. Allow Direct Seller to create or assume any obligation on behalf of Company for any purpose whatsoever

5. Direct Seller is not an employee of the Company and shall not be entitled to any employee's benefits. Direct Seller shall be responsible for paying all taxes whether direct or indirect including but not limited to Income Tax, GST and other taxes chargeable to Direct Seller on amounts earned hereunder. All Legal, Statutory, financial and other obligations associated with Direct Seller's business / income shall be the sole responsibility of the Direct Seller.
6. It is made and understood in very clear terms that a Direct Seller is not an Agent, Employee nor an authorized representative of the Company or its service providers. He is not authorized to receive/accept any amount/payment for and behalf of the Company and any payment received by him/her from any party shall not be deemed to be received by the Company.
7. Direct Seller, hereby declares that all the Information furnished by him/her is true and correct. Company shall be at liberty to take any action against the Direct Seller in case it is discovered at any stage that the Direct Seller has furnished any wrong/false/misleading information to the Company or other direct sellers.
8. If any relative as defined under the provisions of Income Tax Act, 1961 or defined under the provisions of Companies Act, 2013 of existing direct seller desire to become direct seller then he/she shall disclose the relationship with existing direct seller to the company. It is the company's sole discretion to accept or reject the application of such relatives.

**The Direct Seller shall be entitled to the following privileges:**

1. Incentive for effecting sale of products / services of the Company as per marketing plan, compensation method/plan, the incentive plan.
2. Search and inspect his/her account on the website of the Company through credentials awarded by the Company.
3. Incentive of the Direct Seller shall be in proportion to the volume of performance by the Direct Seller either by his personal efforts or through team as stipulated in the marketing plan, compensation method / plan or the incentive plan of the Company.
4. The Direct Seller shall be entitled to a cooling off period of 30 days to terminate this agreement from the date of acceptance of this agreement without any punishable clause. Direct Seller needs to expressly inform the Company about termination of the agreement. In the absence of any communication from Direct Seller, it will be considered consent of the Direct Seller to act as Direct Seller with the Company under the terms and conditions of this agreement
5. The Direct seller shall have the option to return the currently marketable goods purchased by him/her within period from the date of the purchase. Such return shall be governed by refund and buy back policy published in the website of the company, which can be found on website at refund policy <https://wyntash.in/refund-policy.php> and buy back policy <https://wyntash.in/buy-back-policy.php>

## **BUY BACK POLICY FOR PRODUCTS**

The Company provides a Buy Back Policy to the Direct Sellers who wishes to resign as a Direct Seller and return any products / services that are in good condition, useable, resaleable, restock-able, unopened, unaltered and must have a shelf life of at least 6 months

If the Direct Seller resigns within 30 days from the purchase of the product(s), the Company shall provide a full refund for the product(s) to the Direct Seller

If the Direct Seller resigns after the 30 days from the date of purchase of product(s) from the Company, the amount refunded will be equal to Direct Seller's cost of the product(s) being returned, less total bonus paid out by the Company on the original purchase, less service charge

## **BUY BACK POLICY FOR SERVICES**

The Company provides a Buy Back Policy to the Direct Sellers who wishes to resign as a Direct Seller and return any services that are remarketable, reusable and must have a shelf life of at least 6 months

If the Direct Seller resigns within 30 days from the purchase of the services(s), the Company shall provide a full refund for the services(s) to the Direct Seller

If the Direct Seller resigns after the 30 days from the date of purchase of services(s) from the Company, the amount refunded will be equal to Direct Seller's cost of the services(s) being returned, less total bonus paid out by the Company on the original purchase, less service charge

## **GENERAL DUTIES OF DIRECT SELLER**

1. The Direct Seller hereby undertakes not to compel or induce or mislead any person with any false statement / promise to purchase products from the Company or to become Direct Seller of the Company
2. Direct Seller shall use his/her best efforts to promote the sale of products and services offered by the Company
3. Direct Seller shall also provide reasonable assistance to Company in promotional activities. Direct Seller will assist the company by taking part in all promotional events, use the marketing inputs judiciously for maximizing sales of the products and services offered by the company. Direct seller shall offer accurate and complete explanations and demonstrations of products and services along with their price, payment terms, return policies etc. to a prospective consumer
4. He/she shall also take care for all obligations; provisions terms and conditions etc. of the Guidelines on direct selling issued by the Govt. of India, Ministry of Consumer Affairs Food & Public Distribution Department of Consumer Affairs and the relevant State Government Guidelines / Laws

