

Direct Selling Agent Agreement

THIS AGREEMENT (the "Agreement") is made on [__/__/____], by and between PAYON E-SERVICES PRIVATE LIMITED, a Company incorporated under the provisions of the Companies Act, 2013 and having its registered office at Manpur West Dewalchaur Haldwani, Nainital, Uttarakhand, India, 263139 (the "Company") and S/o..... R/o..... (the "Direct Selling Agent").

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Definitions

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

- A. "Goods" means goods as defined in the Sale of Goods Act, 1930 and "Service" means service as defined in the Consumer Protection Act, 1986.
- B. "Territory" shall be allocated during time of engagement by the Company in writing to the Direct Selling Agent. Any change in "Territory" shall be communicated by the Company in writing to the Direct Selling Agent from time to time.
- C. "Direct Selling Agent" means a person appointed or authorized, directly or indirectly, by a Direct Selling Entity through a legally enforceable written contract to undertake direct selling business on principal to principal basis.

2. Appointment

Company hereby appoints Direct Selling Agent as its non-exclusive selling agent for the goods/services in the territory, and Direct Selling Agent hereby accepts such appointment. Direct Selling Agent's sole authority shall be to solicit customers for the goods/services in the territory in accordance with the terms of this agreement. Direct Selling Agent shall not have the authority to make any commitments whatsoever on behalf of Company.

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Direct Selling Agent Signature

3. General Duties

Direct Selling Agent shall use his best efforts to promote the goods/services and maximize the sale of the goods/services in the territory. Direct Selling Agent shall also provide reasonable assistance to Company in promotional activities in the territory. Direct Selling Agent will assist the company by taking part in all promotional events; use the marketing inputs judiciously for maximizing orders for the company.

4. Reserved Rights

Company reserves the right to solicit/engage other Agents, Direct Selling Agents directly from businesses within the territory. Direct Selling Agent's task is to solicit customers from all potential businesses in the territory.

5. Conflict of Interest

Direct Selling Agent warrants to Company that it does not currently represent or promote any Goods/services that compete with the Company's Goods/services. During the term of this Agreement, Direct Selling Agent shall not represent, promote or otherwise try to sell within the Territory any Goods/services that, in Company's judgment, compete with the Goods/services covered by this Agreement.

6. Independent Contractor

Direct Selling Agent is an independent contractor, and nothing contained in this Agreement shall be construed to (i) give either party the power to direct and control the day-to-day activities of the other, (ii) constitute the parties as partners, joint ventures, co-owners or otherwise, or (iii) allow Direct Selling Agent to create or assume any obligation on behalf of Company for any purpose whatsoever. Direct Selling Agent is not an employee of Company and is not entitled to any employee benefits. Direct Selling Agent shall be responsible for paying all income taxes and other taxes charged to Direct Selling Agent on amounts earned hereunder. All financial and other obligations associated with Direct Selling Agent's business are the sole responsibility of Direct Selling Agent.

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Direct Selling Agent Signature

7. Indemnification by Direct Selling Agent

Direct Selling Agent shall indemnify and hold Company free and harmless from any and all claims, damages or lawsuits (including reasonable attorneys' fees) arising out of negligence or malfeasant acts of Direct Selling Agent or misrepresentation or breach of any obligations under this agreement.

8. Commission

A. Sole Compensation

The Company shall pay the Direct Selling Agent a commission at such rate as may be communicated by the Company in writing to the Direct Selling Agent, for whole or part of the goods/services hereto, based on the Maximum Retailing Price of the product as fixed by the company on every new order. This commission will be subjected to the relevant taxes as applicable. The Company reserves its right to revise the rate of commission from time to time and the same shall be intimated to the Direct Selling Agent in writing by the Company.

B. Basis of Commission

The Commission shall apply to all sales orders from customers solicited by Direct Selling Agent. (Customers defined as an individual or a company who have bought the product/goods/services from the Direct Selling Agent for their own use.) No commissions shall be paid on (i) orders solicited directly by Company within the Territory; (ii) orders received from outside the Territory unless otherwise agreed in writing by Company. (iii) No commission will be paid to the Direct Selling Agent until 100% payment pertaining to the order is received. The company reserves the right to change the commission / prices on products as and when required.

