# PAY-OUT AGREEMENT

This Payment Solution Agreement (“**Agreement**”) is entered into at Gurugram, Haryana as on by and between:

**DINERO PAYMENT SERVICES PRIVATE LIMITED**, a company incorporated under Companies Act 2013 and the prescribed laws of India bearing CIN U74999HR2019PTC082363, having its registered office at 3rd Floor, Orchid Centre, Golf Course Road, Sector- 53, Gurugram - 122002 India (hereinafter referred to as “**Cashlesso**”, which term shall, unless repugnant to the context or meaning thereof, mean and include its successors and assigns) of the one part;

AND

**<MERCHANT>**, a company incorporated under Companies Act <xxxx> and the prescribed laws of India bearing CIN <xxxxxxxxxxxxxxxxxxxxxxxx>, having its registered office at xxxxx xxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxx (hereinafter referred to as “**Merchant**”, which term shall, unless repugnant to the context or meaning thereof, mean and include its successors and assigns) of the second part;

(**Cashlesso** and **Merchant** hereinafter individually referred to as a “**Party**” and collectively as “**Parties**”).

# WHEREAS

1. **Merchant** is engaged in the business of ….................................................................................................. …............................................................................................................................................................................................
2. **Merchant** has approached **Cashlesso** for provision of a virtual payment solution to enable the **Merchant** to provide Payouts to its Users by way of providing money to be remitted into the End User Bank A/Cs on the directions of the **Merchant**.
3. **Cashlesso** is hereby duly authorised by the **Merchant**, to transfer money into the Merchant's End User Bank A/C's on its instructions and directives and has agreed to indemnify and pay **Cashlesso** for the services as more specifically described in this Agreement on the terms and conditions as mentioned herein below:

Now in light of the aforementioned recitals which shall form an integral part of this Agreement, and for valuable consideration sufficiency of which is hereby acknowledged, it is hereby agreed between the Parties as follows:-

# DEFINITION:

Unless repugnant to the context or meaning thereof the terms defined herein shall have the following meaning:

* 1. **“Application Programming Interface”** or **“API”** means the application programming interface including any related documentations, source code, executable applications and any other materials made available by **Cashlesso** for the purpose of integration of **Merchant** information with **Cashlesso's** platform for the purposes of Pay-outs.
  2. **“Service Fee and/or Commission**” shall mean the convenience fee payable by **Merchant** to **Cashlesso** for providing the Platform for disbursement of Payout Amounts as directed by the **Merchant**.
  3. “**End User**” shall mean end users, employees, distributors, retailers, partners etc. of **Merchant** who shall have an operational Bank A/Cs before or after this Agreement is signed, the same shall be updated and provided by the **Merchant** to **Cashlesso**.
  4. **“End User Bank A/c”** shall mean end users, employees, distributors, retailers, and partners etc. of the **Merchant** who have an operational Bank A/c with any Bank as per applicable guidelines.
  5. **“Payouts”** shall mean disbursement of Payout Amount (*defined hereinafter*) by **Merchant** to End User’s Bank A/Cs from **Cashlesso** as directed and instructed by the **Merchant** through IMPS, NEFT, UPI and other available payment modes.
  6. “**Payout Amount**” shall mean an interest free amount deposited/retained by the **Merchant** with **Cashlesso** for the purpose of providing Payouts to its End User’s through **Cashlesso's** API.
  7. **“Payout Platform”** shall mean a platform maintained by **Cashlesso** through which funds/money shall be credited to the End user Bank A/c upon advice by **Merchant**.
  8. **“Transaction”** shall mean crediting of Payout amount by **Cashlesso** as directed by the **Merchant** into the End User Bank A/C.
  9. **“Virtual A/C”** shall mean a **Merchant’s** virtual account created on the **Cashlesso** Platform from which an End User Bank A/C can be credited as per the directions of the Merchant subject to availability of funds in the **Merchant’s** Virtual A/C. The balance lying in the **Merchant's** Virtual A/C shall represent the amount deposited/paid in advance by the **Merchant** for the purposes of the Payouts.