5. The Company reserves its right to withheld / block/ suspend the rights and privileges of the Direct Seller if he / she fails to provide any details as desired by the Company from time to time
6. In case the Direct Seller loses his contractual capacity due to any reason or in case of death of the Direct Seller, either his nominee or one of the legal heir with the written consent of all the legal heirs may join the Company as Direct Seller in place of the deceased provided he applies in prescribed form and undertakes to abide all rules and regulations, terms and conditions of this agreement in the same manner as that of original Direct Seller. In case of failure to arrival at such consent within six months from the date of death of the Seller or losing his/her contractual capacity, the Company shall be at liberty to terminate the Direct Seller
7. Direct Seller shall be sole responsible for all the arrangements, expenses, permission from local authorities, complying with rules of Central Government, State Government, local body or any other Government body for the meetings and seminars or any other event conducted by the Direct Seller.
8. Direct Seller is prohibited from listing, marketing, advertising, promoting, discussing, or selling products / services, or the business opportunity on any website / online portal / mobile application / online forum or any other online medium with a written consent of the Company

## **MODIFICATION OF THE AGREEMENT**

Notwithstanding anything stated or provided herein, Company reserves the complete rights and discretion to modify, amend, alter, or vary the terms and conditions, products, services, marketing plan, compensation plan/method, incentive plan/method and any other policies at any time without any prior notice.

Modification shall be published through the official website of the Company or any other mode as company may deem fit and proper and such modification/amendment shall be applicable and binding upon the Direct Seller from the date of such modification/notification. If the Direct Seller does not agree to such amendment, he/she may terminate his/her rights, benefits and privileges as a Direct Seller within 30 days of publication of such modification/notification by giving a written notice to the Company to such effect. Without any objection to such modifications/alterations it shall be deemed that he/she has accepted all modifications and amendments in the terms & conditions of this agreement.

## **COMPENSATION / SALES INCENTIVE**

The Company shall pay the Direct Seller sales incentive/commission/compensation as prescribed in the Marketing Plan / Compensation Plan / Sales Incentive Plan which shall be available at the website of the company. The sales incentive/commission/compensation will be subjected to the relevant taxes as applicable. The Company reserves its right to revise the rates and methods of calculating sales incentive/commission/compensation from time to time. The Company does not guarantee/assure any particular or fixed facilitation fees or fixed income to the Direct Seller

## **INDEMNIFICATION**

The Direct Seller shall hereby indemnify the company, its employees, directors, agents, and each of their Affiliates (the "Indemnified Parties") against, and agree to hold them harmless from, any and all damages including any claim, charge, action, depletion or diminution in value of the assets of the Company, loss, liability and expense (including but not limited to reasonable expenses of investigation and reasonable attorneys' fees and expenses in connection with any action, lawsuit or proceeding) (hereinafter referred to as "Loss") incurred or suffered by the Indemnified Parties and arising out of or relating to any misrepresentation, negligence, malfeasant acts or breach of warranty / trust to be performed by the direct seller pursuant to this agreement

## **BUSINESS EXPENSES**

Direct Seller shall bear the cost and expense of conducting its business in accordance with these terms and conditions. The company will not entertain any reimbursement on any expense made by the Direct Seller other than sales incentive earned by the Direct Seller as per the Marketing Plan / Compensation Plan.

## **USE OF PERMITTED MATERIAL FOR PROMOTION**

Use of company logo, product / service / brand logo or any advertising / promotion / marketing activity conceived originally by the Direct Seller shall be first approved in writing by the company before being used / implemented.

## **CUSTOMER COMPLAINTS**

Direct Seller shall notify the Company of any Customer's complaints regarding either the Products or the Services immediately and forward to Company the information regarding those complaints. Failure to do so may be considered as withholding critical information from the Company.

## **NON COMPETE DURING ASSOCIATION**

The company invests it's time, money, intellectual property along with many other resources to educate, train, improve skills and provide insights to Direct Sellers therefore during the term of association as direct seller with the Company, Direct Seller shall and/or his/her relative as defined under the provisions of Income Tax Act, 1961 or defined under the provisions of Companies Act, 2013 not represent, promote or otherwise try to do direct selling activities that, in Company's judgment, compete with its direct selling activities.