C. Time of Payment

The commission on all PAID ORDERS shall be payable at the time period decided by the Company after the Direct Selling Agent raises invoice. The Company reserves its rights to change the time period of commission PAID ORDERS. The Direct Selling Agent undertake that the Company shall not be liable for the any direct or indirect loss or damages for the reason of change in the time period of commission PAID ORDERS.

D. Monthly Statements

The Direct Selling Agent shall submit to the company the monthly statements of commissions due and payable to Direct Selling Agent under the terms of this Agreement.

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Direct Selling Agent Signature

9. Sale of the Goods/services

A. Prices and Terms of Sale

Company shall provide Direct Selling Agent with copies of its current market price and this is subject to change and the sole discretion of the same lies with the company, its payment schedules, and all Rules and Regulations and other material available for sales presentation and customer's information. Direct Selling Agent shall quote to Customers only those authorized prices, payment schedules, and terms and conditions as informed by Company.

B. Acceptance

All requests for service obtained by Direct Selling Agent shall be subject to acceptance by Company and all quotations by Direct Selling Agents shall contain a statement to that effect. Direct Selling Agents shall have no authority to make any acceptance or commitments to customers. Company specifically reserves the right to reject any request for service or any part thereof for any reason; Company shall inform Direct Selling Agent of any written acceptances on commissionable applications/orders.

C. Collection

Full responsibility for collection of payment from customers rests with Direct Selling Agent.

10. Additional Responsibilities of Direct Selling Agent

- A. Direct Seller engaged in direct selling should carry their identity card and not visit the customer's premises without prior appointment/approval;
- B. At the initiation of a sales representation, without request, truthfully and clearly identify themselves, the identity of the direct selling entity, the nature of the goods or services sold and the purpose of the solicitation to the prospective consumer;
- C. Offer a prospective consumer accurate and complete explanations and demonstrations of goods and services, prices, credit terms, terms of payment, return policies, terms of guarantee, after-sales service;
- D. Provide the following information to the prospect / consumers at the time of sale, namely:
 - a) Name, address, registration number or enrollment number, identity proof and telephone number of the direct seller and details of direct selling entity;
 - b) A description of the goods or services to be supplied;
 - c) Explain to the consumer about the goods return policy of the company in the details before the transaction;
 - d) The Order date, the total amount to be paid by the consumer along with the bill and receipt;

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- e) Time and place for inspection of the sample and delivery of good;
 - f) Information of his/her rights to cancel the order and / or to return the product in saleable condition and avail full refund on sums paid;
 - g) Details regarding the complaint redressal mechanism;
- E. Direct seller shall keep proper book of accounts stating the details of the products, price, tax and the quantity and such other details in respect of the goods sold by him/her, in such form as per applicable law.
- F. A direct seller shall not:
- a) Use misleading, deceptive and / or unfair trade practices;
 - b) Use misleading, false, deceptive, and / or unfair recruiting practices, including misrepresentation of actual or potential sales or earnings and advantages of Direct Selling to any prospective direct seller, in their interaction with prospective direct sellers;
 - c) Make any factual representation to a prospective direct seller that cannot be verified or make any promise that cannot be fulfilled;
 - d) Present any advantages of Direct Selling to any prospective direct seller in a false and / or a deceptive manner;
 - e) Knowingly make, omit, engage, or cause, or permit to be made, any representation relating to the Direct Selling operation, including remuneration system and agreement between the Direct Selling entity and the direct seller, or the goods and / or services being sold by such direct seller which is false and / or misleading;
 - f) Require or encourage direct sellers recruited by the first mentioned direct seller to purchase goods and / or services in unreasonably large amounts;
 - g) Provide any literature and / or training material not restricted to collateral issued by the Direct Selling entity, to a prospective and / or existing direct sellers both within and outside the parent Direct Selling entity, which has not been approved by the parent Direct Selling entity;
 - h) Require prospective or existing direct sellers to purchase any literature or training materials or sales demonstration equipment.
- G. Direct Selling Agent shall bear the cost and expense of conducting its business in accordance with the terms of this Agreement. This would include salaries for the staff of the Direct Selling Agent who are engaged in the business of selling the products of the Company, expenses related to communications, telecommunication, mailing, conveyance and business entertainment if required. The company will not entertain any re-imburement on any expense made by the Direct Selling Agent other than the commissions.

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- H. Direct Selling Agent shall make efforts to promote the sale of and stimulate demand for the Goods/services within the Territory by direct solicitation. In no event shall Direct Selling Agent make any representation, guarantee or warranty concerning the Goods/services except as expressly authorized by Company. The Company will take care of all online promotions on their website and ensure lead generations. Use of company logo, product logo, any advertising / promotion / marketing activity conceived originally by the Direct Selling Agent should be first approved in writing by Payon E-Services Private Limited before being implemented.
- I. Direct Selling Agent shall inform and assist customers on Company's Goods/services, and shall perform such additional customer goods/services by e-mail, phone and fax, whenever needed, as good salesmanship requires and as Company may reasonably request.
- J. Direct Selling Agent shall notify Company of any Customer's complaints regarding either the Goods/services or Company and immediately forward to Company the information regarding those complaints.

11. Additional Obligations of Company

A. Assistance in Promotion

Company shall, at its own expense, promptly provide Direct Selling Agent with marketing and technical information, training concerning the Goods/services, brochures, instructional material, advertising literature, and other product data.

B. Assistance in Technical Problems

Company shall, at its own expense, assist Direct Selling Agent and customers of the Goods/services in all ways deemed reasonable by Company in the solution of any problems relating to the Goods/services.

C. New Developments

Company shall inform Direct Selling Agent of new Products or Goods/services that are competitive with Company's Products Goods/services and other market information and competitive information as discovered from time to time.

12. Trademarks and Trade Names

During the term of this Agreement, Direct Selling Agent shall have the right to indicate to the public that it is an authorized Direct Selling Agent of Company's Goods/services. Nothing herein shall grant Direct Selling Agent any right, title, or interest in Company's Trademarks. At no time during or after the term of this Agreement shall Direct Selling Agent use or attempt to use any of the Company's Trademarks or Trade Names without the prior written consent of the Company.

Company Stamp and Signature _____ Direct Selling Agent Signature _____

Agreement shall Direct Selling Agent challenge or assist others to challenge Company's Trademarks or the registration thereof or attempt to register any trademarks, marks or trade names confusingly similar to those of Company.

13. Non-Compete

For a period of [12 months] after the Direct Selling Agent is no longer in agreement with the Company, the Direct Selling Agent will not, directly or indirectly, either as proprietor, stockholder, partner, officer, employee or otherwise, distribute, sell, offer to sell, or solicit any orders for the purchase or distribution of any products or goods/services which are similar to those distributed, sold or provided by the Company.

14. Term and Termination

A. Term. This Agreement shall commence on the date first written above for a period of [1 years] unless terminated earlier as provided herein below.

B. Cooling off period. Either party to this agreement shall have the right to terminate this agreement with or without cause with a thirty (30) days written notice to the other party.

C. Buy-back or repurchase policy. If the products delivered by the company do not meet with the expectation of the direct seller, the company allows the buy back or repurchase the said product on the request of the direct seller, provided such products should be in the unused state.

D. This agreement will be reviewed by the company after a period of [3 months]. Any Direct Selling Agent not performing to the full satisfaction of the company in terms of securing new orders and company's policies is liable to be terminated.

15. Limitation on Liability

In the event of termination by either party in accordance with any of the provisions of this Agreement, neither party shall be liable to the other, because of the termination for compensation, reimbursement or damages on account of the loss of prospective profits or anticipated sales or on account of expenditures or commitments in connection with the business or goodwill of Company or Direct Selling Agent.

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Direct Selling Agent Signature

16. Confidentiality

Direct Selling Agent 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/goods/services that is confidential and of substantial value to Company, which value would be impaired if such information were disclosed to third parties. Direct Selling Agent agrees that it 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 it by the Company.

Company shall advise Direct Selling Agent whether or not it considers any particular information or materials to be confidential. Direct Selling Agent shall not publish any description of the Products/Goods/services beyond the description published by Company and without the prior written consent of the Company. In the event of termination of this Agreement, there shall be no use or disclosure by Direct Selling Agent of any confidential information of Company.

17. Governing Law and Jurisdiction

This Agreement will be governed by and construed in accordance with the laws of Republic of India. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the Nainital High Court, Uttarakhand.

18. 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.

19. Non-Assignability and Binding Effect

A mutually agreed consideration for Company's entering into this Agreement is the reputation, business standing, and goodwill already honored and enjoyed by Company under its present ownership, and, accordingly, Direct Selling Agent agrees that its rights and obligations under this Agreement may not be transferred or assigned directly or indirectly. Subject to the foregoing, this Agreement shall be binding upon and insure to the benefit of the parties hereto, their successors and assigns.

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20. 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.

21. Waiver, Severability & Entire Agreement

Waiver: The failure of Company to enforce any right or provision of these Terms will not be deemed a waiver of such right or provision.

Severability: In the event that any provision of these Terms is held to be invalid or unenforceable, then that provision will be limited or eliminated to the minimum extent necessary, and the remaining provisions of these Terms will remain in full force and effect.

Entire Agreement: These Terms and our Privacy Policy and Content Guidelines are the entire and exclusive agreement between Company and you regarding the Service (excluding any services for which you have a separate written agreement with Company that is explicitly in addition or in place of these Terms), and these Terms supersede and replace any prior agreements between Company and you regarding the Services.

22. Notification of Changes to Terms of Service.

Whenever we change our Terms, we will post those changes to our Terms of Service page, and other places we deem appropriate so that our users are aware of what information we collect, how we use it, and under what circumstances, if any, we disclose it. By continuing to use the service, you agree and accept the changes and agree to the Terms

23. Privacy:

We care about the privacy of our users. You understand that by using the Service you consent to the collection, use, and disclosure of your personally identifiable information (see “Information Sharing” below) and aggregate data as set forth in our Privacy Policy, and to have your personally identifiable information collected, used, transferred to and processed in India and abroad among The Company and its associate Companies.

24. Warranty, Disclaimer, and Limitations of Liability

Your access to and use of the Service or any Content is at your own discretion. SERVICES ARE AVAILABLE “AS IS”: YOU UNDERSTAND AND AGREE THAT THE SERVICE IS PROVIDED TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS. WITHOUT LIMITING THE FOREGOING, TO THE FULL EXTENT PERMITTED BY LAW, KIND A DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT

Limitation of Liability: TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COMPANY, ITS DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, AGENTS, SUPPLIERS, AND/OR DISTRIBUTORS SHALL NOT BE LIABLE FOR:
(A) ANY INDIRECT, INCIDENTAL, EXEMPLARY PUNITIVE, OR CONSEQUENTIAL DAMAGES

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OF ANY KIND WHATSOEVER; (B) LOSS OF: PROFITS, REVENUE, DATA, USE, GOOD-WILL, OR OTHER INTANGIBLE LOSSES; (C) DAMAGES RELATING TO YOUR ACCESS TO, USE OF, OR INABILITY TO ACCESS OR USE THE SERVICES; (D) DAMAGES RELATING TO ANY CONDUCT OR CONTENT OF ANY THIRD PARTY OR SUBSCRIBER USING THE SERVICES, INCLUDING WITHOUT LIMITATION, DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OR CONTENT; AND/OR (E) DAMAGES IN ANY MANNER RELATING TO ANY CONTENT. THIS LIMITATION APPLIES TO ALL CLAIMS, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, WHETHER OR NOT COMPANY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, AND FURTHER WHERE A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL LIABILITY OF COMPANY AND ITS DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, AGENTS, SUPPLIERS, AND/OR DISTRIBUTORS, FOR ANY CLAIM UNDER THIS AGREEMENT, INCLUDING FOR ANY IMPLIED WARRANTIES, IS LIMITED TO THE AMOUNT YOU PAID US TO BUY THE APPLICABLE SERVICE(S).

25. Alternate Dispute Resolution and Arbitration

If a legal disagreement arises between the Company and Direct Selling agents, both parties agree to resolve it by first mediation and then if the disagreement are not resolved by a binding arbitration. Any arbitration proceedings will be held at the location of The Company offices.

26. Headings

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

For Company,
PAYON E-SERVICES PRIVATE LIMITED

Date:

Place:

For Direct Selling Agent,

Name:

Address:

Company Stamp and Signature

Direct Selling Agent Signature