# TERM AND TERMINATION

* 1. Effective Date and Term. This Agreement becomes effective on the Effective Date and will continue in full force and effect thereafter unless terminated by either Party as per the provisions of this Agreement.
  2. Termination and Consequences of Termination
     1. For Cause. In the event of any material breach of this Agreement by either Party, the other Party may (reserving cumulatively all other remedies and rights under this Agreement, at law and in equity) terminate this Agreement, by giving such Party thirty (30) days’ prior written notice of termination thereof; provided, however, that such termination will not be effective if such Party has cured the breach of which it has been notified prior to the expiration of such thirty (30) day notice period.
     2. On occurrence of certain events. It is agreed by the Parties that either Party may terminate this Agreement forthwith in the event the other Party passes a resolution for a voluntary liquidation, or is adjudged insolvent or if the courts in India admit a petition for compulsory liquidation of the said Party which is not disposed of in 60 days.
     3. Notwithstanding anything contained under this Agreement any Party can terminate this Agreement by tendering a 30 day’s written notice to other Party without assigning any reason thereof.
     4. Payments on Termination. In the event of termination of this Agreement, whether by **Merchant** or **Cashlesso**, **Merchant** shall pay **Cashlesso** the Commission and all other dues payable by **Merchant** under the terms of this Agreement.

# DELIVERABLES OF CASHLESSO

* 1. **Cashlesso** will provide **Merchant** their API as required for provisions of to enable the **Merchant** disburse Payouts through **Cashlesso** to its defined End User’s. **Cashlesso** may augment the system, as required in relation to **Merchant** API from time to time. **Cashlesso** will charge a onetime non-refundable integration and setup fee from the **Merchant** details of which are provided in Entity Detail Form attached as **Annexure “A”** to this agreement.
  2. **Cashlesso** will inform the **Merchant** on becoming aware of any circumstance that may reasonably be expected to jeopardize the timely and successful Transaction.
  3. **Cashlesso** shall provide the **Merchant** with the complete documentation for integration with **Cashlesso** servers for the proposed system. This documentation will be kept up-to-date with the API changes happening on the **Cashlesso** servers.
  4. **Merchant** shall warrant and ensure not to undertake any changes to the API to ensure timely and successful Transaction.
  5. **Cashlesso** shall provide technical support from 10:00 AM to 6:00 PM to **Merchant** either by direct presence or through any of its technology partners on all working days over the phone and email for the same. **Cashlesso** shall provide Merchant with a contact person, contact number and a contact e-mail ID for support in case of issues faced by the Merchant in disbursement of Payouts and shall notify Merchant immediately in case of any change in contact person/number/e-mail/Bank A/c details etc. **Cashlesso** shall reasonably endeavor to respond to all such queries in a timely manner and consistent with its practices on dealing with its End Users.

# OBLIGATIONS OF MERCHANT

* 1. **Merchant** understands that **Merchant** alone shall decide the amount of Payouts to be disbursed to the End user and once instructed to **Cashlesso** the said amount cannot be reversed from End User Bank A/c and that **Cashlesso** will not be able to offer any solution to the **Merchant** in such a case. Further, **Cashlesso** shall also not be responsible for any disbursements made to a wrong End User, made to a person who is not an End User, excess amount of disbursements or any other scenario which are not in the control of **Cashlesso**.
  2. The **Merchant** shall use the Payout services diligently, for a lawful and legal purpose and shall ensure that no fraudulent activities are conducted while undertaking the services.
  3. The **Merchant** shall use the Payout Platform to transfer only Payout Amount to its End User only and shall not use the Payout Platform for providing any cashback facility/aggregator services etc. In the event of breach of this obligation by the **Merchant**, **Cashlesso** may terminate this agreement with immediate effect without any prior written notice to the Merchant.
  4. The **Merchant** and **Cashlesso** shall comply with all applicable laws in respect to their individual businesses.

# COMMERCIALS

* 1. For every Transaction under this agreement, **Merchant** shall be charged Service Fee/commission at the time of instruction of disbursal of amount/withdrawal of pre-funded amount by the **Merchant** to **Cashlesso** so as to make the pay-out to the End User Bank A/c through the **Merchant's Virtual Account**.
  2. As mutually agreed by both Parties, all applicable taxes, including but not limited to CGST, SGST, UTGST, IGST, compensation cess or any other indirect taxes including cess shall stand be deducted/charged from the **Merchant**.
  3. The details of flat Service fee and/or Commission charged are provided in **Annexure “A”**.
  4. For the purposes of Payouts in End User Bank A/c, **Merchant** shall maintain adequate balance at all times for disbursement in advance as Payout Amount in the Merchant's Virtual Account.
  5. The Service Fee and/or commission agreed and charged by **Cashlesso** from **Merchant** is primarily based on the minimum commitment made by the **Merchant** regarding the disbursement of the Payout amount. In the event of substantial (more than 30%) breach of this minimum commitment by the **Merchant** for Consecutive three (3) months as intimated over the email, **Cashlesso** may at its liberty renegotiate the Service Fee and/or Commission charged from the **Merchant** and shall accordingly modify the Service Fee and/or Commission thereof within such period as **Cashlesso** may stipulate.
  6. **Cashlesso** shall raise an invoice for Payout Amount, Commission and applicable taxes including CGST, SGST, UTGST, IGST, compensation cess or any other indirect taxes including cess thereon on a monthly basis. All payments by **Merchant** shall be made subject to deduction of TDS on Commission u/s 194H of Income Tax Act, as and if applicable. TDS, if any, shall be deducted and deposited by the **Merchant** as per applicable laws. and the same will be reimbursed by **Cashlesso** within 30 days from the date of receipt of TDS certificate from **Merchant**.
  7. **Merchant** shall provide any KYC documents as requested by **Cashlesso** failing which all pay-outs shall stand paused.
  8. Notwithstanding anything to contrary, **Merchant** understands and confirms that any and all local levies or other charges levied by any central/state/local authorities wherever applicable shall be extra and **Merchant** shall solely be liable for the same.
  9. GST, as applicable on any charges/ payment under this Agreement either as fee, damages, financial charge on overdue amount, or otherwise, will be charged additionally by **Cashlesso**.
  10. The **Merchant** agrees that any amount pre-funded in the virtual A/c cannot stay unutilized for more than T+2 Days (FIFO Method to apply on all fund transactions). Any such amount should be withdrawn by the **Merchant** in their Current A/C and/or a Pay-out needs to be made.
  11. **Merchant** agrees that the Payout Amount is non-refundable. However, Parties agree that in case of termination and on **Merchant** request, Cashlesso shall refund the unutilized balance of the Payout Amount within 3 working days of termination of the Agreement after deductions of dues if any. It is explicitly agreed that no tax shall be refunded in case of any refunds under this Agreement.
  12. In case there is a dispute regarding amount payable under a particular invoice, the undisputed part of the invoice will be paid as per the terms mentioned above. The amount under dispute will be settled by both the Parties within a period of seven (7) days from the date the dispute has been raised by **Merchant** and the payment of mutually agreed amount, if any, shall be made within a period of seven (7) days thereafter.

# END USER BANK A/C, KYC AND UPI ID VERIFICATION

* 1. **Merchant** may before transferring Payout amount in End User Bank A/c can opt for End User Bank A/c verification and UPI ID Verification facility from **Cashlesso**. If opted, **Cashlesso** shall provide the following facilities to **Merchant**:
     1. : Bank Validation/Verification

Through IMPS: Merchant will unconditionally authorize Cashlesso to initiate a debit entry to the Merchant's Virtual A/C and credit the End User Bank A/c by INR 1(One) Rupees for account verification purposes. The details of charges if this facility is availed by Merchant are provided in **Annexure “A”** of this agreement.

* + 1. KYC Verification: **Cashlesso** shall not provide the facility of verifying to **Merchant**, whether the End User details shared by **Merchant** are meeting KYC norms in compliance with the relevant extant guidelines of the Reserve Bank of India. It is the explicit prerogative of the **Merchant** to conduct the KYC of the End User. **Merchant** shall provide the KYC details of the End User within 24hours of being sought by **Cashlesso.**

6.1.3: UPI ID Verification: **Cashlesso** shall provide the facility of verifying to the **Merchant**, whether the End User details shared by **Merchant** have UPI ID and validate the same to the **Merchant**. The details of charges if this facility is availed by Merchant are provided in **Annexure “A”** of this agreement.

# ACKNOWLEDGEMENTS, REPRESENTATIONS, WARRANTIES AND COVENANTS

* 1. Both parties acknowledge that:
     1. **Cashlesso** is only providing a system (including software, applications, API, user Interface) connectivity to **Merchant** and other technical support.
     2. **Cashlesso** has no role in deciding any kind of modalities pertaining to the Payouts intimated by **Merchant** to **Cashlesso** for pay-outs to the End Users.
     3. **Cashlesso** services are on the best effort basis and that **Cashlesso** is committed for the best user experience.
     4. **Cashlesso** makes no claim or warranty that services will be error free or uninterrupted. **Merchant** understand and acknowledges that there may be downtime, network congestion, outages, maintenance, or such other events beyond the reasonable control of **Cashlesso** and that **Cashlesso** shall not be responsible for the same.
     5. **Cashlesso** specifically prohibits the **Merchant** from making any representation, misrepresentation, warranty, covenant or agreement with respect to any of **Cashlesso's** services
     6. **Merchant** shall not use **Cashlesso’s** logo in any manner except (i) in the email campaign, marketing promotion, PR activity to be done by **Merchant** in connection with this Agreement (ii) to promote the Pay-out feature as may be approved by **Cashlesso** from time to time in writing. **Merchant** hereby agrees and undertake not to use the **Cashlesso's** logo in any other manner for any other purposes as specified above without prior approval from **Cashlesso**. **Merchant** shall use **Cashlesso's** Logo on as is basis as provided by Cashlesso and shall not alter, change, modify, add Cashlesso's logo in any manner, failure to which shall constitute material breach by **Merchant** and allow **Cashlesso** to get recourse and take appropriate legal action and terminate this Agreement.
  2. Each Party represents, warrants and covenants that it has the full power and authority to enter into this Agreement. Either Party’s execution of and performance under this Agreement will not breach any agreement (oral or written) with any third party or other obligation of Either Party to any third party to keep any information or materials in confidence. Both the Parties represent and warrants and covenants that they have all necessary regulatory approvals, licenses, consents and or permits applicable to its business and activities and maintain the same during the Term and shall remain compliant to any applicable law.

# INDEMNIFICATION

* 1. **Indemnification by Merchant**: Merchant shall indemnify, defend and hold harmless **Cashlesso** and its related entities from and against all losses, damages, liability, claims, costs, penalty and expenses arising from or in connection with (a) any breach of terms as mentioned under this Agreement; (b) all third-party claims brought against **Cashlesso** arising from or in connection with **Merchant’s** receipt of and use of services hereunder and (c) non-compliance with applicable laws (d) negligence (e) misconduct and (g) fraud.

# LIMITATION OF LIABILITY

* 1. Except for any liability which cannot by law be excluded or limited, no Party shall be liable to other Party or any other third party claiming through other Party for indirect, incidental, special, punitive or consequential damages, royalty, including without limitation, damages for loss of profits, business interruption, loss of goodwill or unauthorized access to information incurred by the other Party arising out of, or relating to the use of the services and, whether framed as a breach of warranty, in tort, contract, or otherwise even if a Party has been advised of the possibility of such damages.
  2. Notwithstanding anything to the contrary, except for breach of applicable law or fraud, a) either Party’s liability in contract, tort or otherwise (including negligence) howsoever arising out of or in connection with this Agreement shall not exceed, in total, regardless of the number of claims, in respect of all matters, shall be restricted to a maximum of the Commission paid under this Agreement by the **Merchant** to **Cashlesso** for concerned Transaction(s) or Rs. 3000 (Rupees Three Thousand Only) whichever is higher. However, this shall not limit the liability of either Party to pay any amounts that are due and payable under this Agreement.

