

## CONSUMER TERMS & CONDITIONS

THIS DOCUMENT IS AN ELECTRONIC RECORD IN TERMS OF THE INFORMATION TECHNOLOGY ACT, 2000 AND RULES MADE THEREUNDER. THIS ELECTRONIC RECORD IS GENERATED BY A COMPUTER SYSTEM AND DOES NOT REQUIRE ANY PHYSICAL OR DIGITAL SIGNATURES. THESE CONSUMER TERMS AND CONDITIONS WERE UPDATED ON July 21, 2016 (hereinafter referred as the "**Agreement**" / "**Terms of Use**").

### 1. INTRODUCTION ON THE SCOPE OF THIS TERMS AND CONDITIONS

- 1.1. "**PayNearBy Services**" is a digital financial facilitation service provided by Nearby Technologies Private Limited, a company incorporated under the Companies Act, 2013 and having its registered office at 404 Samarpan Complex, New Link Road, Chakala, Andheri (East) 400099 (hereinafter referred to as the "**Company**", which expression shall unless repugnant to the context or meaning thereof mean and include its successors and permitted assigns).
- 1.2. Under PayNearBy Services, Company inter-alia provides digital /technological financial solutions to its customers in India by facilitating dissemination of digital financial services provided by various service providers including but not limited to services like financial inclusion services in partnership with banks as business correspondent, distribution of financial products and services including loans, insurance products, investment services, issuance and sales of wallets and prepaid cards and non-financial nature products and services through the Platform in collaboration with various partners including banks, non-banking finance companies, mutual fund partners, insurance partners etc. ("**Company Services**").
- 1.3. The terms and conditions subject to which Company Services are provided to the Consumers (as defined below) are mentioned herein and the use of Company Service by Consumers is subject to this Consumers' acceptance of the following terms and conditions (as may be amended from time to time) ("**Agreement**" / "**Terms of Use**").
- 1.4. As an Applicant (as defined below), You may apply to open a Pay Nearby membership account (hereinafter referred as "**Membership Account**" / "**PayNearby Account**") and avail "**Company Services**" by: (a) depending on online or offline channel of registration of the Applicant, providing its details in the prescribed application format ("**CAF**") either by himself or with the assistance from the Retail Partner on this Platform (as defined below); and (b) by accepting and subscribing this Terms of Use by clicking on "**I Agree**" button at the end of this Terms of Use (below). ***Your acceptance of these terms and conditions shall be unconditional and without any limitation or qualification.***
- 1.5. PLEASE CAREFULLY READ THESE TERMS OF USE. BY PROVIDING YOUR CONSENT AND/OR USING THIS PLATFORM YOU INDICATE YOUR UNDERSTANDING AND ACCEPTANCE OF THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE TO THESE TERMS OF USER YOU MAY NOT USE THIS PLATFORM.
- 1.6. You understand, agree and acknowledge that Your setting up of Membership Account, use of Company Services, use of this Platform, Website and/or Company Services including all information, tools and services available from this Platform to You is conditioned upon Your acceptance of all terms, conditions, policies and notices stated here, the terms whereof are subject to change at any time, without prior notice to You. Any new features or tools which are added to the current Platform shall also be subject to this Terms of Use. To ensure that You are aware of the changes, please review this Terms of Use and all the documents referred to hereunder periodically.

### 2. DEFINITIONS AND INTERPRETATION

- 2.1. In this Terms of Use, unless the contrary intention appears and/or the context otherwise requires, capitalised terms defined by: (i) inclusion in quotations and/ or parenthesis have the meanings so ascribed; and (ii) the following terms shall have the meanings assigned to them herein below:

"**Applicable Law**" includes all applicable Indian statutes, enactments, acts of the state legislature or parliament, laws, ordinances, rules, bye-laws, regulations, notifications, guidelines, directions, directives and orders of any governmental authority, statutory authority, board, recognised stock exchange, as may be applicable including but not limited to Guidelines on Managing Risks and Code of Conduct in Outsourcing of Financial Services by Banks, Business Correspondent Guidelines issued by RBI from time to time, Payment & Settlement Systems Act, 2007, Payment & Settlement Systems Regulations, 2008, Policy Guidelines on Issuance and operation of Pre-paid Payment Instruments in India, and any other guideline in relation to pre-paid cards issued from time to time by Reserve Bank of India and in each case, any implementing regulation or interpretation issued thereunder including any successor Applicable Law;

"**Applicant**" shall mean You or any individual person above the age of [10 (ten)] years, using an operational mobile phone connection, who applies either on his own or approaches Retail Partner at the Retail Outlet locations and/or such other locations, for availing the Company Services;

"**Company Rules**" shall mean policies issued by the Company with respect to its strategic business partners, retail partners, distributors, Consumers including but not limited to the policy on the code of conduct and other sales and management policies as issued on the Website, Platform and/ or otherwise and amended from time to time;

"**Consumer**" shall mean an Applicant who upon submission of the CAF and upon completion of necessary formalities, is found to be eligible by Company as per guidelines issued by RBI (if any), to avail the Company Services and has opened a Membership Account;

"**Financial Services**" shall mean the financial services provided by various service providers to the Consumers utilising the Company Services on the Platform and/or Website including but not limited to domestic money transfer, loading, reloading of pre-paid wallets, sale/ purchase of goods and services including financial and non-financial services by utilising the Company Services either by itself or assisted through a Retail Partner;

"**Governmental Authority**" means any nation, state, sovereign, or government, any federal, regional, state, local or political subdivision and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, constitutionally established and having jurisdiction over any of the parties (to the extent relevant to the transactions contemplated hereby) or the assets or operations of any of the foregoing or the transactions contemplated hereby;

"**INR**" or "**RS**" means Indian Rupees, the lawful currency of the Republic of India;

"**Intellectual Property**" shall mean all intellectual property used for the purpose of or in association with or in relation to providing the Company Services utilising the Platform and includes without limitation, (a) Software, operating manuals, software code, program, instructions, specifications, processes, input methods, data or information used in relation to, in association with or for the operation of the software installed by Company ; (b) the trademarks, service marks, trade names, business names, logos, symbols, styles, colour combinations used by Company during the course of its business and all depictions, derivations and representations thereof; (c) all promotional material including without limitation, advertisements, literature, graphics, images, content and the 'look and feel' of all of the above; and (d) all techniques, formulae, patterns, compilations, processes, inventions, practices, methodology, techniques,

improvement, utility model, procedures, designs, skills, technical information, notes, experimental results, service techniques, samples, specifications of the products or services, labelling specifications, rights on software, and any other knowledge or know-how of any nature whatsoever;

“**KYC Guidelines**” of “**KYC**” shall mean the Know Your Customer (KYC) guidelines as set forth by Governmental Authority including RBI;

“**Full KYC Membership Account**” shall mean the Membership Account operated as per the prescribed regulatory limits for which the Applicant has provided self-attested copies of valid Proof of Identity, Proof of Address and relevant KYC details as per the KYC guidelines;

“**Low KYC Membership Account**” shall mean the Membership Account operated as per the prescribed regulatory limits set forth by the by Governmental Authority including RBI and for which the Applicant has only submitted his name and mobile number;

“**Mobile PIN**” shall mean the secret numeric password made available to the Consumer upon opening up/setting of the Membership Account that will enable the Consumer to secure access and operate their Membership Account;

“**Person**” shall mean any individual (including personal representatives, executors or heirs of a deceased individual) or legal entity, including but not limited to, any partnership, joint venture, corporation, trust, unincorporated organisation, limited liability company, limited liability partnership or Governmental Authority;

“**Platform**” shall mean the Software accessible through the Website;

“**RBI**” shall mean the Reserve Bank of India;

“**Registered Mobile Number**” shall mean the mobile number of the Consumer registered with the Company at the time of opening up / setting up of the Membership Account;

“**Retail Partner**” shall mean the retail partner engaged by the Company for making available the Company Services to the Consumers;

“**Retail Outlet**” shall mean the place of business from where the Retail Partner, upon authorization from the Company, shall utilize and/or make available the Company Services to be utilized by the Consumers;

“**Software**” shall include custom built software that is owned by Company, or software that has been licensed from third party suppliers by Company and in relation to which Company has obtained the right to sub license from such third party suppliers, as modified/ replaced from time to time, that enables Retail Partner to utilize Company Services on communication devices such as computers, mobile phones and other handheld wireless devices etc. as identified by Company from time to time;

“**Related Entities**” shall mean any parent company, subsidiaries, affiliated corporations, partnerships, or joint ventures of the Company; and/or upon instruction of the Consumer on the Platform and/or Website utilising the Company Services;

“**Tax**” or “**Taxes**” shall mean any and all taxes, cess, levies, imposts, duties, charges, deposits, fees, deductions or withholdings that are, or that are to be, imposed, levied, collected, withheld or assessed, together with any and all interest, penalties, claims or other liabilities arising under or relating thereto;

“**Transaction**” shall mean those transactions that have been initiated by the Consumer and/or upon instructions by the Consumer on the Platform and/or Website utilising the Company Services;

“**You**” or “**Your**”; shall mean any natural or legal person who has access to and is using the Platform for the purpose of opening a Membership Account in accordance with the terms of this Terms of Use, including but not limited to such users who have not created a Membership Account and are accessing the Platform without such a Membership Account; and

“**Website**” shall mean and include [www.paynearby.in](http://www.paynearby.in), mobile application of Company, any successor website/ applications, any website of Related Entity or any other channel facilitated and permitted by Company including but not limited to App, any other digital medium including phone, displays, emails, social media interfaces, messaging interfaces, wallet, payment intermediaries using Company’s interface.

#### 1.1. Interpretation

- (i) The terms referred to in this Agreement shall, unless defined otherwise or inconsistent with the context or meaning thereof, bear the meanings ascribed to them under the relevant statute/legislation.
- (ii) Reference to statutory provisions shall be construed as meaning and including references also to any amendment or re-enactment for the time being in force and to all statutory instruments or orders made pursuant to such statutory provisions.
- (iii) Words denoting the singular shall include the plural and words denoting any gender shall include all genders.
- (iv) Headings, subheadings, titles, subtitles to clauses, sub-clauses and paragraphs are for information only and shall not form part of the operative provisions of this Agreement or the annexures hereto and shall be ignored in construing the same.
- (v) References to days, months and years are to calendar days, calendar months and calendar years, respectively.
- (vi) Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next day; the last day of such period is not a day of which Company and/or banking institutions in India are open for general business;.
- (vii) Any reference to “writing” shall include printing, typing, lithography, transmissions by facsimile or in electronic form (including e-mail) and other means of reproducing words in visible form including but not limited to any instructions provided by the Company in the Website and/or the Platform.
- (viii) Any reference to “**intimation**” and “**intimated**” shall include any intimation provided by the Company in the Website and/or the Platform.
- (ix) The words “include” and “including” are to be construed without limitation.
- (x) No provisions shall be interpreted in favour of, or against, any party by reason of the extent to which such party or its counsel participated in the drafting hereof or by reason of the extent to which any such provision is inconsistent with any prior draft hereof.

### 3. **GENERAL CONDITIONS**

- 3.1. Consumer agrees and undertake that it shall utilise the Company Services **only** through the Membership Account in accordance with these Terms and Conditions and relevant regulations.
- 3.2. Company Services can only be availed by an individual who is above the age of 10 (ten) years. For minors, only a Full KYC Membership Account shall be opened, for the same, the minor’s guardian’s consent, KYC details and documents must be submitted along with the corresponding details and upon such minor becoming an adult upon reaching the age of 18 (eighteen) years, KYC documents of such person will replace the KYC documents of the guardian for continuation of the Membership Account.
- 3.3. To avail of the Company Services from any Retail Outlet, the Consumers shall only approach the authorized Retail Partners appointed by Company displaying the requisite brands and logos of Company including but not limited to name of the Company.
- 3.4. The Consumer, at the time of submission of the CAF, confirms that the Consumer is of sound mind.

- 3.5. For Transactions conducted at Retail Outlet, the Consumer acknowledges and understands that it is *solely* responsible for satisfying himself with notifications that the Transactions have been successfully completed. Company will endeavor to inform Consumers of Transactions, however will not be held responsible for notifications not reaching the Consumer.
- 3.6. The Consumer shall immediately contact the Retail Partner and register the complaint and arrange to call the Consumer Contact Centre on the number listed on the Website and register a complaint and shall subsequently also register such complaint in writing or via email or using the form available online or via the form available within the mobile app or through the Retail Partner in the event of any loss, and/or theft in/ of the mobile/mobile phone connection/physical Membership Account card. Company shall not be liable for any unauthorized use of the Platform, Membership Account and/or Company Services.
- 3.7. The Consumer must ensure that the Registered Phone Number has an active connection at all times. The Consumer shall immediately inform Company in writing in the event of any change, cancellation, disruption, termination or surrender of the Registered Phone Number.
- 3.8. The Consumer acknowledges that any information provided to Company with the intention of securing the Membership Account shall vest with Company (as the case may be), and may be used by Company, at its discretion, for any purpose consistent with Applicable Laws.
- 3.9. The Consumer acknowledges that any information submitted by the Consumer while using the Company Services, Platform, Website or the Membership Account may be shared with third parties by Company inter- alia, to facilitate the provision of Company Services.
- 3.10. The Consumer shall not utilise Company Services, Platform, Website or the Membership Account for any purpose that might be construed as contrary or repugnant to Applicable Laws, public policy or for any purpose that is contrary to Company Rules or might prejudice the goodwill of Company and/or Related Entities.

#### 4. **USE OF PASSWORDS, OTP, BENEFICIARY PIN AND MOBILE PIN**

- 4.1. For ensuring the security and unique identity of the Consumers while availing Company Services for facilitating Transactions, the Company has provided for the following:
  - 4.1.1. At the time of setting up a Membership Account, Company shall provide a secret Mobile PIN to the Consumer;
  - 4.1.2. Consumer can access its Membership Account upon logging in with its Registered Mobile Number and /or its Mobile PIN in certain cases;
  - 4.1.3. In case of domestic money transfer, the Consumer shall at the time of adding the beneficiary for such transfer would be provided a secret and unique password (“**Beneficiary PIN**”) and the beneficiary for such transfer can only be registered in the Membership Account after providing the Beneficiary PIN (“**Registered Beneficiary**”).
  - 4.1.4. Upon registration of the Registered Beneficiary, any transfer to the Registered Beneficiary can be made by the Consumer by logging on to its Membership Account with its Registered Mobile Number without the requirement of any additional password including but not limited to Mobile PIN and/or Registered Beneficiary.
  - 4.1.5. Notwithstanding the generality of the forgoing, in the event that the Consumer forgets the Beneficiary PIN and/or Mobile PIN, upon its request in the Platform, a new password for facilitating the Transactions shall be generated subject to any additional verification requirements if required by the Company.
- 4.2. Consumers acknowledges that the process set out in Clause 4.1.1 to Clause 4.1.5 (above) are necessary for ensuring the security and convenience of Transactions and accordingly gives its unconditional consent to the provisions set out in Clause 4.1.1 to Clause 4.1.5 (above).
- 4.3. The Consumer shall be the sole and exclusive owner of the Mobile PIN/ and/or Beneficiary PIN and/or password and/or Card PIN and/or OTP (hereinafter referred as “**Password(s)**”). The Consumer shall accept sole responsibility for use, confidentiality and protection of the Passwords. The Consumer shall not disclose the Passwords to any other Person and shall not respond to any unauthorized SMS/ e-mail/ phone call asking for the Passwords. Company shall, in no manner whatsoever, be held responsible or liable, if the Consumer incurs any loss as a result of any Password being disclosed/ shared by the Consumer with any unauthorized Person or in any other manner whereby the security of the Password is compromised.

#### 5. **Transactions**

- 5.1. Upon setting up of the Membership Account, the Consumer will become eligible to undertake Financial Services on the Platform provided by the financial institutions including but not limited to non-banking financial companies, banks, other payment systems as authorised to provide Financial Services under Applicable Laws (“**Financial Service Providers**”).
- 5.2. The Consumer hereby understands and acknowledges that the Company is not the provider of the Financial Services. Accordingly, the Consumer acknowledges and agrees that the Company does not warrant, endorse, guarantee, or assume responsibility for any product or service advertised or offered by a third party including the Financial Services being provided by Financial Service Providers utilizing Company Services or Platform or any hyperlinked website or service.
- 5.3. The Consumer hereby understand and acknowledge that in addition to this Terms of Use, the Financial Services Providers may have their separate terms and conditions with respect to availing Financial Services. Accordingly, the Consumer understands and acknowledges that it may have to agree to such separate terms and conditions for availing certain Financial Services for undertaking Transactions. The additional conditions with respect to issue and loading of “**pre-paid instruments**” is set out in **Annexure 1** of this Terms of Use.

#### 6. **CHARGES**

Usage and operation of the Merchant Account is subject to payment of service charges prescribed by Company on the Platform and/or Website and as amended from time to time. In the event of Transactions at the Retail Outlets, the Consumer shall be liable to pay to the Retail Partner, the service fee for assisting and facilitating the Transaction on the Platform and/or Website utilising the Company Services. In such Transactions, the Consumer shall receive an intimation on its Registered Mobile Number on the charges leviable by such Retail Partner. All charges would include Service Tax if applicable as per Retail Partner for the service provided by them.

#### 7. **INDEMNITY**

- 7.1. The Consumer shall be liable to Company for losses, expenses or damages and agree to indemnify, defend and hold harmless Company, Related Entities and /or the Retail Partner harmless from any and all claims, losses, damages, liabilities, costs and expenses, including and without limitation legal fees and expenses arising out of or in relation to : (a) its misuse or unauthorized use of Company Services, Platform, Website and/or the Merchant Account; (b) violation of or any breach of any representations, warranties and covenants made by the Consumer under this Terms of Use; and /or (c) any breach of Applicable Laws by the Consumer.
- 7.2. The Consumer shall indemnify Company, Related Entities against any fraud or any loss or damage suffered by Company and/or the Related Entities due to the failure on the part of the Consumer to: (a) provide correct and accurate details / information to the Company including but not limited in the CAF; (b) to communicate any change/alteration in the details / information to the Company including but not limited in the CAF.

8. **CHANGE OF TERMS**

Company shall at their sole discretion, and without notice to the Consumer, alter, modify or amend these Terms of Use from time to time and the same shall be updated and displayed by Company on its Platform/ Website. The Customer is expected to keep himself/herself updated with the amendments to the Terms of Use. Any transaction done subsequent to the amendment of the Terms of Use will be considered as Customer's acceptance of the amended Terms of Use. Company may modify, terminate and/or suspend Company Services anytime with or without prior notice, due to any changes in internal policies, rules, regulations and laws set by relevant authorities/regulators.

9. **LINK TO OTHER WEBSITES**

Company may provide links to other websites that are maintained by third parties on the Website. These links are provided for your convenience only and the provision of these links does not mean that Company endorses these websites or the products and services they provide. You acknowledge and agree that Company is not responsible and/or liable for any information/ content or any products/ services available on these third party websites.

10. **SEVERABILITY**

If any part of these Terms of Use are adjudged illegal or inoperable for any reason, the same shall be severed from the remainder of this document and only that portion of this document that is specifically adjudged illegal or inoperable shall cease to govern the relationship between Company and the Consumer.

11. **OWNERSHIP AND PROPRIETARY RIGHTS**

The Consumer agrees that he/she shall have no claims/rights of whatsoever nature in the Intellectual Property including but not limited to any intellectual property rights arising out of and in connection with Platform, Website and/or the Company Services. The Consumer further undertakes that he/she shall not attempt to modify, alter, obscure, translate, disassemble, decompile or reverse engineer the Software underlying application or create any derivative product based on the Software.

12. **FORCE MAJEURE**

Company shall inform the Consumer of the existence of a Force Majeure Event and shall consult together to find a mutually acceptable solution.

"Force Majeure Event" means any event due to any cause beyond the reasonable control of Company and/or Financial Service Provider, including, without limitation, unavailability of any communication system, breach or virus in the processes or payment mechanism, sabotage, fire, flood, explosion, acts of God, civil commotion, strikes or industrial action of any kind, riots, insurrection, war, acts of government, computer hacking, unauthorized access to computer data and storage device, computer crashes, breach of security and encryption, etc.

Company shall not be liable for any failure to perform any of its obligations under these Terms of Use or the specific terms and conditions if the performance is prevented, hindered or delayed by a Force Majeure Event and in such case its obligations shall be suspended for so long as the Force Majeure Event continues.

13. **LIMITATION OF LIABILITY**

13.1. The Consumer understands and acknowledges that the services provided by the Company including Company Services is provided on an "as is" and "as available" basis and that the use of Company Services by Consumers is at its own risk.

13.2. The Consumer further understands and acknowledge that the it has engaged the Retail Partners on "Principle to Principle" basis. While Company from time to time issues directives and instructions to the Retail Partners to perform their obligations in accordance with Company Rules for such Retail Partners. However, as the Retail Partner is not under the control and supervision of the Company, the Company shall in no way be responsible for any acts or omissions on part of Retail Partners.

13.3. Without prejudice to the aforesaid, in no event shall our total cumulative liability to the Consumer for any and all claims relating to or arising out of the Consumer's use of the Platform/ Company Services and/or Website, regardless of the form of action, exceed the amount of service fee chargeable by the Company for its services.). In no event shall Company be liable to the Consumer (or to any third party claiming under or through the Consumer) for any indirect, special, incidental, consequential or exemplary damages arising from the Consumer's use of, or inability to use, the Platform/ Company Services and/or Website. These exclusions apply to any claims for lost profits, lost data, loss of goodwill, work stoppage, computer failure or malfunction, any other commercial damages or losses, even if Company new or should have known of the possibility of such damages.

14. **DISCLAIMER**

Company may suspend or cease the operation of the Platform, Website and/or the Company Services for any reason with or without giving any prior notice. Company reserves the right to change the content on the Website and/or suspend or change the product or Financial Services offered on the Website and/or the Platform. The Consumer agrees that in any mentioned case, he/she will use the Website and/or Platform t his/her own risk and Company is not responsible for any loss or damage.

15. **PRIVACY POLICY**

All of the information that Company collects from the Consumer, such as registration details, beneficiary account details and debit/credit card information etc., is subject to the provisions of this Terms of Use. [

16. **WAIVER**

The failure to exercise or delay in exercising a right or remedy provided by this Terms of Use or by law does not constitute a waiver of the right or remedy or the waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Terms of Use or by law prevents further exercise of the right or remedy or the exercise of another right or remedy. Any waiver must be in writing and signed by the party sought to be bound.

17. **ASSIGNMENT**

This Terms of Use or any right or interest herein, shall not be assignable by the Consumer. Company shall be free to assign its rights , interest and obligations under this Terms of Use to any Person including but not limited to Related Entities.

18. **GOVERNING LAW AND DISPUTE RESOLUTION**

This Agreement will be governed by and construed in accordance with the laws of the Republic of India. The courts in Mumbai shall have exclusive jurisdiction over any dispute arising from use of Company Service, Platform and/or Website.

19. **TERM AND SURVIVAL**

19.1. This Terms of Use is effective until: (a) terminated by Company and Company reserves the right to terminate this Terms of Use; and/or (ii) upon Consumer ceasing to hold Membership Account.

19.2. The provisions of this Terms of Use which by their nature are intended to survive the termination or expiration of this Terms of Use.

## Self-Declaration

*I / We hereby declare that I/ We have read and understood all terms and conditions of this Terms of Use. Accordingly, I /We would wish to use the Platform, Website and/or avail the Company Services. I / We hereby give my consent to be bound by provisions of this Terms of Use.*

**MOST IMPORTANT**  
**TERMS AND CONDITIONS ISSUE, LOADING AND RELOADING OF OPEN LOOP, SEMI**  
**CLOSED PRE-PAID INSTRUMENTS**

- A. This open loop and semi-closed pre-paid instrument services including but not limited to the issue of the pre-paid wallet, loading, re-loading and undertaking permissible transactions through the same (“**PPI Services**”) is offered by the Yes Bank (hereinafter referred as “**Bank**”/ “**Yes Bank**”) through a Wallet including an online wallet, physical card etc. co-branded with the Company (“**PayNearby Wallet**”).
- B. PayNearby Wallet is an open loop or semi-closed pre-paid payment Instrument issued by Yes Bank as a Financial Service Provider. As a Consumer, you may avail these prepaid services by opening a “**PPI Wallet Account**” (as defined below) and by subscribing to the terms and conditions as set out below.
- C. The terms and conditions as set out below set out in this **Annexure** are in addition to the Terms of Use and is applicable in case of Consumer utilizing PPI Services through the Platform and/or Website. These terms and conditions (hereinafter referred to as “**PPI Terms and Conditions**”), including all agreements and policies referenced in these PPI Terms and Conditions or otherwise applicable to the use of specific features of the **PayNearby Wallet** and related services which are required to be agreed to and accepted before the use of such specific features, specified below govern and constitutes the entire arrangement and/or conditions in relation to the “PayNearby Wallet”, and related services that Company and/or Yes Bank may agree to provide to you from time to time.
- D. By completing the sign-up process for availing the “**PayNearby Wallet**”, you are deemed to have expressly read, understood and accepted each and every term when you use the Website: [www.paynearby.in](http://www.paynearby.in) and [www.yesbank.in](http://www.yesbank.in) and related services. You agree to be bound by these PPI Terms and Conditions and other specific rules and procedures as determined or as may be amended at the sole discretion of the Company and/or Yes Bank.

1. **DEFINITIONS AND INTERPRETATION**

In this PPI Terms and Conditions, unless the contrary intention appears and/or the context otherwise requires, capitalized terms defined by: (i) inclusion in quotations and/ or parenthesis have the meanings so ascribed; and (ii) capitalized terms used herein and not defined shall have the meaning assigned to it in the Terms of Use; and (iii) the following terms shall have the meanings assigned to them herein below:

“**Applicable Law**” includes all applicable Indian statutes, enactments, acts of the state legislature or parliament, laws, ordinances, rules, bye-laws, regulations, notifications, guidelines, directions, directives and orders of any governmental authority, statutory authority, board, recognised stock exchange, as may be applicable including but not limited to Guidelines on Managing Risks and Code of Conduct in Outsourcing of Financial Services by Banks, Business Correspondent Guidelines issued by RBI from time to time, Payment & Settlement Systems Act, 2007, Payment & Settlement Systems Regulations, 2008, Policy Guidelines on Issuance and operation of Pre-paid Payment Instruments in India, and any other guideline in relation to pre-paid cards issued from time to time by Reserve Bank of India and in each case, any implementing regulation or interpretation issued thereunder including any successor Applicable Law;

“**Company**” shall mean Nearby Technologies Private Limited, a company incorporated under the Companies Act, 2013 and having its registered office at 404 Samarpan Complex, New Link Road, Chakala, Andheri (East) 400099 (which expression shall unless repugnant to the context or meaning thereof mean and include its successors and permitted assigns);

“**Company Rules**” shall mean policies issued by the Company with respect to its strategic business partners, retail partners, distributors, Consumers including but not limited to the policy on the code of conduct and other sales and management policies as issued on the Website, Platform and/ or otherwise and amended from time to time;

“**Financial Services**” shall mean the financial services provided by various service providers to the Consumers utilising the Company Services on the Platform and/or Website including but not limited to domestic money transfer, loading, reloading of pre-paid wallets, sale/ purchase of goods and services including financial and non-financial services by utilising the Company Services either by itself or assisted through a Retail Partner;

“**Governmental Authority**” means any nation, state, sovereign, or government, any federal, regional, state, local or political subdivision and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, constitutionally established and having jurisdiction over any of the Parties (to the extent relevant to the transactions contemplated hereby) or the assets or operations of any of the foregoing or the transactions contemplated hereby;

“**Intellectual Property**” shall mean all intellectual property used for the purpose of or in association with or in relation to providing the Company Services utilising the Platform and includes without limitation, (a) Software, operating manuals, software code, program, instructions, specifications, processes, input methods, data or information used in relation to, in association with or for the operation of the software installed by Company ; (b) the trademarks, service marks, trade names, business names, logos, symbols, styles, colour combinations used by Company during the course of its business and all depictions, derivations and representations thereof; (c) all promotional material including without limitation, advertisements, literature, graphics, images, content and the ‘look and feel’ of all of the above; and (d) all techniques, formulae, patterns, compilations, processes, inventions, practices, methodology, techniques, improvement, utility model, procedures, designs, skills, technical information, notes, experimental results, service techniques, samples, specifications of the products or services, labelling specifications, rights on software, and any other knowledge or know-how of any nature whatsoever;

“**KYC Guidelines**” of “**KYC**” shall mean the Know Your Customer (KYC) guidelines as set forth by Governmental Authority including RBI;

“**Person**” shall mean any individual (including personal representatives, executors or heirs of a deceased individual) or legal entity, including but not limited to, any partnership, joint venture, corporation, trust, unincorporated organisation, limited liability company, limited liability partnership or Governmental Authority;

“**Platform**” shall mean the Software accessible through the Website;

“**PPI Consumer**” shall mean the holder of the PPI Wallet Account and availing PPI Services in accordance with this PPI Terms and Conditions;

“**PPI Wallet Account**” shall mean a prepaid account either Low KYC (semi closed) or Full KYC (open loop) opened in the name of the PPI Consumer in order to enable the PPI Consumer to avail the PPI Services in compliance with the RBI Guidelines;

“**RBI**” shall mean the Reserve Bank of India;

“**Registered Mobile Number**” shall mean the mobile number of the Consumer registered with the Company at the time of opening up / setting up of the Membership Account;

“**PPI Retail Partner**” shall mean the retail partner engaged by the Company for making available the PPI Services to the PPI Consumers;

“**PPI Retail Outlet**” shall mean the place of business from where the PPI Retail Partner, upon authorization from the Company, shall utilize and/or make available the PPI Services to be utilized by the PPI Consumers;

“**Software**” shall include custom built software that is owned by Company, or software that has been licensed from third party suppliers by Company and in relation to which Company has obtained the right to sub license from such third party suppliers, as modified/ replaced from time to time, that enables Retail Partner to utilize Company Services on communication devices such as computers, mobile phones and other handheld wireless devices etc. as identified by Company from time to time;

“**Related Entities**” shall mean any parent company, subsidiaries, affiliated corporations, partnerships, or joint ventures of the Company;

“**Tax**” or “**Taxes**” shall mean any and all taxes, cess, levies, imposts, duties, charges, deposits, fees, deductions or withholdings that are, or that are to be, imposed, levied, collected, withheld or assessed, together with any and all interest, penalties, claims or other liabilities arising under or relating thereto;

“**PPI Transaction**” shall mean those transactions that have been initiated by the PPI Consumer and/or upon instructions by the PPI Consumer on the Platform and/or Website utilising the PPI Services;

“**Website**” shall mean and include [www.paynearby.in](http://www.paynearby.in), mobile application of Company, any successor website/ applications, any website of Related Entity or any other channel facilitated and permitted by Company including but not limited to App, any other digital medium including phone, displays, emails, social media interfaces, messaging interfaces, wallet, payment intermediaries using Company’s interface.

Clause headings are inserted for convenience of reference only and shall not affect the interpretation of these PPI Terms and Conditions. Words importing the plural shall except where the context otherwise requires, include the singular and vice versa; references to the masculine gender shall include the feminine or neuter genders and vice versa; and references to persons shall be construed as references to an individual, firm, company, body corporate, statutory board, government body, incorporated body of persons, association or trust as the context may require.

2. **RESPONSIBILITIES OF THE PPI CONSUMER:** The PPI Consumer shall be liable and responsible for the following:
  - 2.1. Care and safety of “**PayNearby Wallet**” numbers and their corresponding security code in relation to PPI Wallet Account and agree to safeguard it against fraudulent or unauthorized use.
  - 2.2. PPI Consumer shall keep the security code confidential at all times. Under no circumstances will the PPI Consumer disclose the security code to any person or compromise its confidentiality. Any unauthorized use of the security code by persons other than the PPI Consumer will invalidate any future claims or disputes that the PPI Consumer raises.
  - 2.3. PPI Consumer agrees and confirms that Company or the Yes Bank shall be relieved from any pecuniary liability or obligations at all times arising from any fraudulent or unauthorized use of the “**PayNearby Wallet**,” PPI Wallet Account and related services. The PPI Consumer agrees and confirms to report any event of compromise or breach of the “**PayNearby Wallet**” PPI Wallet Account and related services to the concerned person as intimated by Company or the Yes Bank from time to time.
  - 2.4. PPI Consumer will be required to provide name, address, “**PayNearby Wallet**” number, identification document and other details for identification purposes, from time to time. The PPI Consumer agrees to provide Company or the YES Bank with all information and assistance reasonably requested in order to make a timely and complete investigation of any compromise or breach of the “**PayNearby Wallet**”. The Company reserves its right to issue you a replacement “**PayNearby Wallet**” with the value equal to the available balance on the PPI Wallet Account at the time of the compromise or breach of the “**PayNearby Wallet**”.
3. **GENERAL CONDITIONS FOR THE PAYNEARBY WALLET AND PPI SERVICES**
  - 3.1. No cash redemption or withdrawal is allowed from the semi-closed PPI Wallet Account whereas open loop PPI Wallet facilitates cash withdrawal at ATM and BC.
  - 3.2. PPI Wallet Account will be used only for transactions in Indian Rupees and not in any other foreign currency.
  - 3.3. Yes Bank and/or Company makes no express or implied warranty, guarantee, representation or undertaking whatsoever regarding the services, which are not expressly mentioned herein.
  - 3.4. Company does not endorse, promote, champion or warrant any goods and/or services that might be bought/availed or proposed to be bought/availed using the PayNearByWallet and/or PPI Wallet Account.
  - 3.5. Any dispute with or complaint against any merchant establishment must be directly resolved by the PPI Consumer with the merchant establishment. It is clarified that neither Yes Bank and/or the Company shall be responsible or liable for any deficiency in goods and/or services purchased using PPI Wallet Account and/or PayNearby Wallet. This exclusion of liability shall apply even for goods and/or services made available by Yes Bank and/or Company under promotional schemes. PPI Consumer is instructed to satisfy itself regarding the quality, quantity and fitness of any good and/or service before purchasing the same.
  - 3.6. The PPI Terms and Conditions herein shall be subject to the notifications/guidelines issued by RBI, from time to time.
  - 3.7. The collection, verification, audit and maintenance of correct and updated PPI Consumer information is a continuous process and Company and/or Yes Bank reserves the right, at any time, to take steps necessary to ensure compliance with all relevant and applicable KYC guidelines issued by the regulator.
  - 3.8. Yes Bank and/or Company reserves the right to suspend and/or discontinue the Pay Nearby Wallet and/or PPI Services at any time, without giving prior intimation to the PPI Consumer, for any one of the following reasons, including but not limited to:
    - (a) For any suspected violation of any rules, regulations, orders, directions, notifications issued by RBI from time to time or for any violation of these PPI Terms and Conditions;
    - (b) For any discrepancy or suspected discrepancy in the particular(s) or documentation or CAF provided by the PPI Consumer;
    - (c) To combat potential frauds, sabotage, wilful destruction, threat to national security or for any other force majeure reasons etc.
    - (d) In order to comply with Applicable Laws;
    - (e) If the same is due to technical failure, modification, up gradation, variation, relocation, repair, and/or maintenance due to any emergency or for any technical reasons.
    - (f) If the same is due to any transmission deficiencies caused by topographical and geographical constraints/limitations.
    - (g) If the Telecom Service Provider’s connection with which the PPI Consumer’s Pay Nearby Wallet ceases to be operational or in the PPI Consumer’s possession or control on account of any reason whatsoever.
    - (h) On account of ineligibility of the PPI Consumer under any criteria as mandated by Yes Bank and/or Company.  
However, prior to such suspension/ discontinuance of the PPI Wallet Account and/or PPI Services, the PPI Consumer, at the sole discretion of Yes Bank, shall be provided with the ability to transfer and/ or utilize the balances lying in the PPI Wallet Account.

- 3.9. In the event of occurrence of Transactions that may be construed as dubious or undesirable, Yes Bank and/or Company reserve the right to freeze operations in such PPI Wallet Accounts and /or close the PPI Wallet Account including reporting to authorities as may be required as per applicable regulations and as may be deemed fit and proper.
- 3.10. Yes Bank and/or Company reserves the right to cancel the PPI Transaction in case of any network failure. In case of network failure or for any other reason beyond the control of Yes Bank and/or Company, there could be delay or failure to complete the PPI Transaction. Yes, Bank and/or Company shall not be responsible for any kind of losses that may occur due to such delay of failure to complete PPI Transactions.
- 3.11. The PPI Transaction and the PPI Transaction limits for the operation of PPI Wallet Account of the PPI Consumers shall be set at the sole discretion of Yes Bank in accordance with the applicable guidelines issued by RBI from time to time. Such set Transactions and Transaction limits shall be communicated to the PPI Consumers by posting on the Website and/or Yes Bank's website.
- 3.12. Yes Bank and/or the Company reserve the right to close or freeze the PPI Wallet Account and the PPI Services pertaining to the same, after due notice to the PPI Consumers for reasons which may include, but not limited to, the following:
- (i) In case any of the documents furnished towards identity and address proof are found to be unsatisfactory;
  - (ii) Improper conduct of the PPI Wallet Account in terms of volume / type of transactions/any other reasons and/or
  - (iii) For unsatisfactory conduct of the PPI Consumers.
- 3.13. The PPI Consumer shall be liable to Yes Bank and/or Company for losses, expenses or damages and agree to indemnify, defend and hold harmless Yes Bank and/or Company harmless from any and all claims, losses, damages, liabilities, costs and expenses, including and without limitation legal fees and expenses arising out of or related to its use or misuse of PPI Services, PayNearByWallet and/or PPI Wallet Account, violation of these PPI Terms and Conditions or any breach of any representations, warranties and covenants made by the PPI Consumer.
- 3.14. Yes Bank and/or Company shall at their sole discretion, and without notice to the PPI Consumer, alter, modify or amend these PPI Terms and Conditions from time to time and the same shall be updated and displayed by Yes Bank and/or Company. The PPI Consumer is expected to keep himself/herself updated with the amendments to the PPI Terms and Conditions.
- 3.15. PPI Wallet Account is valid for 12 months from the (i) date of issuance/activation or (ii) last financial or non-financial transaction conducted by you, whichever is later. Any unutilized balance remaining in the PPI Wallet Account after the date of expiry will stand forfeited, at the discretion of Yes Bank and/or Company and after due communication through SMS or other channel in accordance with the Guidelines issued by RBI.
- 3.16. In case of death of the PPI Consumer, upon written request of the legal heir of the deceased PPI Consumer accompanied by the death certificate of the PPI Consumer, appropriate succession certificate identifying the legal heir as rightful owner of the assets and liabilities of the PPI Consumer and any other document that may be reasonably required by Yes Bank and/or Company and details of the bank account in which the funds are to be transferred. Subject to Applicable Laws, Yes Bank will close the account and after deducting applicable charges, transfer the balance amount in the bank account so provided by the legal heir of the PPI Consumer.

#### 4. **CHARGES**

- 4.1. Usage and operation of the PayNearby Wallet, PPI Services and/or PPI Wallet Account is subject to payment of service charges prescribed by Company on the Platform and/or Website and as amended from time to time. In the event of PPI Transactions at the PPI Retail Outlets, the PPI Consumer shall be liable to pay to the PPI Retail Partner, the service fee for assisting and facilitating the PPI Transaction on the Platform and/or Website. In such Transactions, the PPI Consumer shall receive an intimation on its Registered Mobile Number on the charges leviable by such PPI Retail Partner.. All charges would include Service Tax if applicable as per Retail Partner for the service provided by them.
- 4.2. The PPI Consumer unconditionally and irrevocably authorizes Yes Bank and/or Company, to debit his / her PPI Wallet Account from time to time with an equivalent fee and charges applicable for the issue and use of the PayNearby Wallet. PPI Wallet Account as and when required by Yes Bank and/or Company.

#### 5. **SEVERABILITY**

If any part of these PPI Terms and Conditions are adjudged illegal or inoperable for any reason, the same shall be severed from the remainder of this document and only that portion of this document that is specifically adjudged illegal or inoperable shall cease to govern the relationship between Company, Yes Bank and the PPI Consumer.

#### 6. **OWNERSHIP AND PROPRIETARY RIGHTS**

The PPI Consumer agrees that he/she shall have no claims/rights of whatsoever nature in the Intellectual Property including but not limited to any intellectual property rights arising out of and in connection with Platform, Website and/or the Company Services. The PPI Consumer further undertakes that he/she shall not attempt to modify, alter, obscure, translate, disassemble, decompile or reverse engineer the Software underlying application or create any derivative product based on the Software.

#### 7. **FORCE MAJEURE**

Yes Bank and/or Company shall inform the PPI Consumer of the existence of a Force Majeure Event and shall consult together to find a mutually acceptable solution.

**"Force Majeure Event"** means any event due to any cause beyond the reasonable control of Company and/or Financial Service Provider, including, without limitation, unavailability of any communication system, breach or virus in the processes or payment mechanism, sabotage, fire, flood, explosion, acts of God, civil commotion, strikes or industrial action of any kind, riots, insurrection, war, acts of government, computer hacking, unauthorized access to computer data and storage device, computer crashes, breach of security and encryption, etc.

Company and Yes Bank shall not be liable for any failure to perform any of its obligations under these PPI Terms and Conditions or the specific terms and conditions if the performance is prevented, hindered or delayed by a Force Majeure Event and in such case its obligations shall be suspended for so long as the Force Majeure Event continues.

#### 8. **Governing Law and Dispute Resolution**

This PPI Terms and Condition will be governed by and construed in accordance with the laws of the Republic of India. The courts in Mumbai shall have exclusive jurisdiction over any dispute arising from use of PayNearByWallet, PPI Wallet Account and/or PPI Services.

#### **Self-Declaration**

*I / We hereby declare that I/ We have read and understood all terms and conditions of this PPI Terms and Conditions. Accordingly, I / We hereby give my consent to be bound by provisions of this PPI Terms and Conditions.*



## PRIVACY & DATA SECURITY POLICY

User relationship and data security are part of important offerings and we consider this as the most important asset of our business model. We are committed to maintaining the confidentiality, integrity and security of any personal information about our users. We are proud of our privacy practices and the strength of our App and site security and want you to know how we protect your information and use it to provide you with the best possible service. Our privacy and security standards enable us guard against identity theft and provide security for user profile and transactional history. We constantly re-evaluate our privacy and security policies and adapt them to meet data security standards and to deal with new challenges.

### **Data Privacy**

We do not and will not sell, rent or lease your personal information or transactional history to any Third Parties for any revenue generation or profit making activities.

### **Privacy of Registration Data**

Your Registration Information including fraud prevention control data elements like DeviceID for auth, LatLong for txn, etc stored by us for preventions and is completely confidential and is not shared with any external agency / individual at any cost and used for improving your services. We use the registration details to analyse your information consumption pattern and to offer better services and a better user experience.

We may share a Basic Profile (Mobile Number, Name etc) with the agencies appointed by us to send out SMS & Email communications related to our Activities and initiatives. We have ensured that these parties shall keep any Personally Identifiable Information provided by us confidential and will not be initiating any unsolicited communication messages to you.

When you visit [www.paynearby.in](http://www.paynearby.in) or any other interface provided by the company, we may collect technical and navigational information, such as browser type, IP address, pages visited, and average time spent with us. This information may be used, for example, to alert you to software compatibility issues, or it may be analyzed to improve our Web design and functionality.

We may use third party service providers to help us analyze certain online activities. For example, these service providers may help us measure the performance of our online campaigns or analyze visitor activity our site. We may permit these service providers to use cookies and other technologies to perform these services for optimisation of our platform. We do not share any personally identifiable information about our customers with these third party service providers, and these service providers do not collect such information on our behalf. Our third party service providers are required to comply fully with this Privacy and Security Policy.

### **Disclosing Your Information to Protect Our Rights or If Required By Law**

Notwithstanding the foregoing, Nearby Technologies Private Limited reserves the right (and you authorize us) to share or disclose your Registration Information and Account information when Nearby Technologies Private Limited determines, in its sole discretion, that the disclosure of such information is necessary to identify, contact, or bring legal action against you.

Since your data is yours, you can remove it at anytime you want. When you request us to delete your account for the Service, your data will be permanently expunged from our primary production servers and further access to your account will not be possible. We will also promptly disconnect any connection we had established to your Account Information. However, portions of your data, consisting of aggregate data derived from your Account Information, may remain on our production servers indefinitely. Your data may also remain on a backup server or media. Nearby Technologies Private Limited team keeps these backups to ensure our continued ability to provide the Service to you in the event of malfunction or damage to our primary production servers.

Cookies and Web Beacons Are Used To Analyze Site Usage and Improve the Service. "Cookies" are alphanumeric identifiers in the form of text files that are inserted and stored by your Web browser on your computer's hard drive. Nearby Technologies Private Limited team may set and access cookies on your computer to track and store preferential.

We Comply With CAN-SPAM Regulations for Our Newsletters.

Nearby Technologies Private Limited team sends only verified, opt-in e-mail newsletters, specifically requested by our subscribers. Because we provide you the option of receiving our promotional newsletters, Nearby Technologies Private Limited subscribers have the ability to opt-out of receiving these newsletters by emailing us at [given\\_email ID](mailto:given_email_ID). We also will not send users service-related emails which they do not have the ability to opt-out of.

Your Data Is Secure and Only Seen By You

Your data is yours and only you (through your Registration Information) have access to your data on the Service.

We use a combination of firewall barriers, encryption techniques and authentication procedures, among others, to maintain the security of your online session and to protect your accounts and systems from unauthorized access.

Our servers are in a secure facility and access requires multiple levels of authentication, including biometrics (hand print scan) procedures. Security personnel monitor the system 7 days a week, 24 hours a day.

Our databases are protected from general employee access both physically and logically. All Registration Information and Account Information is stored in an encrypted database, and all backup drives and tapes are encrypted with different keys.

Contact Us If You Have Any Questions or Concerns

If you have any questions, comments, concerns or feedback regarding this Privacy and Security Policy, send an email to [customercare@paynearby.in](mailto:customercare@paynearby.in)

## **TERMS & CONDITIONS**

Unless otherwise stated with respect to our products and / or services are offered on an "as is" basis without any warranty whatsoever either express or implied. Nearby Technologies Private Limited representations, express or implied, including without limitation implied warranties of merchantability and fitness for a particular purpose. Nearby Technologies Private Limited does not guarantee the functions contained in the site will be uninterrupted or error-free, that this site or its server will be free of viruses or other harmful components, or defects will be corrected even if Nearby Technologies Private Limited is aware of them.

### **Copyright and Trademark**

Unless otherwise noted, all materials on this site are protected as the copyrights, trademarks and/ or other intellectual properties owned by Nearby Technologies Private Limited or by other parties that have licensed their material to Nearby Technologies Private Limited.

All rights not expressly granted are reserved.

## **TERMS AND CONDITIONS**

Please read the following terms and conditions very carefully as your use of service is subject to your acceptance of and compliance with the following terms and conditions ("Terms").

By subscribing to or using any of our services you agree that you have read, understood and are bound by the Terms, regardless of how you subscribe to or use the services. If you do not want to be bound by the Terms, you must not subscribe to or use our services.

In these Terms, references to "you", "User" shall mean the end user accessing the App, Website, its contents and using the Services offered through the Website. "Service Providers" mean independent third party service providers, and "we", "us" and "our" shall mean Nearby Technologies Private Limited, its franchisor, affiliates and partners.

### **INTRODUCTION:**

1. [www.paynearby.in](http://www.paynearby.in) website ("Website") and the App are an Internet and App based payment acceptance platform services owned and operated by Nearby Technologies Private Limited, a company incorporated under the laws of India.
2. Use of the App or the Website is offered to you conditioned on acceptance without modification of all the terms, conditions and notices contained in these Terms, as may be posted on the Website from time to time. Nearby Technologies Private Limited at its sole discretion reserves the right not to accept a User from registering on the App or Website without assigning any reason thereof.

### **SERVICES OFFERED:**

Nearby Technologies Private Limited provides App and Internet-based services through the App and Web Site that enables users to initiate and complete the payment transactions towards the services provided by it. Upon making the payment, Nearby Technologies Private Limited shall update the relevant billing engine modules to record the payment made by you by using valid and self owned payment instruments.

### **PRIVACY POLICY:**

The User hereby consents, expresses and agrees that he has read and fully understands the Privacy Policy of Nearby Technologies Private Limited mentioned on the Website. The user further consents that the terms and contents of such Privacy Policy are acceptable to him.

### **LIMITED USER:**

The User agrees and undertakes not to reverse engineer, modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, transfer, or sell any information or software obtained from the App or Website. Limited reproduction and copying of the content is permitted provided that Nearby Technologies Private Limited name is stated as the source and prior written permission of Nearby Technologies Private Limited is sought. For the removal of doubt, it is clarified that unlimited or wholesale reproduction, copying of the content for commercial or non-commercial purposes and unwarranted modification of data and information within the content of the Website is not permitted.

### **USER CONDUCT AND RULES:**

You agree and undertake to use the Website and the Service only to post and upload messages and material that are proper. By way of example, and not as a limitation, you agree and undertake that when using a Service, you will not:

1. upload files that contain software or other material protected by intellectual property laws unless you own or control the rights thereto or have received all necessary consents;
2. publish, post, upload, distribute or disseminate any inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful topic, name, material or information;
3. defame, abuse, harass, stalk, threaten or otherwise violate the legal rights of others;
4. conduct or forward surveys, contests, pyramid schemes or chain letters;
5. upload or distribute files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of the Website or another's computer;
6. falsify or delete any author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material contained in a file that is uploaded;
7. download any file posted by another user of a Service that you know, or reasonably should know, cannot be legally distributed in such manner;
8. violate any code of conduct or other guidelines, which may be applicable for or to any particular Service;
9. violate any of the terms and conditions of this Agreement or any other terms and conditions for the use of the Website contained elsewhere herein.
10. violate any applicable laws or regulations for the time being in force in or outside India; and
11. exploit any of the services. We reserve the right to deprive individual customers of our payment options and other services. Moreover, we might refuse any of our services, terminate accounts, and/or cancel orders at our discretion, including but not limited to, if we believe that customer conduct violates applicable law or is harmful to our interests.
12. You shall not make any derogatory, defamatory, abusive, inappropriate, profane or indecent statement/s and/or comment/s about us, its associates and partners on any property owned by it.

### **USER WARRANTY AND REPRESENTATION:**

As a user, you, guarantee, warrant and certify that you are the owner of the content which you submit or otherwise authorised to use the content and that the content does not infringe upon the property rights, intellectual property rights or other rights of others. You further

warrant that to your knowledge, no action, suit, proceeding, or investigation has been instituted or threatened relating to any content, including trademark, trade name service mark, and copyright formerly or currently used by you in connection with the Services rendered by us.

**EXACTNESS NOT GUARANTEED:**

Nearby Technologies Private Limited hereby disclaims any guarantees of exactness as to the finish and appearance of the final service/product as ordered by the user. The quality of any products, Services, information, or other material purchased or obtained by the user through the Website may not meet user's expectations. Alterations to certain aspects of your order such as weight, size, colour etc. may be required due to limitations caused by availability of product difference in size charts of respective brands etc. In this instance you agree that a representative from Nearby Technologies Private Limited will call you or send an approval request via the email address or App, through which you placed the order. If you do not agree with the requested change you retain the right to reject the requested production change by replying to it within 10 days of it being sent to you. Nearby Technologies Private Limited may re-request that you accept a product /service alteration one additional time if an alternative method is available.

**INTELLECTUAL PROPERTY RIGHTS:**

1. Unless otherwise indicated or anything contained to the contrary or any proprietary material owned by a third party and so expressly mentioned, Nearby Technologies Private Limited owns all Intellectual Property Rights to and into the Website, including, without limitation, any and all rights, title and interest in and to copyright, related rights, patents, utility models, trademarks, trade names, service marks, designs, know-how, trade secrets and inventions (whether patentable or not), goodwill, source code, meta tags, databases, text, content, graphics, icons, and hyperlinks. You acknowledge and agree that you shall not use, reproduce or distribute any content from the Website belonging to Nearby Technologies Private Limited without obtaining authorisation from Nearby Technologies Private Limited.

2. Notwithstanding the foregoing, it is expressly clarified that you will retain ownership and shall solely be responsible for any content that you provide or upload when using any Service, including any text, data, information, images, photographs, music, sound, video or any other material which you may upload, transmit or store when making use of our various Service. However, with regard to the product customization Service (as against other Services like blogs and forums) you expressly agree that by uploading and posting content on to the Website for public viewing and reproduction/use of your content by third party users, you accept the User whereby you grant a non-exclusive license for the use of the same.

**LINKS TO THIRD PARTY SITES:**

The Website may contain links to other websites ("Linked Sites"). The Linked Sites are not under the control of Nearby Technologies Private Limited or the Website and Nearby Technologies Private Limited is not responsible for the contents of any Linked Site, including without limitation any link contained in a Linked Site, or any changes or updates to a Linked Site. Nearby Technologies Private Limited is not responsible for any form of transmission, whatsoever, received by you from any Linked Site. Nearby Technologies Private Limited is providing these links to you only as a convenience, and the inclusion of any link does not imply endorsement by Nearby Technologies Private Limited or the Website of the Linked Sites or any association with its operators or owners including the legal heirs or assigns thereof. The users are requested to verify the accuracy of all information on their own before undertaking any reliance on such information.

**DISCLAIMER OF WARRANTIES/LIMITATION OF LIABILITY:**

Nearby Technologies Private Limited has endeavored to ensure that all the information on the Website is correct, but Nearby Technologies Private Limited neither warrants nor makes any representations regarding the quality, accuracy or completeness of any data, information, product or Service. In no event shall Nearby Technologies Private Limited be liable for any direct, indirect, punitive, incidental, special, consequential damages or any other damages resulting from: (a) the use or the inability to use the Services; (b) unauthorized access to or alteration of the user's transmissions or data; (c) any other matter relating to the services; including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the use or performance of the Website or Service. Neither shall Nearby Technologies Private Limited be responsible for the delay or inability to use the Website or related services, the provision of or failure to provide Services, or for any information, software, products, services and related graphics obtained through the Website, or otherwise arising out of the use of the website, whether based on contract, tort, negligence, strict liability or otherwise. Further, Nearby Technologies Private Limited shall not be held responsible for non-availability of the Website during periodic maintenance operations or any unplanned suspension of access to the website that may occur due to technical reasons or for any reason beyond Nearby Technologies Private Limited 's control. The user understands and agrees that any material and/or data downloaded or otherwise obtained through the Website is done entirely at their own discretion and risk and they will be solely responsible for any damage to their computer systems or loss of data that results from the download of such material and/or data.

**INDEMNIFICATION:**

You agree to indemnify, defend and hold harmless Nearby Technologies Private Limited from and against any and all losses, liabilities, claims, damages, costs and expenses (including legal fees and disbursements in connection therewith and interest chargeable thereon) asserted against or incurred by Nearby Technologies Private Limited that arise out of, result from, or may be payable by virtue of, any breach or non-performance of any representation, warranty, covenant or agreement made or obligation to be performed by you pursuant to these terms.

**REFUND & CANCELLATION POLICY AND UNAUTHORISED CHARGES ON YOUR CARD**

If you see charges on your credit/debit card for purchases made or services availed on the site, but you never created an account or signed up, please check with your family members or business colleagues authorised to make payments on your behalf, to confirm that they haven't initiated the payment. If you're still unable to recognise the charge, please report the unauthorised purchase within 30 days of the transaction to YOUR BANK to enable Nearby Technologies Private Limited to begin an investigation.

In case of any inconsistency or conflict between the "Terms", Privacy Policy (as provided herein above) and the terms & conditions with respect to any specific service provided by us, terms and conditions for such specific service shall prevail.