## **NON COMPETE AFTER TERMINATION OF AGREEMENT**

The company invests it's time, money, intellectual property along with many other resources to educate, train, improve skills and provide insights to Direct Sellers therefore for a period of 12 months after the Direct Seller is no longer in working with the Company, the Direct Seller or through his relative will not, directly or indirectly, either as proprietor, stockholder, shareholder, partner, officer, employee or otherwise, distribute, sell, offer to sell, or solicit any orders for the purchase or distribution of any products or services which are similar to those distributed, promoted, sold or provided by the Company

## **TERMINATION**

The company is free to review the performance of any Direct Seller at timely intervals. Any Direct Seller not performing to the full satisfaction of the company in terms of securing new orders, in compliance of company's policies and terms and conditions of this agreement is liable to be terminated.

The Company shall issue a notice to the direct seller who is found liable for termination, after 30 days of the issuance of such notice this agreement shall be terminated.

The Company shall be at complete liberty to terminate this agreement and devoid the direct sellers of their benefits, rights and privileges in occurrence of any of the following event(s) :

1. Where a direct seller is found to have made no purchases by himself/herself of products and services for a period of 2 years since the date of joining the Company as a Direct Seller or where there is no purchases by himself/herself of products or services for a continuous period of 2 years since the date of the last purchases made.
2. Where a direct seller failed to comply with any terms and conditions of this agreement
3. Where information given by direct seller found wrong/false/misleading intentionally or otherwise
4. Where direct seller is no longer the citizen of The Republic of India
5. Where direct seller is convicted of an offence punishable imprisonment of whatever term
6. Where direct seller resign voluntarily
7. Where company deem it necessary to terminate the direct seller in the interest of company's business or in the interest of others direct sellers connected in his/her group/teams

## **RETURN OF MATERIALS UPON TERMINATION**

All of Company's trademarks, trade names, data, photographs, literature, and sales aids, all kinds of customer related databases and any other information generated shall always remain the property of Company. Within five 5 days after the termination of direct sellership, Direct Seller shall return all such items to the company. Direct Seller shall not make or retain any copies of any confidential items or information that may have been entrusted to it. Effective upon the termination of this agreement Direct Seller shall cease to use all trademarks, marks and trade name of Company

## **CONFIDENTIALITY**

Direct Seller acknowledges that by reason of its relationship to Company hereunder, it will have access to certain information and materials concerning Company's business plans, customers, technology, and

products/services that is confidential and of substantial value to Company, which value would be impaired if such information were disclosed to third parties. Direct Seller agrees that he/she shall not use in any way for its own account or the account of any third party, nor disclose to any third party any such confidential information revealed to him/her by the Company during or after his/her term as a Direct Seller with the Company

Company shall advise the Direct Seller whether or not it considers any particular information or materials to be confidential. Direct Seller shall not publish any description of the Products/Services beyond the description published by Company and without the prior written consent of the Company. Nor should he/she publish anything related to the marketing method/plan, compensation method/plan, incentive method/plan without the prior written consent of the Company. In the event of termination, there shall be no use or disclosure by Direct Seller of any confidential information of the Company.

## **JURISDICTION**

The terms and conditions stipulated in the forgoing paragraphs shall be governed in accordance with the law in force in India. Excluding Grievance Redressal Clause of the terms & conditions of this agreement, all Disputes, either civil or criminal in nature, shall be subject to the exclusive jurisdiction of Honorable High Court of Tamil Nadu

## **GRIEVANCES REDRESSAL**

In case of any complaint/grievance, the Direct Seller will have to inform in writing the Company. Direct Sellers can raise complaints/ grievances on the Company website. The Company Officials (Grievances Redressal Committee) shall immediately take up the matter for redressal.

All disputes in relation to the products and services, Company's marketing plan, compensation plan, incentives etc. shall be heard and given a unique identification number which shall be addressed swiftly and Company shall put its best efforts in resolving it within 45 days from the date of receipt of the complete details in respect of the grievance. If the nature of the matter is such that it is not reasonable to resolve it within the above mentioned time frame. Company shall try to resolve it quickly to the best of its abilities. Contact details and facility to communicate with Grievance Redressal Committee can be found on the Company's website.

## **FORCE MAJEURE**

The Company shall not be liable for any failure to perform its obligations where such failure has resulted due to Acts of Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, acquisition of the company's asset by the government to any other government/semi government agency, civil/financial emergency by the government, any other government sanction, blockage, embargo, labour dispute, strike, lockout or interruption or failure of electricity, Raw Material Supply Constraint, or any type of redirection by Government (Central and / or State), local Authority or any other government department



## **ENTIRE AGREEMENT**

This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and supersedes any prior discussions or agreements between them. No modification of or amendment to neither this Agreement, nor any waiver of any rights under this Agreement to be done unilaterally and it shall be effective unless in writing signed by the party to be charged.

## **NOTICES**

Any notices required or permitted by this Agreement shall be deemed given if sent by certified mail, official email, postage prepaid, return receipt requested or by recognized overnight delivery service to the Registered address of the Company

## **NON ASSIGNABILITY**

Direct Seller agrees that its rights and obligations under this Agreement may not be transferred or assigned directly or indirectly without the prior consent in writing of the Company, except that the Company may assign this Agreement to a successor of all or a substantial portion of its business, or to a party controlling, controlled by or under common control with the Company.

## **SEVERABILITY**

If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, then the remaining provisions shall nevertheless remain in full force and effect.

## **HEADINGS**

Headings used in this Agreement are provided for convenience only and all not be used to construe meaning or intent

## DECLARATION BY APPLICANT DIRECT SELLER

1. I am of or above 18 years of age, I am an Indian Citizen and I have provided the required information accurately, I have documents to support this declaration and information I provided along with my application for being a Direct Seller
2. I have read and understood the terms and conditions for appointment as a Direct Seller of the Company published on the company website : <https://wyntash.in/direct-seller-agreement.php> and understands that by submitting this declaration I will be entering into a non-transferable binding agreement as per the Indian Contract Act 1872 and I shall be terminated if I do not adhere to these terms
3. I hereby declare that Compensation Mechanism (ie. Business Plan) has been explained to me clearly and I have understood it and agree to the work as a Direct Seller to avail compensation / incentives and benefits as per compensation mechanism published on the company website : <https://wyntash.in/business-affiliate.php>
4. I declare that I have not been given any assurance or promise or inducement by the Company or its Directors or the Direct Seller who is introducing me in regard to any fixed income incentive, prize or benefit on account of any purchase and I have applied to appoint me as a Direct Seller on my own volition
5. I shall not publish any information or claim which is not in accordance with the company and I shall not sell / list / publish any product / service or packages on any digital / online platform without company's written consent
6. I have clearly understood that eligibility of income exclusively depends on my performance in business volume as per the marketing method / plan, compensation method / plan. I further agree that the company reserves the right to change the marketing method / plan, compensation method / plan at any point of time without any prior notice
7. I have been informed and explained clearly about the Company's various offerings, its policies and activities along with Cooling off period, Buy Back Policy, Refund Policy and Grievances Redressal Mechanism by the Direct Seller who is introducing me and I have understood them and agree to these terms stated in the above mentioned agreement
8. I undertake to abide by the Direct Selling Guidelines 2016 issued by the Ministry of Consumer Affairs
9. I shall attend the mandatory orientation in person or online to learn about various aspects of conducting the direct selling activities, company's compensation mechanism (ie. Business Plan) and company's offerings
10. I hereby authorize the Company to send me updates regarding my distributorship & purchases via SMS and Email
11. I hereby agree to Submit all disputes to Grievances Redressal Committee as provided in the terms and conditions of the above mentioned agreement and I have also understood and agree to the jurisdiction stated in the above mentioned agreement

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(Name of the Applicant)

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(Date & Place)

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(Signature)

### **Introducer Direct Seller (Witness) :**

I hereby declare that I myself have clearly explained "Direct Seller Agreement", "Buy Back Policy", and the "Compensation Plan" along with Grievance Redressal Mechanism, Cooling-off period. various offerings of the Company and Company Policies and its activities to the Applicant Direct Seller

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(Distributor ID & Name of Introducer)

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(Signature of Introducer Direct Seller)