# CONFIDENTIAL INFORMATION

* 1. Confidential Information. Each Party shall comply with its obligations under this Article 10 with respect to the other Party’s Confidential Information (as defined below). In the case of **Merchant**, **“Confidential Information”** means any information obtained by **Cashlesso** or any **Cashlesso's** Personnel (or to which any of them has access) in connection with this Agreement that relates to the past, present or future business activities of the **Merchant**, and/or its employees, End Users, third party service providers and/or contractors, products and/or developments, including all intellectual property owned by **Merchant** (including but not limited to the database of users), this Agreement, any records maintained hereunder, any mobile numbers and any information relating to the applicable **Merchant’s** (or person’s) plans, pricing, methods, methodologies, processes, financial data, lists, intellectual property rights, and or End User information. In the case of **Cashlesso**, **“Confidential Information”** means the following that **Cashlesso** provides to **Merchant** in connection with this Agreement and designates in writing as Confidential Information: (a) **Cashlesso's** proprietary information, software code, development tools, algorithms and/or technology created by or for **Cashlesso** prior to and independent of the provision of the applicable services/products, and (b) proprietary information, software code and/or technology owned by a third party and provided by **Cashlesso** to **Merchant** (c) business and, financial information, business plans, marketing, future developments, product developments, files, memoranda, either in tangible or intangible form irrespective of the medium in which such information has been disclosed, whether before or after the date of this Agreement, either directly or indirectly.
  2. Exceptions. Confidential Information does not include any particular information to the extent that the receiving Party can demonstrate that such information (a) is or becomes publicly available other than via an unauthorized act/omission by the receiving Party, its employees, affiliate(s), agents or subcontractors, (b) was publicly available before the initial disclosure of such information to the receiving Party in connection with the applicable Agreement (the “Time of Receipt”), (c) was known to the receiving Party free from any obligation to keep it confidential prior to the Time of Receipt, (d) was independently developed by the receiving Party without any use of Confidential Information of the disclosing Party, or (e) was rightfully obtained by the receiving Party from a third party lawfully in possession of the Confidential Information who is not bound by confidentiality obligations with respect to such information.
  3. Treatment of Confidential Information. Each Party will hold all confidential information of the other Party in trust and confidence for the other Party and, except as set forth in this Agreement or as authorized by the other Party in writing, will not disclose to any person, firm or enterprise, or use (other than to exercise its rights or perform its obligations under this Agreement) any of the other Party’s confidential information. Each Party will treat the other Party’s confidential information with the same degree of care that it treats its own confidential or proprietary information, but in no event using less than a reasonable standard of care. Each Party may disclose the other Party’s confidential information if required to do so under applicable law, regulation, order, subpoena or document discovery request, from an authority of competent jurisdiction or if otherwise legally compelled to so disclose, disclosure of such information to the extent legally compelled shall be made without liability.

