**PAY-OUT AGREEMENT**

THIS AGREEMENT is made at Gurugram, HARYANA on the date of its execution by and between

**DINERO PAYMENT SERVICES PRIVATE LIMITED**, a company incorporated under Companies Act 2013 and the prescribed laws of India bearing CIN U74110HR2019PTC082363, 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 2013 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 the **Merchant** are hereinafter collectively referred to as “Parties” and individually as “Party”.)

**WHEREAS:**

1. Merchant is engaged in the business of <Description of your business>.
2. Merchant has approached Cashlesso for the 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 the specific instructions and directives of the Merchant 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:

1. **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 website/application/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, RTGS and 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 instructions of the 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.
2. **TERM AND TERMINATION**
	1. 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. 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. 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. 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.
3. **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 be available to provide technical support between 10:00 AM to 6:00 PM to the 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.
4. **OBLIGATIONS OF MERCHANT**
	1. Merchant understands that Merchant alone shall decide the amount/value of Payout 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/value 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 of Cashlesso.
	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.
5. **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 Payout to the End User Bank A/c through the Merchant's Virtual Account.
	2. As mutually agreed by both Parties, all applicable taxes, or any other indirect taxes including cess shall stand be deducted/charged from the Merchant.
	3. The details of 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 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.
6. **END USER BANK A/C, KYC AND UPI ID VERIFICATION**
	1. Merchant before transferring Payout amount to the End User Bank A/c may 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: 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.
		2. 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.
	2. 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.
7. **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 including but not limited to seeking damages and terminating this Agreement with immediate effect.
	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.
8. **INDEMNIFICATION**

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.

1. **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.
2. **CONFIDENTIAL INFORMATION**
	1. Each Party shall comply with its obligations under this Clause 10 with respect to the other Party’s Confidential Information (as defined below).
		1. 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.
		2. 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.
3. **GENERAL TERMS**
	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. Non-Solicitation: Merchant or the Sub-merchant shall not initiate contact, solicit or communicate directly or indirectly with any employee and or associate of Cashlesso or any of its affiliates for any purposes other than that related to the services provided under this agreement for anyemployment or any other benefit and this provision shall remain in force for the duration of thisagreement and eighteen (18) months post the termination of this agreement.
	3. 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.
	4. 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.
	5. 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, pandemic, 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.
	6. 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.
	7. 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.
	8. Assignment: Neither Party may assign its rights or obligations under this Agreement to any third Party without prior consent to the other party.
	9. 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 hereto have executed this Agreement on the day, month and year first herein below mentioned

**For For**

**DINERO PAYMENT SERVICES PVT. LTD. <Merchant> PVT. LTD.**

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

 (Signature) (Signature)

**Name: Name:**

**Title: Title:**

**Witness 1: Witness 2:**

In the presence of: In the Presence of:

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Name: Name:**

**Address: Address:**

# **ANNEXURE “A”**

|  |  |
| --- | --- |
| Entity Name |  |
| Website URL |  |
| 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 (Per PayOUT) |
| 1 | IMPS/NEFT/RTGS | Between Rs. 1 – Rs. 1,000: Rs 9 + GSTBetween Rs. 1,001 - Rs. 10,000: Rs. 13 + GSTAbove Rs. 10,000: Rs. 15 + GST  |

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

|  |  |
| --- | --- |
| **Particular** | **Charges** |
| Bank Validation charges (Per A/c) (Penny Drop Facility) | NA |
| Bank Validation Charges (Per A/c) (Through Caching) | NA |
| KYC Verification Charges (Per A/c) | NA |
| UPI ID Verification Charges (Per A/c) | NA |

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

|  |  |
| --- | --- |
| API Integration and Setup Fee | NA |

**On Behalf of**

**<Merchant> PRIVATE LTD**

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

 (**Signature**)
 Name:
 Title: