



## TERMS AND CONDITIONS OF USE OF KUSHKI'S PLATFORM

These Terms and Conditions of Use (“T&C’s”), together with the executed Commercial Agreement or Services Agreement, constitute an agreement for the provision of payment acceptance services (“Services”) and govern the relationship between the natural or legal person (“Client”) using the Platform (as defined below) for the purpose of selling its products and/or services (“Services Agreement”) and/or, if applicable, the Related Third Parties and the companies directly or indirectly controlled by Kushki (“Kushki”). Unless otherwise agreed, the Client shall contract the Services under these T&C’s with the Kushki subsidiary incorporated in the country where the Client uses the Services, which shall also be subject to the specific terms and conditions applicable by country, which can be accessed here:

[Chile](#)

[Ecuador](#)

[Colombia](#)

[Peru](#)

[Mexico](#)

[Brazil](#)

The Client contracts the Services with one or more Kushki companies, depending on whether it processes its payments in one or more countries where Kushki may have a controlled company, in such a way that, if it processes its payments in a single country, it will constitute a single legal relationship with the respective Kushki company. If, on the other hand, it processes its payments in more than one country where Kushki has a controlled company, a separate legal relationship will be established with each Kushki company operating in each country where the Client processes its payments, thus having several counterparties.

By affiliating, registering with and/or making use of the website, mobile applications, APIs, digital tools and software owned by Kushki (the “Platform”) and/or contracting Kushki’s Services, the Client is bound in accordance with the scope of this legal instrument. Therefore, these T&C’s constitute a binding agreement between the Client and Kushki (jointly referred to as the “Parties” or individually as a “Party”).

In accordance with the above, by accessing, using the Platform and/or creating an account on the Platform (“Client Account”), the Client expresses and reiterates its consent and acceptance of these T&C’s.

Defined terms shall be capitalized and shall be interpreted as such only when used in this format. Such definitions shall be equally applied in the singular or plural form.

### 1. DEFINITIONS

**“Acquirer”:** Shall mean the entity that acquires or processes payments with Cards that have been authorized for that purpose by the Brand Holders and/or the Authorities. For the purposes of this Agreement, the Acquirer may be Kushki or an Affiliate, in accordance with the Applicable Law.

**“Aggregator”** is a network participant who, under a service agreement executed with an Acquirer, offers its clients the service to accept payments through authorized Payment methods.

**“Aggregator Model”:** In this model the Client may use the Kushki Services under an aggregation scheme, where funds are collected in a Kushki aggregator account and subsequently dispersed to the Client's account or to a third-party account indicated by the Client. Chargebacks and reversals are handled through Kushki,



unless otherwise agreed with the Client. Under this model, Kushki is authorized to offset its commissions, as well as potential Chargebacks and reversals, from the amount to be dispersed periodically to the Client.

**“AML/FT”**: Refers to Anti-Money Laundering and Financing of Terrorism.

**“API”**: Application Programming Interface, per its acronym in English.

**“Applicable Law”**: Shall be that determined in accordance with the rules set forth in these T&C’s.

**“Authority”**: Shall be understood to mean any public or private entity that issues rules, regulations, parameters and/or instructions applicable to the services provided by Kushki or third parties in the applicable jurisdiction.

**“Business Day”** means a day other than a Saturday or Sunday on which banks are open for normal business in accordance with the Order Form executed by the Parties’ Affiliates.

**“Brand Holders”**: Refers to Card franchises, which have their own rules applicable to acceptance of payments, which the Client declares to be aware of, such as Visa, Mastercard, American Express and Diners. However, there are other franchises that offer the same service and are also included by extension in this definition.

**“Cardholder”**: Shall mean any natural or legal person or entity, holder of a Card.

**“Cards”**: Credit, debit and prepaid cards shall be referred to collectively as such.

**“Cash-In or On-site Collection”**: Shall be understood as the on-site collection service to be provided by Kushki, under the terms of the applicable law, through the various payment networks at its disposal, which may be modified unilaterally. The conditions of the collection service as such, including without limitation, rates, limits, minimum and maximum amounts that may be received through the cash-in service, may also be modified without prior approval from the Client, for which it will be sufficient to notify the Client. Unless expressly stated otherwise, Kushki does not receive cash payments directly and provides the services through authorized third parties in accordance with the Applicable Law. Kushki shall not be liable for (i) delays or failures that may occur in the different payment networks, (ii) withholdings made by third parties or Kushki in accordance with the Applicable Law, and/or (iii) transfer or payment orders to third parties issued by the Client that correspond to fraudulent transactions. To access this service, the Client must implement all security measures required for its operation.

**“Chargeback”**: Shall be understood as the mechanism created for a Cardholder or user to dispute before the Issuer any charge which is not recognized. Among the reasons for chargebacks are: (i) duplicate Card or payment, (ii) non-acknowledgment of the Transaction, (iii) non-delivery of goods or services, (iv) deceptive and dishonest behavior, and/or (v) Fraudulent Transactions. Unless otherwise expressly agreed, as a general rule, the Client is responsible for the Chargebacks.

**“Client”**: Shall mean the merchant, aggregator, payment service provider, payment facilitator, sub-acquirer, orchestrator, reseller, Third Party Agent or agent, among others, as applicable, that contracts Kushki Services to sell products or provide services to Users and/or sub-affiliate its Related Third Parties.

**“Client Liabilities”**: Shall be those sums that must be paid by the Client, given that they correspond, among others, to Commissions, Chargebacks, reversals, surcharges, charges made by the Participants (including but not limited to those cases where the level of Chargebacks, in terms of volume and value, exceeds the monthly levels tolerated by the Brand Holders, or the Chargeback rates reach unusual levels, or for cases of Transaction retries), refunds, fines and/or penalties, imposed, incurred or originated by acts or omissions of the Client and/or the Related Third Parties, associated with the breach of the Applicable Law, the regulations of the Authorities or of the Participants, the T&C’s and/or the use of the Services;

**“Client 's Bank Account”** means the Merchant's bank account opened by the Merchant with a financial institution; to which the Provider is to transfer the Settlement Amounts.

**“Commercial Agreement”**: Is Kushki's standard agreement signed by the Client's agent or legal representative, which is subject to the applicable T&C’s.

**“Commission”**: Shall have the meaning set forth in Section 3 of these T&C’s.

**“Dispersion of Funds (Payouts)”**: Refers to the instruction given by the Client to Kushki to pay the amounts collected or transferred by the Client to one or more third-party bank accounts. The payout can be made through transfer-out or Cash-out or any other mechanism that may be incorporated into the Platform in the future. Kushki will provide this service as an agent, i.e., following the Client's instructions, and at no time will it receive deposits or collect funds from the public. To provide this service, the Client must previously transfer the funds to Kushki or instruct Kushki to use the funds available in the Client's Operating Account. In the event that Kushki does not receive instructions for the dispersion, the funds will be returned to the Client within a period of time to be determined by Kushki based on the Applicable Law. Kushki shall act as a transferor of funds, in accordance with the Client's instructions as the ordering party. Kushki shall inform the Client of the process to be followed for such purpose and shall not be liable for (i) delays or failures that may occur at the level of financial institutions or third parties providing fund dispersion services in accordance with the Applicable Law; (ii) transfer or payment orders to third parties erroneously indicated by the Client (e.g. incorrect bank account number); (iii) corresponding to fraudulent transactions; (iv) refraining from carrying out dispersion orders in cases where it finds matches between the third parties that are to receive the funds and restrictive lists such as those of the OFAC or UN; nor (v) any delays that may be caused while such incidents are being clarified. To access this service, the Client must implement all security measures required for its operation.

**“Due Diligence”** Set of measures to be applied by the Parties to identify the sub-merchants with which they establish and maintain or intend to establish business or service relationships in order to include them in the provision of the Services, including obtaining, verifying and retaining up-to-date and complete information on the origin and provenance of their assets, funds or income, their operating patterns, the products and services they offer and access, as well as their ultimate beneficiaries.

**“Fraudulent Transactions”**: Shall be understood as those Transactions in which there are indications that illicit activities may be incurred, including activities and operations mentioned in the criminal code, money laundering and financing of terrorism regulations and activities established as prohibited by the Applicable Law, the Authorities and/or the Participants, or those that have the intention or effect of defrauding one of the Parties.



**“Gateway Model”:** This model offers the possibility to use Kushki Services by receiving funds directly into a Client's account. Under this model, the Client is responsible for entering into an agreement with the Acquirers and/or processors, which will be a separate agreement from that entered into with Kushki, except when Kushki is acting as the Acquirer. This business model is handled through codes directly managed by the Client with the corresponding Acquirers and/or processors. Chargebacks and reversals must be managed by the Client and/or the Acquirer, as applicable. Under this model, Kushki operates as a technology enabler or as an Acquirer, as applicable.

**“Intellectual property”** means anything that may be protected by Intellectual Property Rights, in accordance with the applicable local laws;

**“Interest-Free Deferred Payment / Interest-Free Months Program”:** That which allows Cardholders, in accordance with the Applicable Law and at their discretion, to acquire the products or services promoted by the Client, through interest-free or partially deferred payments, since the charge will appear partially in each account statement received by the Cardholder following the acquisition of the products or services in question; in other words, the amount resulting from dividing 100% of the purchase price by the number of months established in the Interest-Free Deferred Payment Program. Purchases made by Cardholders under the Interest-Free Deferred Payment Program will not accrue interest, provided that the Cardholder pays in a timely manner the total amount of each installment into which the purchase is divided, as shown in the Cardholder's account statement.

**“Issuer”:** Shall mean the entity that, in accordance with the requirements of the Applicable Law, issues the Cards.

**“KYC”:** Refers to the Know Your Client process.

**“MCC”:** Refers to the Merchant Category Code that is defined by the Brand Holders based on the commercial activity of the Client or the Related Third Party. The Brand Holders may require the registration of the Client or its Related Third Parties under specific MCCs, and charge for this, in accordance with the applicable rules.

**“Other Fees”** Refers to the applicable fee to be paid by the Merchant in favor of Kushki in the event of Chargebacks, refunds or unsettled/rejected transactions.

**“Operating Account”:** Shall be understood as the set of functionalities related to the operation and use of the Client Account within the Platform, which the Client may access by entering the corresponding username and password, to view the information modules and balances that have been credited as a result of the Transactions processed in accordance with the T&C's or the Services Agreement, as applicable.

**“Participant”:** Shall refer to Acquirers, Issuers, Brand Holders, processors and aggregators, collection networks, dispersion service providers or other third parties that provide services within the payment chain.

**“Payment Instrument”:** Those against which payment orders or transfers of funds are executed, such as (i) Cash; (ii) Deposit products (savings account, checking account, electronic deposit); (iii) Cards; or (iv) others that may be implemented in the future in accordance with the Applicable Law.



**“Payment Methods”**: Shall mean the Cards (in on-site or e-commerce mode of use), transfers (inbound or outbound), on-site collection or “cash-in” and other Payment Methods that may be implemented in the Platform in the future, in accordance with the Applicable Law.

**“Personal Data”**: Shall mean any information related to an identified or identifiable natural person (which could be matched to the User).

**“Platform”**: Shall mean the website, mobile applications and/or digital tools, terminals and/or on-site Sales Technology Devices, owned by Kushki, licensed or sold to the Client or contracted for use by it, as applicable, consistent with the provisions of the T&C’s and/or the Services Agreements through which the Services are accessed.

**“Related Third Parties”**: Refers to merchants sub-affiliated by the Client that use the Platform to offer their goods and/or services, as permitted by the Trademark Holders and the Applicable Law.

**“Services”**: Shall mean the services indicated in the Services Agreement, including those for acceptance of digital and/or on-site payments, dispersions, or others to be provided by Kushki to the Client.

**“Services Agreement”**: Is the local or regional agreement, including the Commercial Agreement, as defined herein, that may be entered into between Kushki and the Client for use of the Platform to access the Services. In case of contradiction between the T&C’s and the Services Agreement, the provisions of the Services Agreement shall prevail.

**“Settlement Amounts”** are the amounts due that represent the value of transactions successfully processed through the Platform minus Merchant Liabilities, the Consideration and any other amounts due to the Provider.

**“Technological Sales Device”**: Device or electronic solution (POS, phone, tablet, QR code, others) that allows managing the card payment process in merchants, from validation to sending information for authorization.

**“Third-Party Agent”**: Is an agent, not directly connected to the Brand Holders, that provides payment services and processes or transmits Card data. Therefore, these are companies that affiliate or onboard Merchants and have a contractual relationship with them, but Kushki is the Acquirer.

**“TPV - Total Payment Volume”**: Refers to the total amount of Transactions processed for a Client, expressed in the applicable currency according to the respective Services Agreement, made through the Platform and/or using the Services.

**“Transactions”**: Shall be understood as the operation associated with or required for the processing, clearing and settlement of a payment or transfer order, issued by the holder of a Card or a Payment Instrument, to debit or credit funds from or to another payment instrument, through any of the Payment Methods, in order to purchase or pay for goods and/or services offered by the Client and/or Related Third Parties to their Users, that are processed using the Kushki Platform.

**“Transactional Data”**: Shall mean any information that is captured during Transactions made on the Platform and/or associated thereto, such as time of the Transaction, place where it was made, or Payment Instrument

used and other associated information and for which Kushki will act as data controller, in accordance with the terms established in the Applicable Law.

**“Unauthorized Activities”:** Shall mean any prohibited or illegal activity under the Applicable Law, including those established by (i) the Authorities (according to the corresponding territory), (ii) the Participants, suppliers or business allies with whom Kushki maintains a relationship for payment processing and acceptance, or (iii) the Brand Holders and/or other counterparties identified under the Services Agreement, the T&C’s and/or Kushki’s Policies.

**“User”:** Shall mean an end user or consumer that uses the payment solutions provided by Kushki through a Website or App to purchase goods or services offered by Kushki’s Clients or Related Third Parties or that receives a payment from Kushki on the instructions of the Client.

In this Agreement, (i) “includes” or “including” shall mean “including, without limitation”, and (ii) examples are for illustrative purposes only and do not refer to any specific item.

## 2. PLATFORM AND TERMS OF SERVICE

Under the T&C’s, Kushki grants the Client a temporary, non-exclusive, revocable, non-transferable, limited and fee-based license to use the Platform and the Services to process Transactions and facilitate the acceptance of payments by Users to the Clients and/or their Related Third Parties, through the Payment Methods.

### 2.1. OPERATION OF THE PLATFORM

**2.1.1. Use of the Services through API.** Through the Platform, the Client may make use of the Services using the Kushki API. The API support information can be consulted by the Client at <https://docs.kushki.com>, a channel through which the Client is informed about the status, technical and operational issues of the Service.

By contracting the Services and making use of the Platform, for which the Client must log on to the website <https://www.kushki.com/>, the Client may create an account (the “Client Account”), following the instructions contained in the Platform and providing an email address and password.

Kushki will provide the Client with API keys in test mode or in production mode, as appropriate upon Client verification or to activate the Client’s Account. The Client is responsible for (i) changing the API keys from test mode to production mode, once the Client Account has been activated, (ii) safeguarding the passwords and API Keys, (iii) implementing the necessary protocols and security measures to prevent unauthorized access by third parties to Client Account information, and (iv) making proper use of the Services provided by Kushki.

Kushki may deny the account activation in test or production mode if the Client (i) fails to comply with the security requirements set forth in the T&C’s, (ii) provides invalid information, (iii) engages in Unauthorized Activities, or (iv) incurs any other grounds contemplated in the T&C’s, the Services Agreement or Kushki’s policies, as updated from time to time.



In case of requiring the blocking or replacement of the API Keys, the Client must request this from Kushki through the Platform, using the channels provided for this purpose.

**2.1.2. Data Check and Verification.** By accessing the Platform, using and/or creating a Client Account on the Platform, the Client authorizes Kushki to verify, directly or through third parties, at any time, the data provided, including but not limited to, credit information, KYC and AML/FT related data. If the information provided to create and/or use the Client Account is false or inaccurate, Kushki may deny access to the Platform at its sole discretion, as well as remove any content related to the Client.

By using the Platform, the Client agrees to comply with the following data check and verification policies:

**2.1.2.1. Verification.** Kushki may (i) verify the accuracy of the information provided by the Client, in accordance with the Applicable Law and/or Kushki's policies, (ii) require additional information documenting the accuracy of the information entered by the Client in the Client Account, as well as any other evidence it deems appropriate to verify that all necessary AML/FT requirements have been met in accordance with the operating rules and/or regulatory guidelines issued by the Authorities and/or the Participants; and (iii) audit the Client's Account, directly or through a third party, at any time, to confirm compliance with its policies. Any audit will be carried out making every effort to avoid disrupting the regular operation of the Client or its Related Third Parties.

**2.1.2.2. Requirements of the Authorities.** The Client expressly authorizes Kushki to share with the Authorities and/or Participants the information provided by the Client, when so required, in accordance with the Applicable Law.

**2.1.3. The Client Account.** Once the Client Account has been created, the Client may log on to the Platform with its email and password to complete its registration by entering the information and/or documentation requested in Kushki's database (the "Electronic Registration"). Once the Electronic Registration is complete and under the administrator profile, it will be able to create, edit and delete multiple profiles at its option ("Profiles") and access the Services.

All activities performed in and through the Client Account and the Profiles create obligations between Kushki and the Client, and the Client shall be liable for any activities carried out in its Client Account, using its username and password. Thus, the Client (i) releases Kushki from any liability arising from mishandling or misuse of the information entered on the Platform, including misuse or leakage of information regarding its Personal Data and Payment Instruments, (ii) will hold Kushki harmless from any action, claim, suit or proceeding of any nature associated with the use of its Client Account; notwithstanding the foregoing (iii) it will immediately inform Kushki of any suspected unauthorized use or compromise of its password, as well as the assignment of a new password.

The information entered by the Client in the Platform will be available from mobile media or electronic devices with an Internet connection.

It is forbidden to use the Platform for Unauthorized Activities. Any disregard of this prohibition shall be considered grounds for termination of the Services Agreement and shall entitle Kushki

to (i) terminate the relationship with the Client without requiring a judicial or extrajudicial notice, (ii) restrict the Client's access to or use of the Platform, and/or (iii) delete the information that has been provided to Kushki. It is the Client's obligation to cooperate with Kushki in the investigation of security incidents or risks or Fraudulent Transactions, as well as to take any actions agreed between the Parties for the resolution of incidents and the minimization of detected risks. If the Client refuses to perform these actions, Kushki may suspend the Services without liability.

## 2.2. KUSHKI TERMS OF SERVICE

Among the responsibilities and obligations of the Client are, by way of example and without limitation: (i) configuring the amount that will be charged to Users, (ii) making sure that the Payment Methods offered are available, (iii) considering the expiration dates of the payment links or smartlinks once issued.

Without prejudice to other terms set forth in these T&C's, and as applicable to each Payment Method, the Services are subject to the following terms:

**2.2.1. *Electronic Receipt.*** The Client or its Related Third Parties, as applicable, must generate an electronic receipt for each online Transaction or operation carried out by Users through their online sales platform, in accordance with current banking, commercial, and/or fiscal (in case of invoices) standards, as well as any other requirements under the Applicable Law.

**2.2.2. *Equality in Conditions of Sale of Products and/or Services.*** The Client and/or the Related Third Parties undertake to comply with the requirements established by the Authorities or the Applicable Law regarding equality of conditions for the sale of products and/or services, for each Payment Method, in all Transactions, and shall be liable for their compliance before Users. In turn, it undertakes to respect the prices indicated on its online sales platform, whether for cash transactions, cheques or any other means of payment, even in the case of special offers.

**2.2.3. *Mandate.*** With the acceptance of the T&C's, the Client grants Kushki a general mandate to contract on its behalf services, programs, functionalities, improvements, security measures and, in general, to enable in its name all those services or developments offered by the Participants, which result in the improvement, update or compliance of the Services with the requirements and/or regulations of the Participants. Through this mandate, the Client authorizes Kushki to carry out all tasks or activities necessary for the certification, implementation, testing and, in general, putting into production of the services, programs, functionalities, improvements, security measures and/or developments that are contracted. This general mandate shall not require the specific endorsement of the Client as to the terms of the contracting carried out by Kushki on behalf of the Client, except in those cases where the service, program, functionality, improvement, security and/or particular development contracted implies the assumption of a payment obligation, additional to the payment of the Fees known and/or accepted by the Client by signing the Services Agreement.

**2.2.4. *Returns and Cancellations.*** The following rules apply for payments made through the different Payment Methods:

- (i) When a User requests the cancellation of a Transaction due to products or services paid for and not received and/or rendered in an inadequate or not agreed upon manner, the Client shall issue a service cancellation note for the actual amount without applying any commission charge.
- (ii) The cancellation note must be requested on the same day of the transaction. Depending on the time the request is filed, the result may be: **(a) Cancellation - void:** If the request is made on the same day of the Transaction before the cut-off time, depending on the applicable country, the Client must request it through the Payment Method by which the Transaction was carried out or through the Platform and the cancellation will be reflected on the same day; or, **(b) Reimbursement - refund:** If the request is made after the cut-off time, depending on the applicable country, the Client must request it directly from Kushki through the available support channels and/or by email to [soporte@kushkipagos.com](mailto:soporte@kushkipagos.com). The refund process may take up to 45 days to be reflected as a credit note in the User's or Client's account, as applicable.
- (iii) The cut-off times for cancellations by country will be those informed by Kushki through the Platform.
- (iv) Kushki reserves the right not to cancel or refund the amounts or balances corresponding to the sale(s) until the Client has sufficient funds or balances to cover the full amount of the requested cancellation or refund.
- (v) The Client authorizes Kushki to debit from the Client's Operating Account and/or bank account (as defined in the *MERCHANT COMMISSION, CHARGES, PAYMENT METHOD AND BILLING* section) the amount corresponding to such cancellations, and to deposit these amounts in the bank account linked to the Card to which the charge was made. Cancellations may only be made up to the amount charged to the Card.
- (vi) In the event of cancellation of a charge that had previously been processed as successful, Kushki shall not be liable for any damages and/or losses that may arise as a result. In this regard, the Client shall hold Kushki harmless against any claim arising out of such cancellation, which is not directly caused by Kushki's gross negligence or willful misconduct.

**2.2.5. Reimbursement of Commissions for Refunds and Cancellations.** Kushki will not reimburse commissions related to cancellations and/or refunds. The reimbursement policies in case of cancellation of charges that the Client has established for the reimbursement of purchases made with Cards must be as favorable as the reimbursement policies for purchases made with other Payment Instruments, or in any case, must comply with the Applicable Law. The Client shall inform or ensure that the holders of Payment Instruments are informed of the return or reimbursement policies at the time of purchase of the products and/or services, in the manner established by the Applicable Law.

**2.2.6. Fraudulent Transactions and Chargebacks.** Kushki complies with domestic and international regulations applicable to the prevention of transactions with funds of illicit origin. Therefore, the Client (i) shall be subject to the provisions of the T&C's for the processing of Transactions, (ii) shall refrain at all times from carrying out Fraudulent Transactions; and (iii) shall document and respond to Chargeback and/or cyber fraud requests that may arise.

- 2.2.6.1.** *Procedure.* Kushki will facilitate the processing service with the relevant Acquirers and/or Issuers, as applicable, but assumes NO responsibility for Chargebacks and, therefore, has no obligation to pay them. The Client shall comply with the deadlines in calendar days as notified under [Chargeback Documentation Time Limits](#) to provide Kushki with the necessary supporting documentation to follow up on a dispute; these time limits will be counted from the moment when Kushki marks the Chargeback in its consoles or applications for the Client's knowledge.
- 2.2.6.2.** *Time limit for filing.* As a general rule, the Client shall be liable for Fraudulent Transactions and/or Chargebacks submitted up to: (i) 180 business days for Mexico, (ii) 120 business days for all other countries, or (iii) 540 business days in the cases required by the Brand Holders for some MCCs, or for Transactions associated with the acquisition of products and/or services that are not enjoyed immediately at the time of purchase, such as airline tickets, lodging services, tourist plans, among others. These periods shall be counted from the date of purchase of the products or services and/or from the date of termination of the Services Agreement. In any case, these time limits may be adjusted in accordance with the Applicable Law, or the rules defined by the Participants.
- 2.2.6.3.** *Liability of the Client.* The Client shall be solely liable for compensating any damages and/or losses that may be caused to Cardholders or Participants for incurring in a Fraudulent Transaction, regardless of any other liability attributable to the Client, its Related Third Parties, subordinates, representatives or employees. By accepting the T&C's, the Client releases Kushki from any liability or claim derived from or associated with the execution of Fraudulent Transactions, the processing of Chargebacks, the exceeding of the monthly limits tolerated for Chargebacks by the Brand Holders, or the suspension of the Services as a consequence of these events or the failure by the Client and/or its Related Third Parties to implement sufficient security measures to avoid Fraudulent Transactions and/or Chargebacks, and undertakes to hold Kushki harmless for such events.
- 2.2.6.4.** *Payment of Transactions subject to Chargebacks.* The Client authorizes and expressly instructs Kushki not to charge to its Operating Account, and/or transfer to its bank account, the equivalent to the amount of Transactions that present Chargebacks, given that these may occur, without limitation, for any of the following reasons:
- (i) Unauthorized use of Cardholder information, or stolen information, including, without limitation, the use of stolen Cards.
  - (ii) Transactions made through unauthorized use of information that is safeguarded by the Client or its Related Third Parties, if applicable.
  - (iii) If the date, amount, or authorization number contained in the transaction receipt does not match that provided by Kushki for the respective Transaction.
  - (iv) If the transaction receipt presented by the Client or its Related Third Parties contains any alteration in the data.
  - (v) If the Client or the Related Third Parties are unable to prove that they did deliver or provide the products or services paid for with the Transactions.
  - (vi) Differences between the deposits of the transaction vouchers or undue or improper credits.

- (vii) Failure by the Client to comply with the processes, measures and/or security policies agreed in the Services Agreement or established by Kushki prior to the respective Transaction.

**2.2.6.5.** *Use of Client Information.* The Client authorizes Kushki to share with the Authorities and/or Participants information about the Client, its Related Third Parties or their Transactions, if there is a valid requisition under the Applicable Law and/or reasonable suspicion that the Platform has been used for an unauthorized or unlawful purpose.

**2.2.6.6.** *Measures to address high volumes of Chargebacks.* In the event that the level of Chargebacks, in terms of volume and amount, exceeds or, in Kushki's opinion, may exceed the monthly levels of Chargebacks tolerated by the Brand Holders, or reaches unusual levels, or Kushki's Risk Department believes that the Client has not implemented adequate security and fraud controls, Kushki may (i) demand the implementation of additional fraud prevention controls, such as 3DS, or as determined by Kushki's Risk Department, or (ii) suspend the processing of new Transactions for a particular Related Third Party, until the Client and the Related Third Party have taken appropriate corrective measures in their respective systems, and Kushki has verified and accepted them and/or until acceptable levels are restored.

The Client acknowledges that the introduction of additional fraud prevention controls does not guarantee 100% protection against Fraudulent Transactions and, therefore, agrees that the implementation of corrective security and fraud mitigation measures, such as 3DS, does not relieve it from liability for the payment of any associated Chargebacks, penalties, or charges, whether or not Fraudulent Transaction Chargebacks are incurred.

**2.2.7. Reimbursement of Chargeback Fees.** As a rule, Kushki will not reimburse any Chargeback-related Fees. However, the regulations of each country shall apply, in accordance with the Applicable Law.

**2.2.8. Protective Measures.** Kushki reserves the right to take the protective measures mentioned in this section if any of the following cases arises:

- 2.2.8.1.** If any statement made by the Client in the Services Agreements is false, incorrect, or inaccurate;
- 2.2.8.2.** If the Client fails to fulfill its obligations as established in the T&C's and/or the Applicable Law;
- 2.2.8.3.** If the Client or its Related Third Parties change their commercial activity without previously informing Kushki, so that it can carry out the corresponding validations to continue providing the Service;
- 2.2.8.4.** If the Client, its subsidiaries and/or affiliates, and/or its Related Third Parties, do not supply the products and/or services acquired by Users through the Payment Methods;
- 2.2.8.5.** If the Client interrupts or suspends a significant portion of its operations temporarily or otherwise;
- 2.2.8.6.** If, in the judgment of Kushki's risk team, the Client has a high or disproportionate number of disputes, Fraudulent Transactions or claims for charges or balances.

In addition to Kushki's rights under the Applicable Law, it may resort to the protective measures set forth below, with or without prior notice to the Client:

- (i) Modify any authorization procedure.
- (ii) Modify the frequency of payments.
- (iii) Make a Chargeback for any transaction disputed by a Cardholder.
- (iv) Suspend the performance of the Agreement, terminate the relationship with the Client and/or cancel the Client Account immediately, without liability for Kushki.
- (v) Set up a sufficient Guarantee Fund to cover Kushki's performance of the Client's obligations under these T&C's. This will be done in accordance with the conditions and/or mechanisms objectively determined by Kushki's risk team, which could include the deduction of a percentage of the TPV.
- (vi) Kushki may increase the amount of the Guarantee Fund if its risk analysis so requires due to situations associated, among others, with the financial situation of the Client or its Related Third Parties, coverage of the Client with respect to the Related Third Parties, increases in transactions, Fraudulent Transactions, or Chargebacks.

Kushki will refund to the Client the amount held in the Guarantee Fund once:

- The Protective Measure has disappeared, which must be proven by the Client to the satisfaction of Kushki's risk team;
- The Client is in good standing for the performance of its obligations under the T&C's, including the payment of the Client's Liabilities; and
- After: (i) 180 days in the case of Mexico, (ii) 120 days for the other countries, or (iii) 540 business days in the cases required by the Brand Holders for the applicable MCCs, after the date when the respective Transactions were processed, or after the termination of the Services Agreement.

If required by Kushki, the Client shall set up a Special Guarantee Fund for a specific Related Third Party, based on the objective analysis performed by Kushki's risk team and according to its specific requirements.

- (vii) Withhold from the Client any outstanding balances due under these T&C's, until the Client has satisfactorily liquidated and/or settled all the Client's Liabilities.

**2.2.9. Payment of Client Liabilities - Setoff.** If the funds available in the Operating Account are insufficient to cover the Client's Liabilities, Kushki may deduct these from the Guarantee Fund. Likewise, if the Guarantee Fund is insufficient, Kushki may deduct the amount of the Merchant Liabilities from the amounts of future sales or other Operating Accounts of the Client's affiliated companies.

In any case, Kushki may, without prior notice, set off the amount of any monetary obligation of the Client to Kushki under the Services Agreement and/or the T&C's against any funds the Client has in its Operating Account. If the obligations are in different currencies, Kushki may convert any of the obligations at a market exchange rate in accordance with the Applicable Law, as part of its payment acceptance activity, for clearing purposes.

Kushki may demand other mechanisms to guarantee the fulfillment of the Client's Liabilities, such as insurance, letters of credit, or others, which will be proposed by the risk team to the Client under objective and reasonable criteria.

**2.2.10. Client Liability.** The Client and/or the Related Third Party are solely liable for (i) any warranty on the product or service purchased by the Users, as well as for its shipping, delivery, and/or quality; (ii) ensuring that the data and information provided by Users is true and reliable; (iii) complying with applicable consumer protection regulations in accordance with the Applicable Law; and (iv) directly dealing with and managing all requests submitted by Users regarding these matters, through the channels available for this purpose.

**2.2.11. Whitelists.** The Client may request Kushki to temporarily suspend the security rules for a particular User and/or Related Third Party by submitting a written request indicating the period during which the suspension will be in effect, which in any case may not exceed 72 hours. During the term in which the security measures and rules are suspended, the Client shall be liable to Kushki, to the Users and/or to Related Third Parties for the Transactions performed and/or for any contingency associated with the lifting of the measures and/or the Transactions performed during such lifting, such as the commission of fraud and/or the improper use of the Card information. The Client expressly releases Kushki from any liability, involvement, or obligation with respect to communications, transactions, interactions, disputes, litigation, or any form of controversy arising out of or originating from acts or omissions committed by the Client, Users, Related Third Parties or any third party, occurring during the term set forth herein for the suspension of security measures.

Kushki may deny the request for suspension of the safety regulations or terminate the respective request, in case: (i) the Participants so request, restrict and/or prohibit, and/or (ii) the Participants and/or Competent Authority report the Users and/or the Third Parties linked to a Fraudulent Transaction, and/or (iii) Kushki's risk team so determines for reasonable cause.

**2.2.12. Indemnity.** The Client releases Kushki from any liability, involvement or obligation with respect to communications, transactions, interactions, disputes, litigation, or any form of relationship between the Client and/or its Related Third Parties, and the Users, in accepting payments that are not directly attributable to Kushki for the provision of its Services. In this regard, the Client shall be solely responsible for its interactions and business relationship with the Related Third Parties and/or Users and agrees to hold Kushki harmless against any associated claims. However, Kushki reserves the right, but not the obligation, to monitor the Client's interactions with the Related Third Parties and/or Users where such interactions relate to or may affect the Services.

**2.2.13. Client Taxes and Invoicing.** The Client and/or the Related Third Parties shall hold Kushki harmless and shall be solely responsible for (i) meeting their tax obligations, including tax returns and receipts, withholding tax reports, customs matters, and/or contributions obtained based on deposits resulting from their business activity; and (ii) retaining outside legal counsel independent of Kushki to perform such obligations under the Services Agreement. Kushki does not provide advice on customs, exchange, or tax matters.

**2.2.14. Transfer of Funds Abroad.** If the Client requests the transfer of funds abroad, and unless otherwise expressly agreed in writing, Kushki will make the necessary arrangements under the Applicable Law with the foreign exchange market intermediaries for the purchase of foreign currency and will inform the applicable rate for the respective Transactions to the Client, which exclusively agrees to assume the tax and exchange risk and transaction costs. Kushki will provide a copy of the supporting documents of the transaction for control by the Client. All taxes or levies

incurred, including the GMF (tax on financial transactions) and/or ISD (tax on foreign exchange outflows), when applicable, shall be borne exclusively by the Client.

**2.2.15. Term.** Unless otherwise agreed, the term of the Services Agreement shall be indefinite.

### **2.3. SPECIFIC CONDITIONS OF SERVICE**

In accordance with the contracted services, the Client's remittance and/or as agreed with the Client in the Service Contract and/or Business Agreement, the following conditions shall apply:

#### **2.3.1. Card Payout Service**

**2.3.1.1.** The Provider shall provide funds transfer services through Visa Direct OCT, allowing the Client to make payments to debit and credit cards of the linked clients, in accordance with the applicable Brand Owners' rules, hereinafter referred to as 'Card Payout' service. Kushki shall make payments as agent, in accordance with the Client's instructions, from the Client's available funds in its Operating Account or, if applicable, once it has credited the money to the Provider's accounts. Kushki shall not receive deposits from or collect funds from the public.

For the provision of the service, the Client shall comply with the following conditions:

2.3.1.1.1.1. The Client shall be certified in accordance with Payment Card Industry Data Security Standards (PCI - DSS - Payment Card Industry Data Security Standards), The Client shall not store CVV2 information at any time.

2.3.1.1.1.2. Implement monitoring controls for the prevention of fraud, money laundering and terrorist financing (AML/CTF).

2.3.1.1.1.3. Monitor transactions to identify unusual behaviour and high-risk activities, taking the necessary action if suspicious activity is detected.

2.3.1.1.1.4. Ensuring compliance with the Brand Owners Guidelines regarding brand management and data usage requirements.

2.3.1.1.1.5. Use the service only for the purposes permitted in this contract and the guidelines

2.3.1.1.1.6. Adherence to the rules and Brand Owner Guidelines, including the Visa Core Rules, the OCT implementation guidelines and the PCI DSS standards.

2.3.1.1.1.7. Providing accurate and complete information on clients and linked accounts.

2.3.1.1.1.8. Implement and maintain internal controls for fraud prevention and verification of end clients.

2.3.1.1.1.9. Respect the brand usage guidelines provided by the Brand Owners and the Supplier. The Client shall obtain the prior written approval of the Supplier for any advertising or promotional materials that include the Brand Owners' trademarks.

2.3.1.1.1.10. Verify the identity of its clients before allowing them to make transactions through the Card Payout service, ensuring that the identity data (name, type and identification number) is accurate and properly stored.

2.3.1.1.1.11. Assess and document the purpose of transfers and the economic activity of clients.

2.3.1.1.1.12. Implement due diligence (KYC) processes and, in the case of high-risk clients, conduct enhanced due diligence, including the collection of licences and other relevant documents.

#### **2.3.1.2. Transaction limits**

The Client shall be responsible for ensuring that Clients do not exceed the transaction limits indicated by the Supplier, in accordance with the rules of the Brand Owners. In case of exceeding such limits, the Provider may block or restrict the use of the service, as stipulated in this Agreement. In turn, the Provider may take the necessary control measures, including suspension of the Service, if it has reasonable suspicions of non-compliance with the Agreement.

**2.4. Adult Entertainment Merchant Conditions.** Clients and/or Merchants, as applicable, must comply with the following conditions:

**2.4.1.** Client acknowledges to have received and will adhere to Kushki's Adult Entertainment Merchant Acceptance Policy (AEMAP) prohibitions and restrictions.

**2.4.2.** Monitor the Merchants' activity to ensure its compliance with the applicable law, the conditions established in the clause 9.1.1.1 and the *AEMAP*. The Client or Merchant, as applicable shall make its best effort to assist the Provider as may be required to prevent any forbidden or illegal Merchant accessing the Services.

**2.4.3.** Requirements and conditions for restricted sub-categories: When third parties upload or generate content for Client or Merchant, they shall ensure that their Agreement includes at least the following:

- I. Prohibit any activity that is illegal by local applicable regulation, against brand standards and/or forbidden according to the *AEMAP*.
- II. Obtain and keep the record of the consent from all persons depicted. The consent must contain consent to be depicted, allow for public distribution, upload to the Merchant's website, and allow download where applicable. The collection, storage, and processing of these records must comply with all applicable local data protection laws and regulations, always ensuring the security and confidentiality of the data. Any unauthorized disclosure, leakage, or publication of the data will be the sole responsibility of the Merchant, who shall indemnify and hold Kushki harmless from and against any claims, damages, or liabilities arising from such incidents.
- III. Verify the identity and age of the actors and any persons that is depicted. The actors must be over 18 years or if higher, applicable adult age. The Merchant must have a robust process to identify and validate the age and identity of the content provider. The Client and/or the Merchant shall provide such evidence upon request of the Provider, the Card Brands, the Authority, or the Acquirer. The collection, storage, and processing of these records must comply with all applicable local data protection laws and regulations, always ensuring the security and confidentiality of the data. Any unauthorized disclosure, leakage, or publication of the data will be the sole responsibility of the Merchant, who shall indemnify and hold Kushki harmless from and against any claims, damages, or liabilities arising from such incidents.
- IV. The Merchant shall review all the content prior to publication.
- V. The Merchant must operate a platform that is capable of full control and monitoring in real time, in the case of live/real-time streaming functions, and that provides the ability to remove content immediately upon suspicion or alert of prohibited or brand-damaging activities are identified.
- VI. Merchants shall verify and prevent minors from accessing their platforms or the content. The Merchant shall implement and effectively enforce age verification on its websites where required by law.
- VII. Merchant(s) must not market the content of its website(s) or permit content search terms to give the impression that the content contains child sexual abuse materials ("CSAM") or the depiction of nonconsensual activities.
- VIII. The Merchant(s) shall comply with the advertising conditions set forth the *AEMAP*. In any case, on the Merchant(s) website(s), and in any advertising or promotional materials, Merchant(s) will, and at all times during the term of this Agreement, accurately, plainly and completely describe the products or services it is

offering, the price and terms on which they are being sold, the action(s) that must be taken to consummate a purchase, the point at which a sale is final and irreversible, and any rights its Customer may have to return, obtain a refund or terminate a transaction.

**2.4.4. Complaints and removal of content:**

- (I) The Merchant(s) acknowledges and agree, at Merchant(s) expense, to implement a 24/7 process that allows the reporting and removal of any illegal, unauthorized and forbidden content.
- (II) The Merchant(s) acknowledges and agree, at Merchant(s) expense, the request of a depicted person for the removal of the content, including allowing any disagreement to be resolved by a neutral body.
- (III) All reported or suspected cases shall be reviewed immediately and shall have a final decision as soon as possible, but, in any event, within a period not exceeding three (3) working days.
- (IV) Upon the findings of any reported or suspected cases where the findings are in favor of the complainant, the Merchant(s) must remove the content with immediate effect, within a period not exceeding three (3) working days.

**2.4.5. At the request of the Provider, the Client and/or the Merchant(s) shall provide a monthly report that the Provider reserves the right to share with the Participant of the Network. Said report shall include:**

- (I) All content including URLs and videos flagged as potentially illegal, or otherwise in violation of Law or Card Brands Rules.
- (II) All Actions taken by the Merchant(s), as well as details of all complaints and content removal requests received by the Merchant(s).

**2.4.6. In addition to the conditions herein established in upon request, the Merchant(s) shall provide temporary access (credentials) to the Provider, the Acquirer or the Card Brand to verify its compliance with the applicable law, the conditions established in this clause and the AEMAP.**

**2.4.7. The Merchant(s) is(are) obliged to register with the card schemes of Mastercard and VISA under the high-risk merchant program in accordance with its MCC.**

**2.4.8. The Merchant(s) shall cooperate with the Provider investigation of outages, security problems, illegal activity, fraudulent activity, and any suspected breach of this Agreement. The Merchant(s) shall immediately notify the Provider of any such suspected activity in line with the notice provisions contained herein; including, cooperate with any nonparty audit or investigation, including, if applicable, any audit or investigation by any Participant of Network.**

**2.4.9. Have effective policies in place that prohibit using its website(s) to promote or facilitate human trafficking, sex trafficking, or physical abuse. The Merchant(s) acknowledges and agrees, at its expense, to implement a 24/7 process that allows the reporting and removal of any illegal, unauthorized, or forbidden content with immediate effect.**

**2.4.10. The Merchant(s) website(s) does not, and at all times during the term of this Agreement: (i) contain any pictorial matter which constitutes child pornography; (ii) contain any photographs or performances of a sexual nature depicting persons who are not adults at the time that they render their performances; (iii) use the terms "pre-teen," "lolita," "pedo" or "peda," (including the Merchant(s) website's URL, Merchant(s) website advertisements, Merchant(s) website(s) meta-tags and/or any other Merchant(s) website(s) marketing efforts); (iv) contain any materials which violate any state or federal laws concerning obscenity; (v) contain any pictorial or textual matter that can be freely accessed and viewed by persons under majority age and which would constitute harmful matter or an indecent communication if accessed or viewed by such persons, or (vi) contain any message or communication of any kind which is harmful, violent, threatening, abusive or hateful. Merchant(s) shall at all times comply with all laws regarding record keeping and labeling.**

### **3.- MERCHANT OBLIGATIONS**

The Merchant agrees to:

1. Implement monitoring controls to prevent fraud, money laundering, and terrorist financing (AML/CTF).
2. Monitor transactions to identify unusual behavior and high-risk activities, taking necessary actions if suspicious activities are detected.
3. Ensure compliance with the Brand Owners' guidelines regarding brand handling and data usage requirements.
4. Use the service solely for the purposes allowed under this contract and the established guidelines.
5. Adhere to the rules and guidelines of the Brand Owners, including the "Visa Core Rules," OCT implementation guides, and PCI DSS standards.
6. Provide accurate and complete information about customers and linked accounts.
7. Implement and maintain internal controls to prevent fraud and verify end customers.
8. Adhere to brand usage guidelines provided by the Brand Owners and the Provider.
9. The Merchant must obtain prior written approval from the Provider for any advertising or promotional material that includes the Brand Owners' marks.

#### **3.1.- CUSTOMER VERIFICATION**

The Merchant will be responsible for:

- a. Verifying the identity of its customers before allowing them to make transactions using the Card Payout service, ensuring that identity data (name, type, and ID number) is accurate and properly stored.
- b. Evaluating and documenting the purpose of the transfers and the customers' economic activity.
- c. Implementing due diligence processes (KYC) and, for high-risk customers, conducting enhanced due diligence, including collecting licenses and other relevant documents.

#### **3.2.- TRANSACTION LIMITS**

The Merchant will be responsible for ensuring that Customers do not exceed the transaction limits established by the Provider, in accordance with the Brand Owners' rules. If these limits are exceeded, the Provider may block or restrict the use of the service as stipulated in this Contract. Additionally, the Provider may take necessary control measures, including suspension of the Service, if there are founded suspicions of a breach of the Contract.

### **3. MERCHANT COMMISSION, CHARGES, PAYMENT METHOD AND INVOICING**

For access to the Platform and use of the Services, the Client shall pay Kushki a commission that remunerates the Transaction processing activities performed by Kushki (the "Commission"). Kushki will charge the Commission for processed transactions, whether authorized, rejected or declined, in accordance with the conditions agreed with the Client.

*Dispute Fee:* Kushki will charge a Dispute Fee, which will be quantified and billed at the end of each month. The Fee will be calculated according to the managed item and the country where the respective Transaction



that was the object of an incident managed by Kushki has been processed, in accordance with the Current Rates, which may be modified from time to time, for which the Client will be previously informed.

The acceptance of these T&C's is an express authorization by the Client to debit the Commission and the Dispute Fee from the Client's Operating Account.

### **3.1. COMMISSIONS AND FORM OF PAYMENT UNDER THE AGGREGATOR MODEL:**

- 3.1.1.** The amount of authorized Transactions on a specific operating day and before the applicable cut-off time in each jurisdiction, as reported on the Platform, will be deposited by Kushki into the bank account(s) registered by the Client, within the settlement period agreed with the Client, in compliance with the Applicable Law and according to the operation of the Participants used for the Transaction. The foregoing, provided that the funds credited to the Client for the payment of a Transaction appear as completed in the Operating Account. A successful Transaction shall be deemed completed when Kushki has received the deposit record from the Participant or payment provider in the Operating Account. The only official means of notification to credit a successful Transaction will be through the API.
- 3.1.2.** Kushki shall be required to transfer the corresponding balance in the Client's Operating Account by means of an interbank transfer to the bank account assigned by the Client. The following will be deducted from the total amount that the Client's Users process: (i) the Commission corresponding to Kushki, (ii) the Charges corresponding to additional services contracted by the Client, including, without limitation, the fees charged by Plugins or technology infrastructure providers, (iii) the Client's Liabilities, (iv) the balance that has been reversed by any Participant or Authority, or (v) offset under the conditions set forth in the T&C's, and/or (vi) withheld for taxes in accordance with the Applicable Law.
- 3.1.3.** The information provided by the Client regarding bank accounts must be truthful and accurate. Kushki will only deposit the balances into the bank account provided by the Client and will not be liable if the account information provided was incorrect.
- 3.1.4.** Kushki reserves the right to modify the Commission and shall notify the Client at least thirty (30) days prior to the effective date thereof, unless the modification is due to (i) a judicial, arbitral or administrative decision, or (ii) a change in Kushki's commercial terms with the Participants, in which case the new Commissions shall be effective upon Kushki's notification to the Client. Kushki shall make reasonable efforts to notify the Client of any such changes in a timely manner. If the Client does not agree to the new Commissions, it may terminate the Services Agreement early, without liability.
- 3.1.5.** Unless otherwise expressly agreed, subject to the Applicable Law, Commissions established in fixed rates shall be adjusted annually as of January of each year, in accordance with the consumer price index of the immediately preceding year or the inflation rate certified by the competent authority in each country, as applicable.
- 3.1.6.** The Client shall meet a Monthly Transaction Minimum - MTM that generates Commissions for Kushki of not less than the equivalent in local currency, depending on the applicable country, of USD \$1,000 (one thousand United States Dollars), unless otherwise stated in the Services

Agreement. The equivalent in local currency will be informed by Kushki to the Client. In case the Client does not reach the MTM, Kushki will charge the balance. The MTM may be modified by Kushki upon thirty (30) days prior notice to the Client.

**3.1.7.** The Client unconditionally and expressly authorizes Kushki to deduct, withhold and/or offset from the payments received in its name and account in the Operating Account and/or bank account indicated by the Client, without the need for any prior notice or formality, the amounts necessary to pay Kushki the sums due under the following items:

- 3.1.7.1.** The amount of the Client's Liabilities;
- 3.1.7.2.** The Value Added Tax, or its equivalent in each country, payable on any payment item;
- 3.1.7.3.** Income tax withholdings as determined by the Applicable Law;
- 3.1.7.4.** The amount of deposited Transactions with subsequent adjustments or status changes (Cancellations, Refunds, Errors);
- 3.1.7.5.** The amount of deposits derived from Fraudulent Transactions, including deposits where there are indications that they are derived from possible Fraudulent Transactions;
- 3.1.7.6.** Amounts required to set up or maintain the Guarantee Fund;
- 3.1.7.7.** MTM amount or missing amount; and
- 3.1.7.8.** Other Fees
- 3.1.7.9.** Any other amount that is enforceable in terms of these T&C's and/or the Applicable Law.

**3.1.8.** Kushki agrees to deliver the corresponding invoice for the Commission charged to the Client at the latest within the first 10 (ten) calendar days of each month; this invoice must comply with the tax requirements in force in the Applicable Law. The Client has a maximum term of sixty (60) calendar days from the date of receipt of the respective invoice to submit to Kushki any discrepancies or differences with respect to the settlement made by Kushki for the respective period; upon expiration of such term without any objections, it shall be understood by the Parties that there is no difference between them for the invoiced amounts.

**3.1.9.** The Client agrees and acknowledges that all payments processed through the Platform will be settled in accordance with the terms and conditions of each Payment Method processed.

**3.1.10.** In the event that the funds in the Operating Account are insufficient to pay the Client's Liabilities, or Kushki is unable to set off in its favor the amounts owed to it, the Client shall pay such amounts within two (2) calendar days following Kushki's communication requesting payment; if the Client does not make the payment within said term, default interest shall accrue in favor of Kushki, calculated at the maximum rate allowed by the Applicable Law, from the date on which the payment should have been made until the date on which it is received to satisfaction, without requiring a legal notice. Kushki will notify the Client of the total amount to be transferred to cover the negative balance and suspend the collection of default interest.

**3.1.11.** Other Fees. Subject to the provisions of the Terms of Service, Kushki shall collect the Other Fees monthly. For this purpose, the Provider, through its Affiliates, shall submit an invoice for the corresponding consideration within the first 10 (ten) calendar days of each month.

The Client undertakes to pay the Other Fees within a maximum of ten (10) calendar days from the date of receipt of the relevant invoice. In the event of any dispute or discrepancy in the

amount invoiced, the Client shall submit the relevant claim and the necessary evidence within five (5) calendar days from the date of receipt of the relevant invoice; if no objection is received within this period, the parties shall be deemed to have agreed that there is no discrepancy in the amounts invoiced.

In the event of late payment, the Provider may deduct the amount due for Other Fees from the Operating Account. In return, Client shall acknowledge and pay late payment interest at the maximum rate permitted by applicable law in each jurisdiction in the Territory from the due date for payment until the effective date of payment.

Until payment of any amount due, the Provider reserves the right to suspend the Services, including, but not limited to, withholding future payment(s) in favors of the Client to pay the amount due.

The concept of Additional Fees corresponds to the fee that the Merchant shall pay in favour of Kushki for the administrative and operational management, both before Relevant Third Parties and internally, related to the resolution, management, control and registration of processes associated, among others, with: chargebacks, refunds, unsettled or rejected transactions, and the management of investigations associated with non-compliance with the Brand Rules (assessments and/or cases linked to fines, penalties or additional charges imposed by the Card Brands)

The value applicable to each Additional Fee will be determined in the corresponding Service Agreement and/or Contract signed with the Client. However, in cases of investigations associated with non-compliance with the Brand Rules attributable to the Client, Kushki will apply an additional fee equivalent to 10% of the value of the sanction under investigation, regardless of whether such fine is ultimately enforceable or enforced against the Client.

### **3.2. COMMISSIONS AND FORM OF PAYMENT UNDER THE GATEWAY MODEL.**

The form of payment of the Commissions for Transactions processed under the Gateway Model shall be as agreed in the Services Agreement. In any case, if the Client does not pay the corresponding Commissions within the agreed terms, default interest shall accrue in favor of Kushki, calculated at the maximum rate allowed by the Applicable Law, from the date on which the payment should have been made until the date on which it is received to satisfaction, without requiring any legal notice.

## **4. OBLIGATIONS**

### **4.1. CLIENT OBLIGATIONS**

By making use of the Services, the Client assumes the following obligations:

- 4.1.1.** To use the Platform in accordance with the provisions of the T&C's and/or the Services Agreements. The Client shall comply with the regulations, policies, documentation, and recommendations issued by Kushki for its Platform to function optimally and securely, informed to the Client through the channels provided for this purpose.

- 4.1.2.** To comply with the Applicable Law, the rules of the Participants and the policies (AML/FT, risk management, among others) determined by Kushki or another Acquirer for processing, clearing, and settling Transactions. The Client shall inform its employees, contractors, dependents and/or Related Third Parties of the obligations established therein for the proper handling of the Transactions, and shall verify their compliance, and shall be liable to Kushki or the Participants for the actions or omissions of its Related Third Parties.
- 4.1.3.** To properly display on its app or Website Kushki's and/or the Participants' trademarks, subject to the guidelines of the latter, unless otherwise expressly agreed in writing.
- 4.1.4.** To refrain from (i) establishing minimum consumption amounts for the acceptance of Cards, unless otherwise provided by law; (ii) redirecting production credentials provided by Kushki to websites or apps other than those to which they were initially connected, unless previously approved by Kushki; (iii) selling goods or services paid for with Cards for higher amounts than those established for sales with other Payment Instruments.
- 4.1.5.** To update and provide, at least once (1) a year, and as often as reasonably required by Kushki, relevant information and documents in accordance with Kushki's policies.
- 4.1.6.** To operate in accordance with the Applicable Law and comply with the tax, exchange and customs obligations derived from the import, export and marketing of the goods or services paid through the Services. The Client shall notify Kushki in advance and in a timely manner of any change in its operation or imports/exports that may result in Kushki incurring foreign exchange, tax or other liabilities; and it shall hold Kushki harmless from any fine or sanction imposed by an Authority, derived from Kushki's breach of the obligations contained in this paragraph, or from any omission under the Applicable Law as a consequence of the change of operating model by the Client and/or the Related Third Parties.
- 4.1.7.** To assume the payment of additional charges made by Brand Holders to Kushki in relation to the operation of the Client or its Related Third Parties, such as the cost of entry and permanence, registration, operation as an aggregator or payment services provider, and/or the cost of adhering to MCCs considered High Risk for the Brand Holders. These payments will be made as indicated in the Brand Holders' manuals, available for consultation on their websites.
- 4.1.8.** To bear the cost of any developments, certifications and/or other activities required to implement the new regulatory, operational or security requirements that are mandatory, whether by the Authorities or the Participants, as well as their updates, applicable exclusively in reference to the operation of its Related Third Parties. This, within the time limits informed in the respective requirements.
- 4.1.9.** To assume the payment of any fines imposed on Kushki by the Brand Holders and/or the Authorities as a consequence of or in connection with a non-compliance with the instructions contained in the requirements mentioned in the T&C's, including those under the preceding paragraph, provided that such non-compliance is attributable to the Client and/or its Related Third Parties. Kushki may offset and, therefore, deduct the amount of such fines or penalties from future payments to be made to the Client and/or collect the Guarantee Fund.
- 4.1.10.** To answer and hold Kushki harmless for all adverse consequences (including monetary consequences) associated with or derived from any action or omission attributable to the Client (and/or its Related Third Parties), constituting a violation of the security measures required by the rules of the Brand Holders and/or the Applicable Law. In furtherance of this obligation, the Client shall also be liable for any fraud or security incident that occurs as a consequence of the breach or violation of the mentioned security measures.
- 4.1.11.** To receive and respond to claims submitted by its Users regarding quantity, quality, suitability, safety and delivery of goods or services sold.

## 4.2. ADDITIONAL OBLIGATIONS OF THE CLIENT VIS-À-VIS RELATED THIRD PARTIES

When offering services to a Related Third Party, the Client shall comply with the following:

- 4.2.1.** Implement relevant policies and measures related to: (i) AML/FT, (ii) Know Your Customer (“KYC”), (iii) Due Diligence, (iv) Protection of Personal Data, and (v) Security Measures to be implemented or developed with respect to Related Third Parties, Users and their Transactions. These policies and measures shall be subject to review by Kushki at any time; therefore, Kushki's Risk, Compliance, Personal Data Protection and/or Security areas may request modifications in accordance with the Applicable Law, standards established by the Participants or in accordance with Kushki's internal policies.
- 4.2.2.** Carry out the KYC and/or Due Diligence procedure on the Related Third Parties prior to their affiliation to Kushki, which reserves the right to request the Client (i) to carry out a new KYC and/or Due Diligence procedure on those Related Third Parties, and/or (ii) to provide additional documents and/or information, at the request of its Risk and/or Compliance areas.
- 4.2.3.** Ensure that its Related Third Parties: (i) issue electronic receipts for each transaction carried out; (ii) respect the prices indicated, without altering them in reference to the Payment Instrument to be used; (iii) comply with the information, cancellation and refund requirements in accordance with the Applicable Consumer Protection Law in the countries where they offer their goods and services; and, in general, (iv) comply with the Applicable Law, the T&C's and the policies for prevention and control of the AML/FT risk or any other fraudulent or criminal activity.  
  
The Client shall be liable for any damages caused to Kushki, its shareholders, representatives and employees, as well as for any claims, fines, interest and/or expenses (including, without limitation, attorneys' fees) in the event that the Related Third Party fails to comply with the obligations set forth herein; and shall work in coordination with Kushki to mitigate the risks inherent to such non-compliance.
- 4.2.4.** Verify and guarantee that, under no circumstances, Related Third Parties whose lines of business are not authorized by the Applicable Law, or are classified as prohibited, may access the Services. For the affiliation of merchants whose activity is classified as high-risk by the Participants, the Client shall require prior authorization from Kushki and shall pay the fees charged by the Participants for their registration and operation. Kushki will update the List of Prohibited and High-Risk Businesses from time to time. Breach of this obligation may cause irreparable damage to Kushki and, therefore, the Client shall assume the responsibility to hold Kushki harmless to the fullest extent permitted by the Applicable Law.
- 4.2.5.** Supervise and implement security and fraud mitigation controls on all Transactions processed through the Platform and verify that the Related Third Parties conform to those controls. The Client shall provide all support, documentation and information required by Kushki regarding compliance with the controls referred to herein in order to prevent, reverse and/or mitigate any issues identified.

**4.2.6.** Disclose to Kushki the required information regarding its partners, directors, managers, legal representatives, agents or employees to ensure the protection of its own, Kushki's and/or the Participants' reputation, such as their status as a sanctioned or politically exposed person (PEP), holding an elected office and/or being a member of the Government or State Administration, under the terms to be defined by Kushki's Compliance department. In the event that any of the aforementioned persons becomes a PEP or is sanctioned during the term of the Services Agreement, the Client shall inform Kushki thereof in order to carry out the relevant KYC and Due Diligence procedures.

During the onboarding process of a Related Third Party, as well as during the provision of the Services, the Client shall verify and carry out the necessary processes to identify sanctioned persons or PEPs, those who hold an elected office and/or members of the Government or a State Administration.

**4.2.7.** Use its best efforts to ensure that each Transaction processed on behalf of the Related Third Parties has been made in good faith and in connection with goods or services permitted by the Applicable Law.

**4.2.8.** Refrain from using and make its best efforts to prevent Related Third Parties from using the Platform, directly or indirectly, for any fraudulent or illegal action, or that may interfere in any way with the normal operation of Kushki. The Client shall be responsible for monitoring the Related Party Transactions to verify compliance with the Applicable Law, AML/FT policies and regulations of Kushki's Risk and Compliance area.

**4.2.9.** Notify and provide all support, documentation and information required by Kushki if any of the Related Third Parties that it affiliates or wishes to affiliate is in any of the following circumstances:

**4.2.9.1.** If the volume of Transactions processed in the last twelve (12) months exceeds the volume or value defined by Kushki's Risk Department or the Participants.

**4.2.9.2.** If the net risk exposure of the Related Third Party exceeds the measure established by the Kushki Risk Department from time to time.

**4.2.9.3.** If the MCC for the Related Third Party's business activity is on the list of Prohibited or High-Risk Businesses, unless this activity has been previously approved by Kushki.

In any of these cases, Kushki reserves the right to determine whether or not the Client may continue to provide the Services to such Related Third Parties.

## **5. REPRESENTATIONS**

### **5.1. KUSHKI REPRESENTATIONS**

For the provision of the Services and license to use the Platform, Kushki represents that:

**5.1.1.** The Kushki companies are incorporated in accordance with the Applicable Law and based on the provisions set forth in these T&C's.

- 5.1.2.** Its purpose is not to raise funds or receive bank deposits from the public. If agreed, Kushki shall hold the sums collected in favor of the Client by way of a payment management mandate.

Where permitted by the Applicable Law and if agreed, Kushki may draw the sums collected in favor of the Client or third parties, at the Client's instruction, from bank or trust accounts held in each jurisdiction where Kushki's company is incorporated and in which the Client uses the Services. To this end, the Client shall provide Kushki in writing with the information relevant to the bank or trust account to which the respective sums are to be paid, as well as any information required by Kushki to carry out the KYC and/or Due Diligence processes on third parties that it deems necessary or that may be required by the Authority. Kushki shall not be liable for any damages or losses caused by the dispersion of funds to the Client's or third-party accounts indicated by the Client in accordance with the Services Agreement and/or these T&C's.

Kushki shall not pay any interest or remuneration in relation to the sums collected on behalf of the Client.

The mandate granted by the Client to Kushki excludes powers to fulfill the tax or exchange obligations of the Client, which is solely responsible for knowing and complying with the legal obligations in this regard.

- 5.1.3.** It is not a party to, nor does it have any liability for, any sales or service contracts entered between the Client, the Related Third Parties and the Users.
- 5.1.4.** It does not guarantee the authenticity or legality of the Transactions that are processed through its Platform. The risk of fraud by impersonation of a User, or the risk of illegality of a Transaction due to the activities of the Client and/or the Related Third Parties are entirely borne by the Client. However, Kushki reserves the right to suspend or terminate the Services in case it detects that the Platform is being used for any activity contrary to the Applicable Law.
- 5.1.5.** It makes its Platform available so that the Client or its Related Third Parties can market their products or services through e-commerce sites, applications or physically, so that Users are allowed to pay the price of the goods or services they acquire. For the above, the Client grants Kushki a mandate to charge Users the price of such goods and services, in the name and on behalf of the Clients.
- 5.1.6.** Kushki processes transactions and settles payments as an Acquirer, Aggregator or payment service provider, but does not provide banking services.
- 5.1.7.** Kushki has the licenses and/or authorizations required under Applicable Law to provide the Services.

## **5.2. CLIENT REPRESENTATIONS**

By making use of the Platform and/or the Services, the Client makes the following representations, which have been deemed by Kushki as a requirement for providing the Services:

- 5.2.1.** It is an independent company, duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation, or is a person qualified to contract.
- 5.2.2.** It is duly registered and has all necessary licenses, approvals and permits to do business in the jurisdictions in which it operates.
- 5.2.3.** It has the corporate power and authority to execute, deliver and perform the obligations assumed under the Services Agreement.
- 5.2.4.** It will comply with the laws and regulations applicable to the operation of its business and the performance of its obligations under the T&C's.

## **6. RIGHTS AND PLATFORM OWNERSHIP**

All rights, licenses, title and interest in and to the Platform are and shall remain the exclusive property of Kushki. The Platform is protected by copyright laws and current international treaties, and may not be rented, leased, loaned or transferred in any way without the express authorization of Kushki, holder of the rights to the Platform. In turn, the Client shall retain ownership and rights over its Intellectual Property, over which Kushki shall not obtain any rights.

All names, logos and trademarks included in the Platform are the property of Kushki, its Clients or content providers, and none of these elements may be used for any purpose whatsoever without the express written authorization of the owner of such distinctive signs. These T&C's do not grant the Client the right or license to use the Kushki name and/or any of Kushki's trademarks (whether or not registered with the relevant authority), intellectual property rights, logos, domain names and other distinctive brand features. In addition, all materials contained in the Platform, including without limitation: designs, drawings, computer programs (source code and object code), databases, graphic, audiovisual and photographic material, texts, inventions, models, patents, among other Intellectual Property rights, are the sole and exclusive property of Kushki.

The observations, opinions, suggestions or comments that the Client may provide in relation to the Platform will be merely informative and may or may not be used by Kushki for its benefit, so that Kushki may use such observations, opinions, comments or suggestions in any way it deems appropriate, without generating any obligation to the Client.

### **6.1. CLIENT PROHIBITIONS**

It is strictly forbidden for the Client: (i) to reproduce, modify, alter, distribute any copy, publicly communicate, transform, make changes to, or otherwise use or exploit the Platform, in whole or in part and/or by any means, other than as permitted by these T&C's, and (ii) to apply any reverse engineering process for the purpose of using or altering any of the modules and/or the source code and object code of the Platform, without the prior written authorization of Kushki.

## **7. AUTHENTICATION AND DATA SECURITY**

As authentication elements, the Client will have (i) an email address, and (ii) a password. However, Kushki may implement new Client authentication mechanisms, which will be duly notified for their use. As to the temporary passwords that will be provided to the Client when creating the Client Account, the Client undertakes to change them the first time it logs in to the Platform. Therefore, once the Client has created a



new password, Kushki shall not be responsible for the inappropriate use thereof, since it does not know the passwords and/or the Profiles entered by the Client. To change passwords, the Client shall follow the procedures indicated on the Platform. In case the Client does not change the password and accesses the Platform, the Client releases Kushki from all liability for its use.

Kushki uses the TLS (*Transport Layer Security*) cryptographic protocol to protect the information that the Client shares with Kushki. Nevertheless, Kushki may use other protocols in the future, according to the developments it makes to its Platform.

The Client agrees and undertakes to comply with the security guidelines established by Kushki in the T&C's. Kushki (i) assumes no liability for the Client's lack of or incorrect implementation or misuse of security mechanisms and procedures, and (ii) will not provide the Services if the Client does not implement the necessary procedures and tools to ensure its compliance with the necessary security measures in accordance with Kushki's policies and industry standards.

It shall be the obligation of both Kushki and the Client, as applicable, to protect all data associated with (i) Cards, (ii) payments by transfer, (iii) cash payments through authorized networks, (iv) other Payment Methods enabled on the Platform, or (v) any other information relating to Cardholders or Users.

#### **7.1. COMPLIANCE WITH PCI STANDARDS**

Given that Kushki is certified under the Payment Card Industry Data Security Standards ("PCI-DSS") and procedures, any Client, Related Third Party or technology partner or supplier shall align and comply with such standards when storing, processing or transmitting Cardholder data. The Client will not store CVV2 information at any time. PCI DSS information can be found in the [PCI Council website](#).

In the event that any Participant or the Applicable Law requires the Client or a Related Third Party to be certified in accordance with PCI DSS standards, the Client authorizes Kushki to provide support through its current AoC (*Attestation of Compliance*) and comply with the responsibilities' matrix established to be technically certified in the operation of the Payment Instruments to be processed. Likewise, such third parties grant their consent to Kushki to carry out all activities necessary for the validation of compliance with the standards and guidelines issued by the PCI DSS when the PCI DSS certification process so requires.

In case of suspicion of unauthorized or illegal use of the Kushki Platform, Kushki may block a Transaction.

When the Client and/or its Related Third Parties store, transmit and/or process data contained in the Cards, the following provisions shall apply to them:

- 7.1.1.** It shall be the Client's responsibility to take the necessary actions to protect and guarantee the confidentiality and integrity of the Card Transaction information, especially between its points of sale and its systems, and in any case, they must be transmitted through secure lines.
- 7.1.2.** The data contained in the Cards are strictly secret and confidential; therefore, the Client must protect such secrecy and confidentiality, and use the data as authorized by the Cardholder, as well as exclusively in its relationship with Kushki for the purposes set forth in the T&C's or in the Services Agreement.
- 7.1.3.** The Client agrees to provide truthful, sufficient and timely information about its entity, its partners or shareholders, its executives, its activity, number of Transactions or any other

information required by the Brand Holders and/or rules. In the event that reports are received regarding non-compliances, objections, observations or recommendations, the Client shall develop a plan aimed at responding to them in accordance with the Brand Holders' requirements.

- 7.1.4.** In case the Client's web servers participate in the transactional flow of Cards, the Client agrees to perform a quarterly security scan of these, by means of an ASV (Approved Scan Vendor) tool and through a certified external entity. The result of each report must be an approval ("PASS").
- 7.1.5.** The Client authorizes Kushki to examine, review and audit the Client's compliance with the PCI-DSS Standards at the Client's expense, whether through periodic reviews of the Client's and/or its Related Third Parties' documentation and information, visits to the Client's premises and checking of its equipment, answers to questionnaires or other requests for information and, in general, through any other reasonable actions aimed at the aforementioned purpose. The reviews and/or visits may be carried out at any time, during business days and hours and with at least 48 hours' notice and may be performed directly by Kushki personnel or by one or more third parties designated by Kushki.
- 7.1.6.** In the event that the Client detects that the Client and/or its Related Third Parties are not fully complying with the PCI-DSS Standards and/or that the security of the data contained in the Cards has been compromised in any way or there is a risk of compromise of such data, the Client agrees to notify Kushki immediately and in writing, indicating the nature of the non-compliance and/or compromise or risk of compromise, as well as the terms and manner in which it will be resolved.
- 7.1.7.** Upon failure by the Client to comply with one or more of the above provisions or if the security of the data contained in the Cards is in any way compromised or there is a risk of compromise, Kushki will be entitled to (i) suspend the operation of the Services for the duration of the non-compliance, and/or (ii) unilaterally terminate the Services Agreement, without liability for Kushki; and the Client will be obliged to reimburse Kushki and/or the Cardholders for any expenses, damages or losses arising from such non-compliance, including any fines or increased costs or fees that must be borne by Kushki, whether payable to the Authorities or to the Participants.
- 7.1.8.** In the case of data contained in the Cards that the Client and/or its Related Third Parties have already stored, the above provisions shall be fully applicable to such data.
- 7.1.9.** It shall be the Client's obligation to ensure that its Related Third Parties comply with all the foregoing provisions applicable to them, and it shall be liable for any breach of such provisions by its Related Third Parties and for any damages caused to Kushki, the Cardholders or third parties as a result of such breach.
- 7.1.10.** If the Client (Third Party Agent, aggregators, Payment service providers, merchant or other) engages a third party for the storage, processing or transmission of the information contained in the Cards, the Client must demand the same security controls required of it and is obliged to inform Kushki that such third party complies with the security measures in accordance with the controls defined in the security standards existing in the industry and definitions required by Kushki for the Services. The report must be sent to the mailbox [seguridad@kushkipagos.com](mailto:seguridad@kushkipagos.com), also reporting security compliance issues or incidents that may constitute a risk to the security of this information.

## **8. NON-COMPLIANCE**

In the event of (i) a breach by the Client of any of its obligations under the Services Agreement, the T&C's, and/or the Applicable Law, and/or (ii) at the request of a Participant, Kushki may suspend the Client's access

to the Platform and/or close its Client Account, without prejudice to the legal actions available to Kushki in the event of the respective non-compliance.

The Client agrees to hold Kushki harmless against any claim, complaint, lawsuit, legal action or proceeding of any kind arising out of its breach and shall indemnify Kushki for all expenses incurred in its defense, including, without limitation, attorneys' fees, as well as any indemnification paid by Kushki.

## **9. WARRANTIES**

Except in cases of force majeure or extraordinary circumstances, Kushki will ensure the correct and proper operation of the Platform in accordance with industry standards, provided that the Client acts within the required parameters, operating capacity and computer systems, including an adequate Internet connection. Any malfunction of the Platform or any failure generated by causes directly attributable to the Client, User, Internet service providers, or third parties, will not be the Kushki's responsibility.

## **10. TECHNICAL SUPPORT**

During the term of the Services Agreement, Kushki undertakes to (i) provide technical support and advice to the Client so that the Client can make use of the Platform, (ii) address any technical failure that prevents or reduces the use of the Platform, (iii) respond to inquiries or failure reports submitted by the Client through the channels provided on the Platform, and (iv) make its best efforts to correct such reported errors or failures in accordance with the service levels applicable to the Client and the type of incident in question.

## **11. KUSHKI DISCLAIMER**

Kushki does not warrant or represent that the Client's use of the Platform will be uninterrupted or error-free. The Platform may eventually be unavailable because of technical or technological failures or circumstances beyond Kushki's control. Kushki shall make its best efforts to ensure that in the event of any failure, interruption or unforeseen circumstances related to the use of the Platform or Services, it will be resolved promptly and to the Client's satisfaction. However, the Clients, Related Third Parties and/or Users shall not make Kushki liable for or charge for any damages or losses caused by such failures.

Kushki does not warrant that the service will be free from losses, corruption, attacks, viruses, interferences, hacking, entry or other security breaches, and the Client waives any and all liability to Kushki in connection therewith. In any event, Kushki will endeavor to apply industry best practices in the provision of the Services.

If a payment is not deposited into the Client's Operating Account due to a failure of the payment provider or third parties, Kushki will notify the Client as soon as the issue is detected, but will not be liable for timing, delays, or third party defaults.

## **12. LIMITATION OF LIABILITY**



Except as otherwise expressly agreed, and to the fullest extent permitted by the Applicable Law, Kushki's contractual liability shall be limited to direct, consequential, material, quantifiable and foreseeable damages that have been proven to be directly attributable to Kushki's actions or omissions. Kushki's liability shall in no case exceed the cumulative amount of the Commissions actually paid by the Client to Kushki during the last three (3) months preceding the date on which the damage is caused. This limitation of liability shall not apply in cases where the damages are the direct and exclusive result of actions or omissions that can be qualified as gross negligence or willful misconduct on the part of Kushki.

The Client agrees that under no circumstances shall Kushki, its shareholders or employees be liable for loss of profits, loss of business opportunities, reputational damages, incidental damages, punitive damages, indirect damages, moral damages or the like.

Kushki shall not be liable for: (i) any information that the Client and Users enter on the Platform, including information regarding personal data and Payment Methods and their use; (ii) any damages and/or losses that may be caused to Cardholders, holders of Payment Instruments, or Participants, as a result of any Fraudulent Transaction, regardless of any other liability that may be attributable to the Client, its subordinates, employees or any third party for causing or processing such transactions; (iii) the incorrect implementation or misuse of security mechanisms and/or the Client's decision to implement only its security and fraud prevention mechanisms, (iv) any review, verification and implementation of the procedure to comply with (a) the AML/FT requirements when contracting with and providing Services to third parties, and (b) that no activities prohibited by the Brand Holders or the Applicable Law are incurred. Therefore, the Client expressly releases Kushki from any liability arising from the foregoing and agrees to hold Kushki harmless from any claim. An exception to the foregoing is when the damages caused are directly and exclusively attributable to the gross negligence or willful misconduct of Kushki in respect of obligations expressly incumbent upon it in accordance with the provisions of the Services Agreement.

### **13. TERMINATION OF SERVICES**

In addition to the grounds set out in the Applicable Law or in other sections of the T&C's, the Services Agreement shall terminate for any of the following causes:

- 13.1.** Mutual agreement of the parties;
- 13.2.** Total or partial breach of any of the obligations agreed in the Services Agreement that affects its development, which is not cured within ten (10) business days following the notice by the non-defaulting party to the party in default, or that cannot be cured;
- 13.3.** Unilaterally, by either Party, with at least thirty (30) calendar days' prior notice to the desired termination date;
- 13.4.** By Kushki:
  - 13.4.1.** Immediately and without liability if so, required by any Participant or Authority. In this case, Kushki and the Client will try to resolve the conditions for termination in good faith.
  - 13.4.2.** Immediately and without liability if, based on objective and/or verifiable information, it concludes that there are, or may be, reputational, legal, compliance, or other risks that prevent it from continuing to provide Services to the Client or Related Third Parties. It shall be at Kushki's discretion to decide whether to terminate or suspend the Services on such grounds. Reasons for reputational exposure may include, without limitation, the following: (i) If the interest rates

applied to Users are not in line with the Applicable Law and/or reasonable market standards; (ii) if the Client fails to perform an adequate credit evaluation of its Related Third Parties or Users, in accordance with industry standards, (iii) if direct or imputed (sold to third parties) collection methods give rise to recurring complaints by Users, or may involve the commission of unfair practices, and (iv) if it is reasonably concluded that the Client or the Related Third Party does not comply with the rules of the Participants or the Applicable Law.

**13.5. Termination for Impossibility of Performance.** In the event that the Client does not make an express request for termination of the Agreement and nevertheless suspends arbitrarily or without cause made known to Kushki, (i) the use of the Platform, (ii) the use and proper administration of its Operating Account, and (iii) fluid communication with Kushki in reference to the performance of the Services Agreement, for a term exceeding six (6) months, Kushki may understand that the performance of the Services became unenforceable without liability for Kushki. The termination of the Agreement due to the impossibility of performing the Services shall entail the following consequences:

**13.5.1.** The outstanding obligations of both the Client and Kushki shall survive.

**13.5.2.** Kushki may, if appropriate, deduct from the Client's Operating Accounts and/or those of its Related Third Parties the amount corresponding to the administration fee of the aforementioned Operating Accounts, which is 2.5% per month of the funds left in them by the Client;

**13.5.3.** Kushki will send a minimum of three (3) communications to the Client, using the addresses for notices registered by the Client with Kushki, formalizing the date of termination of the Contract and informing the Client, if applicable, of the existence of available funds in its favor in the Operating Account.

**13.5.4.** After five (5) years from the date of dispatch of the first notice of termination by Kushki, Kushki may dispose of the funds that, after the deductions authorized by the Client according to the rules provided herein, are still available in the Operating Accounts.

In the event of any termination, the outstanding obligations of both the Client and Kushki shall survive.

#### **14. SUSPENSION OF THE SERVICE OR AGREEMENT**

Without prejudice to the grounds for termination set forth in the preceding section, Kushki reserves the right to suspend the Services and/or the Services Agreement with the Client and/or a specific Related Third Party if it determines or has reasonable grounds to consider a breach or future breach of the conditions and obligations set forth in the T&C's, which is not resolved by the Client or the respective Related Third Party.

In these cases, (i) Kushki shall notify the Client and/or the Related Third Party of the decision to suspend the Services, pointing out the verified non-compliance or the reasons for the possible non-compliance, setting a term for the Client and/or the Related Third Party to resolve the situation or submit to Kushki a remediation plan describing in detail the corrective actions and the dates of their implementation; and (ii) upon receipt of a response from the Client and/or Related Third Party, the Parties shall cooperate in good faith to implement the proposed or agreed solutions. If the Parties fail to agree on the remediation plan, the Client and/or the Related Third Party fails to respond to Kushki's notice or fails to comply with the remediation plan, Kushki shall be at liberty to proceed with the suspension and/or termination of the Services, at its discretion.

If requested by a Participant, Kushki may suspend the Services without liability, for which the sole notification to the Client and/or Related Third Party shall be sufficient.

## **15. CONFIDENTIALITY**

The Parties agree to protect and keep confidential and not to disclose to any third party any Confidential Information (as such term is defined below) received from the other party or obtained from the Platform, its related companies, agents, representatives or otherwise discovered by the Client in connection with the use of the Platform and/or the Client Account, as the case may be.

For the purposes of these T&C's, "Confidential Information" shall mean any and all information that is not of public knowledge and that is or may be used, developed or obtained by the discloser and/or its related companies, agents, representatives or in any other way, as well as that which is clearly confidential for a technician in the matter, based on previously available information, which may be disclosed only as provided in the T&C's and/or the Applicable Law. Confidential Information includes but is not limited to: (i) information, procedures and data obtained and/or developed by the discloser concerning or relating to its business or affairs; (ii) products or services; (iii) costs and pricing structures; (iv) analyses; (v) business and accounting methods; (vi) any written, graphic, electromagnetic information, including without limitation, technical information, source codes, documentation and other artifacts produced and developed by the discloser; (vii) software, including operating systems, applications and programming lists; (viii) organization charts, manuals and documentation; (ix) all production methods, processes, technology and trade secrets and market projects; (x) names of shareholders, current or investment partners; and (xi) all other similar and related information, in any form.

The Parties agree to (i) use the Confidential Information only for purposes of fulfilling their obligations under the T&C's; (ii) take such security measures as they deem necessary and reasonable, including, at a minimum, those used to protect their own confidential information; and (iii) adopt the necessary technical and organizational measures to a) guarantee the security and confidentiality of the Confidential Information, b) prevent its modification, adulteration, loss, consultation or unauthorized treatment, and c) detect deviations, intentional or not, of Confidential Information, whether the risks come from human action or from the technical means used.

Whoever receives the Confidential Information may disclose it, solely and exclusively, to personnel who need to know such information in order to fulfill their obligations under the T&C's, notwithstanding the fact that they shall remain responsible for the use that such personnel make of the Confidential Information, and shall be liable to the party that discloses the Confidential Information for any direct damage or loss that may arise as a result of such disclosure. The Parties declare that they are aware of the penalties incurred by a person for disclosure of Confidential Information, in accordance with the provisions of the Applicable Law.

Unless otherwise expressly agreed in writing, the obligations contained in this section shall survive for a period of five (5) years after the termination of the Services Agreement.

## **16. DISCLOSURE AND USE OF MESSAGES AND COMMUNICATIONS**

The material sent to the Platform by Clients is not confidential, unless it is information so defined in the Confidential Information section. Kushki shall not be liable for any subsequent use or disclosure. All communications and other materials (including, without limitation, unsolicited ideas, suggestions or materials) sent to the Platform or to Kushki, by any means, shall become the sole and exclusive property of Kushki, and may be used by Kushki for any purpose, including commercial purposes, without compensation.

## **17. PRIVACY AND PROTECTION OF PERSONAL DATA**

The personal data of the Users of the Platform collected by Kushki will be handled in accordance with the authorization received from the Client and the provisions of the Applicable Law, the T&C's and the Privacy Policy included on the website and/or mobile applications and/or digital tools and/or Kushki offices, as these may be updated from time to time.

The Client declares that it has collected, for itself and for the processing that under these T&C's it declares to know and accept is carried out by Kushki, the authorization of the respective subjects for the processing of their Personal Data; therefore, the Client issues a mandate to Kushki to carry out, on its behalf, the processing of the Personal Data of the Client's Users.

The Personal Data that may be accessed by Kushki include all Personal Data required for the provision of the Services, which are not considered as or embedded in Transactional Data.

Kushki may (i) process the Personal Data for the sole purpose of providing the Services and shall be prohibited from using the Personal Data for other purposes, except for storage; (ii) delegate the processing activities of the Client's Personal Data to third parties; to this end, it shall enter into contracts with such third parties in which it shall include, at least, the same obligations set out in this clause.

Considering its role in the payment chain, Kushki shall act as data controller or responsible for the processing of the Transactional Data, in accordance with the terms set forth in the Applicable Law in relation to their protection and processing. These data will not be destroyed or delivered to the Client upon request, due to the rules of the payment ecosystem and PCI DSS standards.

## **18. AUTHORIZATION OF CONSULTATION AND REPORT TO CREDIT BUREAUS.**

To the fullest extent permitted by the Applicable Law, the Client expressly and irrevocably authorizes Kushki to consult and report to any credit bureau, or source of information or credit rating agency, all information regarding its credit behavior, management of bank accounts, credit cards and, in general, any type of information related to the fulfillment or status of its obligations, assets, liabilities and, especially, the existence of overdue debts, or the improper use of the Services. The foregoing implies that compliance or non-compliance with its obligations will be reflected in the aforementioned databases, in which all data concerning its behavior with the financial sector are fully recorded. By virtue of this authorization, Kushki, its administrators, representatives, officers and/or employees are expressly authorized to use the consulted information for the purpose of analyzing potential credit risks, as well as to use, transfer or deliver such information to the Authorities. The information reflecting the Client's non-compliance will depend on the moment when the Client makes the payment of the obligations in default, considering the expiration periods established for such purpose.

Furthermore, the Client authorizes Kushki to collect, store and use its data collected in connection with the Services Agreement and/or in the provision of the Services for sending communications, invitations to meetings, training, monitoring the provision of the Services, carrying out inspections or audits associated with the performance of the Services Agreement, measurements, consultations, control and/or analyses, responding to requests, complaints and claims and/or possible follow-up to cases, making invitations to contract, onboarding processes, and/or to send information to the Participants.

Notwithstanding the foregoing, the Client declares to know that, as owner of the information, it is entitled to know, update and rectify its data, request proof of the time of its delivery and of the authorization granted for its processing; be informed of the use to which it has been put; file the appropriate complaints under the Applicable Law with the Authorities, revoke the authorization and/or request the deletion of its data in the cases where this is appropriate, as well as access them free of charge.

## **19. ADVERTISING**

Under these T&C's, the Client authorizes Kushki to identify it as its client by any means, and to make use of the Client's trademarks, domain names, trade name or company name, solely in connection with the Services and the T&C's. Moreover, the Client authorizes the use of its company information and logo in any success story to be developed jointly with Kushki, which will be notified in advance to the Client's Communications team.

## **20. AUDIT RIGHTS**

Kushki reserves the right to audit the Client, either directly with its own personnel or through independent auditors selected by Kushki, and/or by the Authority, which may have access to the Client's premises, personnel and relevant information and records for the purpose of verifying the Client's (i) compliance with the Services Agreement, the rules of the Brand Holders and the Applicable Law, especially, without limitation, with respect to AML/FT; (ii) the Due Diligence procedure to be performed on the Related Third Parties; (iii) the KYC procedure to be performed on the Related Third Parties; and (iv) the Client's risk and fraud prevention processes, controls over Related Third Parties and security.

## **21. NOTICES**

Any clarification or complaint in relation to these T&C's must be notified by the Client to the Kushki company with which the Client has contracted the Services, through the communication channels provided by Kushki and informed to the Client, and sent to the e-mail [soporte@kushkipagos.com](mailto:soporte@kushkipagos.com).

Kushki shall notify the Client through the Platform and/or to the email address registered in the Client Account.

The Client acknowledges that legally required notices and any other information related to the rights and obligations arising from the T&C's may be sent by Kushki electronically; and that electronic acceptance of T&C's and Services Agreements shall have the same binding force as a handwritten signature.

## 22. APPLICABLE LAW

Unless otherwise expressly agreed in writing, the following rules shall apply for determining the Applicable Law and the competent Authority or Court in case of dispute resolution:

- 22.1. If the Client contracts the Services with a single Kushki company, the Applicable Law and Competent Authority shall be those set forth in the country-specific section for the country where the Kushki company is domiciled and with which the Client has contracted the Services.
- 22.2. If the Client contracts the Services with several Kushki companies, the Applicable Law and Competent Authority shall be determined according to the country of domicile of the Kushki company with which the dispute arises.
- 22.3. In case the Client contracts the Services with several Kushki companies and there are several disputes arising, or not, from the same event, the Applicable Law and Competent Authority shall be determined for each dispute according to the country of domicile of the Kushki company with which the dispute arises.

These T&C's are governed by the laws of the domicile of the Kushki company with which the Services Agreement is signed and/or from which the Client receives the Services.

## 23. DISPUTE RESOLUTION

Unless otherwise expressly agreed in writing, the Parties irrevocably agree that, in the event of a dispute between them arising out of or in connection with the Services Agreement, they shall make their best efforts to find a solution through an out-of-court settlement process. If after thirty (30) calendar days from the notice of the start of the settlement process the dispute has not been resolved, the Parties freely and voluntarily agree to submit the dispute to the competent courts, in accordance with the Applicable Law.

## 24. ETHICAL CONDUCT AND ANTI-CORRUPTION STANDARDS

The Parties agree to implement internal control mechanisms to prevent acts of corruption in the negotiations to be carried out in connection with the Services according to Provider's Compliance Policies [ABAC Policy](#) & [Ethics Policy](#) provided herein.. Accordingly, they agree not to receive or offer, directly or indirectly, from and to employees, managers, or subordinates of the other party: (i) sums of money, (ii) any object of pecuniary value, or (iii) any other benefit or profit, in exchange for: (i) performing, (ii) omitting, (iii) or delaying any act related to the performance of their duties.

The Parties represent and warrant that they, as well as their officers, employees, directors or, to the best of their knowledge and belief, subcontractors, (i) comply with the Applicable Law, especially that relating to criminal liability of legal persons, anti-corruption and local or international AML/FT regulations, as well as domestic and international regulations relating to the prevention of fraud, bribery, and corruption; (ii) are not the subject of investigations, accusations or proceedings relating to the violation of anti-corruption and AML/FT regulations; and (iii) have not been subject to criminal, disciplinary or contractual sanctions resulting from violations of such regulations. The Client shall comply with the Anti-Money Laundering and Terrorist Financing ('AML/CFT') Policy of the AML/CFT Provider provided in this [AML/CFT Policy document](#).

The Parties further state that any breach or misrepresentation in the above statements constitutes an irreparable breach of the Services Agreement, which gives the other party the exclusive right to terminate it.

Each Party undertakes to inform the other of any notice received in connection with an investigation, proceeding, sanction or similar process, brought against it or against any of its officers, employees, directors, or subcontractors in connection with alleged breaches of the Applicable Law referred to in this Section, within two (2) business days following the date on which the relevant Party becomes aware of such notice; the Client shall notify Kushki through the reporting channel established on Kushki's [Web Site](#).

## **25. FUNDING SOURCE DECLARATION**

The Parties state that their income comes from lawful activities, that they are not included in AML/FT lists administered by any domestic or foreign authority, and that consequently they undertake to answer to their counterparty for any damages that may be caused because of this statement in accordance with the Supplier's Compliance Policies set out in this [Risk Appetite Statement](#). Therefore, the inclusion in the list of the Office of Foreign Assets Control - OFAC issued by the United States Treasury Department, the list of the United Nations Organization, the list of Terrorists of the United States of America, the list of the European Union of Persons Classified as Terrorists and the List of the European Union of Terrorist Organizations and other public, restrictive or binding lists related to the subject of money laundering and terrorist financing shall be just cause for termination of the Agreement by either Party.

## **26. TERM**

These T&C's are effective as of their publication and shall apply to the Parties for as long as there is a contractual or service relationship between them.

## **27. AMENDMENTS AND UPDATES TO THE T&C's**

Kushki reserves the right to add to or modify the T&C's at any time, as well as to offer new Services through the Platform, to which the T&C's shall be applicable without any particular or subsequent mention.

Kushki will notify the Client of any additions or amendments to the T&C's upon reasonable notice, through the Platform, by email or by any other means of notification through which there is contact with the Client; in addition, the T&C's will be available on Kushki's websites, such as <https://www.kushki.com/> or <https://www.kushkipagos.com/>.

Kushki reserves the right to apply changes to the T&C's with immediate effect, whenever required to (i) maintain the security of its systems, (ii) comply with the Applicable Law, or with (iii) instructions given by the Authorities or the Participants.

In case the Client does not agree with the update, it may terminate the Services Agreement upon thirty (30) calendar days prior written notice to Kushki, without liability.

**28. Acts of God or Force Majeure Events.**

Neither party shall be responsible for any breach of this Agreement that may be caused by unforeseeable circumstances or force majeure event. Notwithstanding the foregoing, an act of God or force majeure event shall not be a reason for the affected party not to pay the amounts in a timely manner or perform the obligations hereunder, prior to the act of God or force majeure event. The party affected by such situation shall send a notice in writing to the other within 10 (ten) calendar days following awareness of the existence of an act of God or force majeure event, as defined by the applicable local laws.

In the event the consequences of an act of God or force majeure event persists for more than 10 (ten) calendar days from the date the affected party notifies its occurrence, either Party may terminate this Agreement by sending a written notice to the other party 5 (five) calendar days in advance and without the need for a court order for this purpose.

**29. OTHER**

- 29.1.** Kushki, in its sole discretion, reserves the right to (i) track and remove information provided by visitors to the Platform, and (ii) limit or eliminate the availability of the Platform, at any time, without prior notice.
- 29.2.** If any term, condition or provision of the T&C's shall be determined to be illegal, invalid, void or for any reason unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired. This instrument constitutes a complete agreement between the Client and Kushki.

I have read, understood and agree to be bound by these T&C's.

## **COUNTRY-SPECIFIC CONDITIONS**

### **RULES APPLICABLE TO ECUADOR**

#### **REPRESENTATIONS**

- (i) Through Resolution No. SB-DTL-2018-450, dated May 4, 2018, the Office of Legal Procedures of the Banking Superintendency authorized Kushki S.A. as an Ancillary Services Company for payments and transactions in the Public and Private Financial Sectors.
- (ii) Through Resolution No. BCE-DNRO-2018-198, dated August 14, 2018, the Central Bank of Ecuador authorized Kushki to operate as a Payment Processing System.
- (iii) Through Resolution No. NAC-DNCRASC20-00000001 dated September 4, 2020, the General Office of the Internal Revenue Service authorized Kushki as a “Withholding Agent” for both income tax and value added tax (VAT).
- (iv) Through Administrative Resolution BCE-DNRO-2022-002 dated May 9, 2022, the Central Bank of Ecuador authorized Kushki to provide payment aggregation services.
- (v) Kushki declares that, pursuant to the aforementioned authorizations, it may act both under a Gateway scheme and/or in the capacity of Payment Aggregator, as defined by the Internal Revenue Service under Resolution No. NAC-DGERCGC21-00000026, dated May 12, 2021.
- (vi) In any event, subject to the Applicable Law, Kushki may provide Services through Kushki S.A. or other affiliated local entities with which a Services Agreement is signed.

#### **RULES APPLICABLE TO THE SERVICES:**

The Services may be provided by Kushki S.A. or other affiliated local entities with which a Services Agreement is signed. Nevertheless, Kushki S.A. shall be the company that provides the regulated services, in accordance with the Applicable Law.

#### **PERSONAL DATA PROTECTION**

The Client's personal data entered in the Platform and collected by Kushki shall be treated in accordance with the Privacy Policy available on Kushki's website and/or mobile applications and/or digital tools and/or offices.

For any information concerning the collection, registration, retention, modification, consultation, use, communication by transfer, dissemination or any other type of access, comparison or interconnection, limitation, deletion or destruction of personal data, the Client must consult our Privacy Policy, available at: <https://www.kushkipagos.com/en/legal>.

If the Client collects personal data, it undertakes to inform Users of the corresponding privacy policy, which describes the personal data collected by the Client, as well as the purposes of the processing in accordance with the provisions of the Organic Law on Personal Data Protection and other applicable legislation. Furthermore, the Client agrees to obtain the consent of the Users for the transfer of personal data when required by law.

In addition to complying with the requirements of the Organic Law on Personal Data Protection and other applicable legislation, the Client has in place the security tools and certifications required by the Authorities in Ecuador, necessary to safeguard the confidentiality of the Client Account information and Personal Data.

#### **ELECTRONIC MEANS**

The Client acknowledges and agrees that the electronic means provided by Kushki (such as username, Password, etc.), will constitute the form of creation, transmission, modification or termination of rights and obligations arising from these T&C's and the Privacy Policy, so that, in terms of the Law of Electronic Commerce, Electronic Signatures and Data Messages, Commercial Code, Civil Code and other applicable regulations, the means of identification, in substitution of the handwritten signature, will have the same binding effects that the laws grant to documents with a handwritten signature and, consequently, will have the same probative value.

#### **APPLICABLE LAW AND DISPUTE RESOLUTION**

Services rendered in Ecuador shall be governed by the laws of the Republic of Ecuador.

If Kushki is entitled to initiate a collection action for sums of money owed in its favor, the Parties agree to submit such dispute to the order for payment procedure established in the Organic Code of General Proceedings or summary procedure, as applicable in the particular case.

## **RULES APPLICABLE TO MEXICO**

### **REPRESENTATIONS**

The Services may be provided by Kushki S. de R.L. de C.V. or other affiliated local entities with which a Services Agreement is signed.

Kushki does not offer banking services nor is it a money transmitter, as defined by the Credit Institutions Act and the General Act on Auxiliary Credit Organizations and Activities. Kushki is acting in the capacity of Payment Aggregator and/or Acquirer pursuant to the terms of the General Provisions Applicable to Payment Processing Networks (the "Payment Network Rules"), published by the Banco de Mexico on March 11, 2014, as amended from time to time, as well as pursuant to any other applicable regulations issued by the Banco de Mexico, the National Banking and Securities Commission or by other governmental authority for Aggregators and/or Acquirers or other parties involved in payment processing networks in Mexico.

The Client accepts that some Kushki software or Platform may be subject to export rules imposed by the applicable regulations in Mexico, and therefore may not be downloaded and/or copied, or exported or re-exported, into (or to a citizen or resident of) a country where the import or download of such software is restricted (hereinafter a "Restricted Country").

### **RULES APPLICABLE TO THE SERVICES:**

#### **PROCESSING OF PERSONAL DATA:**

Kushki declares that in case it has access to the Personal Data of the Client and/or Users (as defined in the Federal Act on Protection of Personal Data held by Private Parties (the "LDPDPPP")), they shall be treated in accordance with such act. The Client reiterates its agreement with the Privacy Notice for the Processing of Personal Data collected by Kushki available on its website <https://kushkipagos.com/legal/aviso-de-privacidad-integral-mexico>;

If the Client collects personal data, it undertakes to inform the Users and/or Related Third Parties of the corresponding privacy notice, which specifies the personal data that the Client collects from them, as well as the purposes of the processing in accordance with the provisions of the LDPDPPP, its Regulations and guidelines in accordance with the applicable legislation ("Data Protection Regulation"). Furthermore, the Client agrees to obtain the consent of the Users for the transfer of personal data when required by law. In addition to complying with the requirements of the Data Protection Regulation, Kushki has the security tools and certifications required by the authorities in Mexico, necessary to safeguard the confidentiality of Client Account information and Personal Data.

#### **INTEREST-FREE MONTHS**

In the specific case of the Services to be provided in Mexico and the Interest-Free Deferred Payments Program (*Programa de Pagos Diferidos sin Intereses*), the Client acknowledges that (i) there is a special Commission in favor of Kushki for the arrangements made on the Client's behalf to enable the program and agrees to pay it under the terms set forth in the Services Agreement; and that, in order for the deferred payment option to be enabled, (ii) it must operate under the concepts, terms and conditions stipulated on its behalf by Kushki in the



respective agreement, and (iii) all Transactions will be operated by Kushki under the Acquirer and affiliation number defined in the respective agreement.

**APPLICABLE LAW AND DISPUTE RESOLUTION:**

Services provided in Mexico shall be governed by and construed in accordance with the applicable laws of the United Mexican States.

If the Client downloads or uses the Platform, it represents and warrants that it is not a citizen of and does not reside or is located in any territory controlled by, any Restricted Country. Mexican law shall govern these T&C's; therefore, the Client expressly agrees to waive any jurisdiction that may be applicable to it by reason of its present or future domicile, expressly submitting to the jurisdiction and competence of the courts of Mexico City, with respect to all matters related to these T&C's.



## RULES APPLICABLE TO CHILE

### REPRESENTATIONS:

The Services may be provided by Kushki Chile SPA, Kushki Operadora S.A. or other local affiliates with which a Services Agreement is signed.

Kushki declares that it may provide the Services through its connections with various Operators, including Transbank S.A. ("Transbank"). Notwithstanding the foregoing, the Client agrees that such Operator may be replaced in the future at Kushki's sole discretion and without requiring an authorization from the Client.

### RULES APPLICABLE TO THE SERVICES:

- (i) The Client grants an irrevocable mandate to Kushki under the terms established in article 241 of the Chilean Commercial Code to collect the Client's funds for the various Client Transactions with Users in the bank account instructed by Kushki and that such Transactions are to be carried out through the use of a Kushki merchant code or sub-code, so that the funds from the User's Transactions are then paid to the Client in the manner and time agreed between the Client and Kushki. Kushki will settle and pay the amounts of the approved Transactions to the Client, net of the Commission agreed between Kushki and the Client.
- (ii) As a general rule, the settlement funds that Transbank or another Acquirer delivers to Kushki will be in Chilean pesos and will only be used to pay its Clients in the account(s) instructed by each Client.
- (iii) Card Transactions will be paid by Kushki to the Client in accordance with the Applicable Law in Chile.
- (iv) Card transactions will be paid by Kushki to the Client within fifteen (15) calendar days from the date of each Transaction. If Kushki does not transfer the amount of the Transactions within the established period, the Client shall give notice to Transbank or any other applicable Operator no later than the business day immediately following that of non-payment within the established period.
- (v) In case the Client fails to give the notice established in the preceding paragraph, Transbank or any Operator other than Kushki shall be exempted from responsibility for payment of the Card Transactions that Kushki has not paid or has partially paid, and the Client shall request payment solely and directly from Kushki.
- (vi) For payments of goods and/or services made with the Cards at the Client's shop or website through Kushki, and which have been approved by Transbank or another Operator and paid by these to Kushki for further payment to the Client, the respective goods and/or services shall be deemed paid, extinguishing the respective obligation, and consequently the Client may not, with respect to the goods and/or services being paid, carry out collection actions against the Cardholder, suspend supplies, cancel policies, impose fines, etc.
- (vii) Transbank or any other Operator may immediately suspend or terminate the acceptance of the Cards, either specifically with respect to the Client or with respect to Kushki, if there is evidence of non-compliance with the Applicable Law, obligations of the Services Agreement or of the Brand Holders or at their request, particularly if the sales limits established therein are exceeded, or due to suspicious activities or Fraudulent Transactions, either by Kushki or by the Client.  
If the breach is incurred solely by the Client, Kushki will terminate the respective Services Agreement or may suspend, in whole or in part, its acceptance of the Client's Cards, depending on the seriousness of the facts and the findings of the investigation conducted by Kushki, as warranted. In the event of alerts or suspicions of illicit or fraudulent activities by the Client, Transbank or any other Operator shall

be authorized to suspend their acceptance of the Cards with respect to those secondary merchants and shall give simultaneous notice to Kushki.

In such cases, Transbank or any other applicable Operator shall (i) give notice to Kushki before suspending their acceptance of the Cards; and (ii) indicate in writing the reasons for suspending acceptance of the Cards and the estimated period of suspension. The foregoing, without prejudice to the legal responsibilities of Kushki and without prejudice to the possibility of terminating the Services Agreement if Kushki has indeed acted knowing about the illicit or fraudulent activities of the secondary merchant.

- (viii) Transbank or other Operators may require information from the Client regarding its relationship with Kushki, particularly with respect to the payment of Transactions with the Cards and the line of business in which it conducts its activities.
- (ix) The Client accepts that the Cards may not be used by Users to carry out transactions other than those that are specific to the Client's line of business.
- (x) Transactions with the Cards shall be made in Chilean legal tender.
- (xi) The Client shall not discriminate with respect to Cardholders, whether their Cards have been issued in Chile or abroad, for any cause or reason based on the use thereof.
- (xii) The Client declares and agrees that any dispute or difficulty between the Client and the Cardholder relating to a product not delivered or service not received, the quality, quantity, price, timeliness or any factor relevant to the sale made or service rendered, shall be resolved directly between those parties, without any intervention or liability of Transbank, any other applicable Operator, or Kushki.

In order for Kushki's Platform and Services to function properly and to avoid unlawful or fraudulent uses of the Cards, the Client undertakes to instruct and train its personnel and employees, at its own expense, on the operation and management of the system in all aspects, as well as on the obligations assumed under the Services Agreement, especially in regard to the requirements that must be met for acceptance of the Cards.

Kushki and the Client agree to take the necessary security measures to ensure that the information of the transactions made with the Cards is properly protected. Without prejudice to the ownership of the information pertaining to the Cardholders in accordance with the Applicable Law, the information contained in the Cards is the property of the respective Issuers and cardholders and is confidential; therefore, storage of the data contained in the front and back thereof, including those contained in the magnetic band, chip or the like, is expressly prohibited, unless authorized by the Cardholder. Kushki and the Client shall be liable to Transbank or any other Operator, and to the relevant third parties, for any damages arising from non-compliance with the provisions set forth in this paragraph.

- (xiii) Kushki and the Client accept that Transbank or any other Operator reserve the right to carry out, directly or through a designee, such inspections as may be reasonably necessary to verify their effective compliance with the obligations set forth in the Services Agreement; and they undertake to provide reliable answers to any queries regarding the quality of the Service requested by Transbank or any other Operator for the same purpose.
- (xiv) The Client declares and accepts that, if transactions with Cards made through Kushki or with a particular Client are declined more than once within the same month, or once in three (3) consecutive months, for non-compliance with the requirements set forth in the Services Agreement and/or in its supplementary documents, the Parties agree that this shall be considered a breach of the security controls imposed by Transbank on behalf of Kushki. In this case, Transbank or another Operator may inform Kushki so that the Client can remedy the fault or root cause situation. The foregoing taking into consideration the concept of suspicious operation as defined by the Financial Analysis Unit (UAF) or, if fraudulent operations are verified by the Participants, Transbank, another Operator or any other current

or future entity whose purpose is to prevent or control the legitimacy of transactions in the Card payment system, whether any such transaction is conducted in person or remotely.

- (xv) For justified security or stability reasons of the Card system, based on regulatory provisions, PCI-DSS standards, and rules of the Brand Owners, which will be informed in writing or by electronic means to Kushki, Transbank or another Operator may instruct restrictions, prohibitions or temporary suspensions to the acceptance of Cards.

#### **PROTECTION OF PERSONAL DATA:**

In the handling of Personal Data, Kushki shall endeavor to comply strictly with the Applicable Law and, in particular, with Law No. 19.628 on Protection of Personal Data and any future amendments thereto.

All personal information provided by the Client, including bank information, is the sole responsibility of the party providing it. The information entered by the Client will be used by Kushki to register the Client in the programs and Services, process and track the Services, answer emails and provide information regarding the Client's movements and the products and services purchased. Kushki reserves the right to use this information to send the Client emails or to communicate with the Client by telephone with information relating to its operations on the Platform, as well as to send information about product or service promotions. The Client may always request the cessation of promotional emails.

Kushki will not sell or rent the personal information of Clients and Users to other companies. These data will be used to provide the Services. However, Kushki may share such information with value-added service providers that enter the Platform to meet Client and/or User needs related to the Services. All personal information is transmitted through a secure website that protects and encrypts sensitive information. Personal information is stored on servers or magnetic media with high security standards. The Platform always stores sensitive Client and User data in encrypted form.

Kushki will use its best efforts to maintain the confidentiality and security of this section but will not be liable for damages that may arise from the violation of such measures by third parties using public networks or the Internet to access such information. In case of a breach of this clause and of Law 19.628 by the Client, Kushki may report the Client to the corresponding Authorities.

#### **APPLICABLE LAW AND DISPUTE RESOLUTION:**

Services rendered in Chile shall be governed by the laws of the Republic of Chile.

For all relevant purposes, the Parties fix their elected domicile in the commune of Santiago, Metropolitan Region.

## **RULES APPLICABLE TO COLOMBIA**

### **REPRESENTATIONS:**

The Services may be provided by Kushki Colombia S.A.S. or other local affiliates with which a Services Agreement is signed.

### **RULES APPLICABLE TO THE SERVICES:**

Kushki operates as a payment service provider in Colombia and may operate through different Acquirers at its sole discretion and without the Client's authorization.

### **DATA PROTECTION AND PROCESSING:**

In accordance with the provisions of Law 1581 of 2012 and the rules that amend, add to, replace or regulate it, Kushki will act as the entity responsible for the processing of Personal Data collected by Kushki, which will be processed in accordance with the provisions of the Privacy Policy contained in the website and/or mobile applications and/or digital tools, in accordance with the Applicable Law and as established in <https://www.kushki.com/legal/politica-de-tratamiento-de-datos-personales-colombia>.

The Client agrees that the Kushki website may collect personal data, such as name, contact information and email address, in order to provide the best possible service, and in particular, to maintain a record of users. These data will be processed in accordance with the Kushki Personal Data Processing Policy for Colombia. Emails or messages may be sent through the Kushki website with advertising information considered relevant or that may be of benefit to the Client. These emails or messages will be sent to the address provided by the Client and may be canceled at any time.

### **APPLICABLE LAW AND DISPUTE RESOLUTION:**

Services rendered in Colombia shall be governed by the laws of the Republic of Colombia.

### **CONSUMER PROTECTION**

If applicable, the Client will enforce or will ensure that the Related Third Party enforces the right of withdrawal of its Users in the terms of Law 1480 of 2011 or any regulation that amends or substitutes it.

In accordance with the provisions contained in the applicable regulations, the process of reversal of a Payment Transaction for goods or services will be carried out by the participants in the payment process, including Kushki and the respective Participants in Colombia, within fifteen (15) business days.

## RULES APPLICABLE TO PERU

### DEFINITIONS:

**“Card Payment Agreement - APT”:** The APT is the set of agreements or procedures for the performance of payment services with Cards, under the rules and regulations established by the Brand Holders, and which includes issuance and acquisition activities in Peru. It comprises the processes established for performance of the mentioned Card payment service, among them: receipt of payment orders (Transactions) with a Card, their authorization, processing, clearing and settlement for the transfer of funds from the User to the merchant's account.

**“Payment Facilitator”:** Payment service provider, which is a legal entity incorporated in Peru, that enters into a contract with an Acquirer and performs the following functions in the APT: (i) Contract on behalf of the Acquirer with merchants for their inclusion in the APT, (ii) Provide merchants with Sales Technology Devices that allow payment with Cards, (iii) Transmit or process Card Payment Orders, (iv) Participate in the process of transferring funds to the merchants it onboards, as contracted with the Acquirer.

**“Discount Rate”:** Rate or commission paid by the Client to the Acquirer or Payment Facilitator, for each Transaction.

### REPRESENTATIONS:

The Services may be provided by Kushki Peru S.R.L. or other local affiliates with which a Services Agreement is signed.

### DATA PROTECTION AND PROCESSING:

The parties undertake to comply strictly, in their processing of personal data, with Law No. 29733 “Personal Data Protection Law” and Supreme Decree No. 003-2013-JUS approving the Regulations of Law No. 29733 and any other regulations that may amend, supplement and/or add to them.

### APPLICABLE LAW AND DISPUTE RESOLUTION:

Services rendered in Peru shall be governed by the laws of the Republic of Peru.

### SPECIFIC OBLIGATIONS OF CLIENTS HAVING THE STATUS OF AGGREGATORS

In accordance with provisions established by the Central Reserve Bank of Peru (BCRP), Payment Facilitators must be entered in the Register created by the BCRP (which is for information purposes and does not imply approval, acceptance or certification by that entity), indicating their functions in the APT. In addition to this compulsory registration, Payment Facilitators must comply with several information and reporting obligations, among which are:

- (i) Publishing on their website, in a visible, explicit, understandable and accessible manner, the information on Discount Rates broken down by merchant segment and type of Card, which must be updated at least quarterly. Said publication must consider, if applicable, maximums, minimums and averages (weighted by Transaction value), in which case the BCRP must be informed of the publication.
- (ii) Informing their affiliated merchants, in their account statement, the amount of the Discount Rate and other charges made broken down by Transaction. The cost of the added services contracted by the affiliated merchant must be charged separately from the Discount Rate.
- (iii) Complying with the following reports to the BCRP, according to the conditions set out below or as they may be updated from time to time:
  - Informing the Acquirer (in this case Kushki), so that it in turn informs the BCRP, of the exclusion of the Payment Facilitator from the APT in Peru.
  - In case they record purchase Transactions for an amount exceeding One Hundred Million Soles (\$100,000,000) Peruvian lawful currency, as a monthly average for the last twelve (12) months, they must comply with the reports established in the applicable regulations.
  - **Monthly Reports from Payment Facilitators:**
    1. Amount and number of monthly domestic purchases in soles and dollars, broken down by trade segment, channel (on-site and remote), Card brand and type of Card (credit, debit and prepaid).
    2. Domestic discount rate charged to its affiliated merchants: Presenting maximum, minimum, and average level (simple and weighted), median and standard deviation, broken down by merchant segment, by channel (on-site and remote), by Card brand and by Card type (credit, debit and prepaid).
    3. Total number of Technological Sales Devices installed at the end of each month (stock), by region.
    4. Total number of affiliated merchants at the end of each month (stock), by region and channel (on-site and remote). For purposes of this information, the number of active codes, not the corporate names, should be considered.
    5. Average rental cost per Technological Sales Device and average selling price.
  - **Annual Reports from Payment Facilitators:** Send an updated copy of the model agreement signed with its affiliated merchants.

## **RULES APPLICABLE TO BRAZIL**

### **REPRESENTATIONS:**

The Services may be provided by Kushki Pagamentos Brasil Ltda. or other local affiliates with which a Services Agreement is signed.

### **DATA PROTECTION AND PROCESSING:**

The Parties agree to observe and comply with all precepts contained in the Kushki Privacy Policy available at the following web address: <https://www.kushkipagos.com/en/legal>, the General Data Protection Law (Law No. 13.709/2018), the Internet Civil Rights Framework and other related legislation, especially CMN Resolution No. 4.658/2018, in relation to personal data that may be processed in connection with the performance of the Services.

All personal data in the Platform that are collected by Kushki will be treated in accordance with the provisions of Kushki's Privacy Policy, which the Client declares to have read, understood and accepted.

### **APPLICABLE LAW AND DISPUTE RESOLUTION:**

The Services Agreement shall be subject to all Brazilian laws and regulations, decrees, resolutions, acts, etc. (such as labor, fiscal, tax, security, consumer, civil and criminal laws) provided by judicial, legal and governmental authorities, in particular, the National Financial System, including without limitation the Central Bank of Brazil (BACEN), the National Monetary Council (CMN), and the Securities and Exchange Commission (CVM).

In addition, but without limitation, the following laws and regulations shall be obeyed insofar as applicable, in connection with the execution of Agreements to be performed in Brazil:

- (a) Brazilian AML/FT regulations, in particular Law No.12.846/2013 and Brazilian Central Bank Circular No.3.978/2020;
- (b) Central Bank of Brazil Circular No.3.682/2013, Central Bank of Brazil Resolution No.85/2021;
- (c) The Brazilian General Data Protection Law (Law No.13.709/2018), the Internet Civil Rights Framework and other related legislation, especially CMN Resolution No. 4.658/2018;
- (d) Intellectual Property Laws, especially Industrial Property Law No. 9.279/96, Copyright Law No. 9.610/98 and Software Law No. 9.609/98.

The Services Agreement shall be governed by the laws of the Federative Republic of Brazil. The Central Courts of the Judicial District of São Paulo - SP are chosen to resolve disputes arising from the Services Agreement that cannot be resolved amicably, expressly excluding any other court, no matter how privileged it may be.