# GENERAL

* 1. **Entire Agreement**. This Agreement will constitute the entire agreement between such Parties with respect to its subject matter, superseding all previous agreements, promises, proposals, representations, understandings and negotiations, whether written or oral, between such Parties pertaining to such subject matter.
  2. **Severability.** If any provision of this Agreement is to any extent held invalid, void or unenforceable by a court of competent jurisdiction, such provision will be deemed modified to the least degree necessary to remedy such invalidity (as long as such modification does not materially adversely affect either Party’s rights or obligations under this Agreement, the remainder of this Agreement will not be impaired or affected thereby, and each other term, provision and part will continue in full force and effect, and will be valid and enforceable to the fullest extent permitted by applicable law.
  3. **Amendment.** No amendment (including any modification or supplement) to this Agreement will be valid unless it is in writing and signed by authorized representatives of the Parties and executed as addendum to this agreement.
  4. **Force Majeure**. Neither Party will be deemed to be in default of or to have breached any provision of this Agreement to the extent performance of its obligations or attempts to cure any breach are delayed or prevented as a result of any natural disaster, casualty, act of God, riot, terrorism, fire, strike, lockout governmental act or other event of a similar nature beyond such Party’s reasonable control and to which it did not contribute including change in any regulations, norms or laws (each, a “**Force Majeure Event**”). Provided that if such Force Majeure Event continues beyond a period of 60 (sixty) days, the unaffected Party shall have a right to terminate this Agreement.
  5. **Waiver.** A waiver of rights under any this Agreement will not be effective unless it is in writing and signed by the Party. At no time will any failure or delay on the part of any Party in exercising any right or remedy provided in this Agreement operate as a waiver thereof, nor will any single or partial exercise of or failure to exercise any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy provided herein or available at law or in equity. The waiver by any Party of any breach shall not prevent a subsequent exercise of such right or be deemed a waiver of any subsequent breach of the same or any other provision of this Agreement.
  6. **Survival.** Any provision of this Agreement that contemplates performance, application or observance subsequent to termination or expiration of this Agreement will survive termination or expiration of this Agreement, as applicable, and continue in full force and effect thereafter.
  7. **Assignment.** Neither Party may assign its rights or obligations under this Agreement to any third Party without prior consent to the other party.
  8. **Notices**. All formal notices and communications relating to this Agreement will be in writing and will be effective when delivered personally, by courier or by registered mail with return receipt requested to or sent by facsimile or by e-mail at the following address:

Cashlesso: legal@cashlesso.com

Merchant:

* 1. **Governing Law and Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of India and Parties irrevocably consent to the exclusive jurisdiction of courts located at Gurugram, Haryana over any dispute hereunder.

IN WITNESS whereof the Parties have hereunto set and subscribed their respective hands on the date first hereinabove written.

|  |  |  |  |
| --- | --- | --- | --- |
| **For**  **DINERO PAYMENT SERVICES PRIVATE LIMITED** | | **For**  **<Merchant> PRIVATE LIMITED:** | |
| **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **(Signature) Name: Title:**  **Witness 1: In the presence of:**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Name:**  **Address:** | | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **(Signature) Name:**  **Title:**  **Witness 2:**  **In the presence of:**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Name:**  **Address:** | |
|  | |  | |

# ANNEXURE A

|  |  |
| --- | --- |
| Entity Name |  |
| Entity Address |  |
| Nature of Entity (Sole proprietorship/ Partnership/ Private limited/Trust/LLP/ Others pl. specify) |  |
| Nature of Industry Entity is operating in (Nature of products/services sold) |  |
| Initial Deposit (If any) |  |

**COMMERCIALS/FEES (TO BE READ WITH THE AGREEMENT)**

**Merchant shall pay to Cashlesso, commission/ Service Fee as per the below structure:**

A. For End User Bank Account Transfer (Disbursal Deduction) :

|  |  |  |
| --- | --- | --- |
| S.No | Mode | Payout Charges |
| 1. | All Modes | Per payout- INR 10 +Taxes |

\*Taxes Extra

B. For Verification/Validation Facility (Disbursal Deduction):

|  |  |
| --- | --- |
| S.No | Charges |
| a. Bank Validation charges (Per A/c)  (Penny Drop Facility) | NA |
| b. Bank Validation Charges (Per A/c)  (Through Caching) | NA |
| c. KYC Verification Charges (Per A/c) | NA |
| d. UPI ID Verification Charges (Per A/c) | NA |

\*Taxes Extra

C.For API Integration and Setup Fee (Upfront Deduction):

|  |  |  |
| --- | --- | --- |
| S.No 1 | API Integration and Setup Fee | NA |

\*Taxes Extra

**On Behalf of**

**<Merchant> PRIVATE LTD**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(**Signature**)  
 Name:  
 Title: