



NIUM

OPGSP TERMS & CONDITIONS

May 2021
INDIA

1. PROVISION OF OPGSP SERVICES

- 1.1 The OPGSP Services are made available by **NIUM INDIA PRIVATE LIMITED** (“**NIUM**”) to certain institution, body, firm or incorporated corporation approved by NIUM (“**You**”) subject to these terms and conditions. The OPGSP Services means the services provided by NIUM as an online payment gateway service provider in association with an AD Category-1 Bank which (i) enable You to receive Export Payments from Buyers located in any Approved Jurisdictions; and (ii) facilitate the provision of foreign exchange services, bulk payment services and profit repatriation services from any Nostro Collection Account to the Customer Bank Account.
- 1.2 NIUM is approved by the Reserve Bank of India to provide certain payment processing services in India.
- 1.3 In consideration of You paying the Fees, NIUM shall provide the OPGSP Services in accordance with Applicable Laws, Sanctions and these terms and conditions.
- 1.4 You acknowledge and agree that NIUM is not obliged to execute any Transaction or provide any OPGSP Service to You if NIUM considers, in its sole discretion, that doing so would breach any Applicable Laws in any jurisdiction.
- 1.5 NIUM strictly prohibits impersonating or false claiming an affiliation with any person or entity while using the OPGSP Services.

2. OBLIGATIONS OF THE CUSTOMER

- 2.1 You must (a) at all times comply with and (b) ensure that all Transactions submitted to NIUM for processing are in accordance with all Applicable Laws, all Sanctions and these terms and conditions.
- 2.2 You shall use all or parts of the OPGSP Services only to transact for Your own legitimate business and commercial purposes and not on behalf of any other person or entity save with the prior written consent of NIUM.
- 2.3 You shall deliver or cause to be delivered to NIUM such information as NIUM may reasonably request for the purpose of the OPGSP Services including but not limited to documents and/or information regarding Your financial and business affairs and/ or identity. You represent and warrant that all information provided to NIUM by You or any third party on behalf of You are accurate in all material respects and You will not omit or withhold any information which would make such information inaccurate in any material respect.
- 2.4 Unless agreed to otherwise by NIUM in writing, You shall be solely responsible, at its own cost, for the provision of all equipment, software, systems, facilities which are necessary to enable You to receive the OPGSP Services.

3. REPRESENTATIONS AND WARRANTIES

- 3.1 You represent and undertake that:
 - (a) You own all titles, interest and rights to all Export Payments. No person or entity other than You have any rights in relation to any Export Payments;
 - (b) all information provided in connection with an OPGSP Collection Request is accurate in all material respects and You shall not omit or withhold any information which would make such information inaccurate in any material respect and each OPGSP Collection Request submitted to NIUM relates to an Export Services;

- (c) You shall not submit an OPGSP Collection Request or use the OPGSP Services for any other purposes other than to receive payments arising from any Export Services; and
- (d) You are solely responsible for reporting to all applicable government tax authorities in respect of any Export Payment and for the payment of any applicable taxes that apply to any Export Payment as well as any other applicable reporting requirements, including but not limited to, any customs or foreign currency controls. You represent and warrant that You are in compliance with any applicable tax legislation and will remain compliant during the term of these Terms and Conditions.

4. NIUM PLATFORM

- 4.1 NIUM grants You a non-exclusive, non-transferable, non-sublicensable, revocable license to use the NIUM Platform for the sole purpose of facilitating Your use of the OPGSP Services in the ordinary course of its business.
- 4.2 The security and secrecy of the Access Codes shall at all times remain Your sole responsibility. You shall ensure that none of the Access Codes is disclosed to any person, except for the Authorised Users who need to know them. You shall ensure that Your Authorised Users are aware of the requirement to keep the Access Codes secure and confidential. Unauthorised use of the NIUM Platform shall constitute a material breach of these Terms and Conditions.
- 4.3 You represent and undertake to (i) use the NIUM Platform in accordance with these terms and conditions and (ii) establish, apply and maintain robust security systems and procedures to monitor effectively the access to, use of the Access Codes and the NIUM Platform; (iii) ensure that any data that has been accessed, printed or otherwise downloaded from the NIUM Platform is retained securely at all times and (iv) be fully liable for acts and omissions of any Authorised User or persons acting or purported to act on its behalf.
- 4.4 NIUM may at its sole discretion decline to accept any individual nominated by You as an Authorised User if the results of any “know your customer” or other similar checks or screenings under applicable laws or regulations conducted on such Appointed User are unsatisfactory.
- 4.5 You authorise NIUM to accept, rely and act upon any Instruction received from an Authorised User. Where NIUM receives any Instruction from a person using an Access Code, NIUM shall be entitled to treat such Instruction as having been received from an Authorised User. NIUM is under no obligation to check the authenticity or accuracy of any Instruction or data received from an Authorised User and shall not be liable for any Losses incurred or suffered by You or any person for complying with such instruction.
- 4.6 Prior to submitting an Instruction to NIUM, You shall ensure that all information contained in the Instruction is complete and accurate. If You subsequently learn of any error in the Instruction, You must immediately notify NIUM in writing.
- 4.7 If You fail to provide a timely, accurate and complete Instruction, NIUM may be unable to process such Instruction or may have to delay the processing of such Instruction. NIUM shall not be liable for any Losses incurred or suffered by You or any person as a result of such delay or failure in processing such Instruction.
- 4.8 NIUM may, at its sole discretion, without providing any explanation or liability, refuse to act upon any Instruction received from an Authorised User. NIUM shall, to the extent permitted by Applicable Laws and practicable, inform You prior to such refusal.
- 4.9 You shall notify NIUM immediately:
 - (a) in the event of any suspected or actual unauthorised use of the Access Codes or breach of the NIUM Platform. Notwithstanding such notification, You accept sole responsibility for all acts or

omissions of any person that access the NIUM Platform through the Access Codes and agrees to be bound by the terms of all Transactions executed and placed through the NIUM Platform using the Access Codes; and

- (b) if there is any change to its Authorised User. Until NIUM has been notified of such change and has had a reasonable opportunity to act on it, NIUM shall be entitled to continue to regard previously designated Authorised User as Your authorised representative and rely on all information and instructions provided by such Authorised User.

4.10 You are responsible for maintaining its own records related to any Transactions and for reconciling such records against any entries made available on the NIUM Platform. You must notify NIUM promptly, and in any event, no later than fourteen (14) days after any unauthorised, incorrect, disputed entry is entered on the NIUM Platform. Following the expiry of this period, any such entry in the NIUM Platform shall be deemed as agreed.

5. OPGSP COLLECTION REQUEST

5.1 NIUM shall not be required to process any OPGSP Collection Request unless:

- (a) You have provided NIUM with the relevant invoice or airway bill that establishes the commercial relationship between You and the relevant Buyer pursuant an Export Service;
- (b) the Buyer is located in an Approved Jurisdiction and such Export Payment is not made via over the counter checks or cash deposit;
- (c) the results of any due diligence checks on such Collection Request is satisfactory; and
- (d) the amount of such Export Payment does not exceed the Transaction Limit.

5.2 You may not:

- (a) request NIUM to (a) correct any error pertaining to any OPGSP Collection Request or initiate a reversal of Export Payment once an OPGSP Collection Request has been submitted to NIUM for processing or (b) process an Export Payment that exceeds the Transaction Limit;
- (b) assign, charge, declare trust over or transfer the benefit of all or any part of any Export Payment;
or
- (c) use the OPGSP Services for personal or person-to-person use.

5.3 NIUM shall not accept any Export Payment made via over the counter checks or cash deposit to any NIUM Customer Money Account.

5.4 NIUM may cancel, reverse, demand refund, or cause any Export Payment to be unavailable for Remittance and make corresponding adjustments to any entry on the NIUM Platform if:

- (a) NIUM needs to correct any error or omission;
- (b) the Buyer requests a reversal due to Your failure to discharge Your obligations under any Export Services;
- (c) NIUM has not received cleared and unconditional Export Payment in full or in time; or
- (d) where NIUM has reasonable grounds to do so for any other legitimate reasons.

6. THE NOTIONAL ACCOUNT

- 6.1 The total balance of Export Payments accepted by NIUM on Your behalf shall be reflected in the Notional Account and You may access the Notional Account via the NIUM Platform.
- 6.2 You are responsible for maintaining Your own records related to any Export Payments and for reconciling such records against any entries displayed in the Notional Account. You must notify NIUM immediately, and in any event, no later than forty eight (48) hours after any unauthorised, incorrect, disputed entry is displayed in the Notional Account. Following the expiry of this period, any such entry in the Notional Account shall be deemed as agreed.
- 6.3 NIUM shall not be liable to make up for any shortfall in any Export Payment unless such shortfall is due to the gross negligence or willful default of NIUM.

7. REMITTANCE OF EXPORT PAYMENTS

- 7.1 Upon receipt of any Export Payment in the relevant Nostro Collection Account, NIUM shall initiate Remittance to the Customer Bank Account within the time period agreed with the AD-1 Bank from time to time.
- 7.2 You shall open and maintain Customer Bank Account in India throughout the term of these Terms and Conditions and for such period as may be required thereafter for the purposes of any applicable provisions of these Terms and Conditions.
- 7.3 You shall ensure that the details of any Customer Bank Account provided to NIUM are correct and complete and shall notify NIUM in writing in advance of any change to any Customer Bank Account. Until NIUM has been notified of such change and has had a reasonable opportunity to act on it, NIUM shall be entitled to continue initiating any Remittance to the existing Customer Bank Account. NIUM shall not be liable for any Losses arising from any Remittance due to incorrect or incomplete details provided by You or Your failure to inform NIUM in advance of any change to the Customer Bank Account.
- 7.4 Remittance from any NIUM Customer Money Account to the Customer Bank Account shall be made in INR. Where foreign currency conversion is required for a Remittance, NIUM shall apply the prevailing exchange rate applicable as at the date of the conversion.
- 7.5 Notwithstanding Section 7.1, NIUM may elect to initiate the Remittance upon confirmation from a third party (including but not limited to the AD-1 Bank or any Service Provider) that such Export Payment is in progress but before NIUM has actually received such Export Payment in the Nostro Collection Account. If NIUM has initiated a Remittance and such Export Payment is not received in full for whatever reason, You shall reimburse and indemnify NIUM the shortfall on demand.

8. SAFEGUARDING OF FUNDS

- 8.1 NIUM adheres to such Applicable Laws which are designed to ensure the safety and liquidity of any funds held on Your behalf.

9. FEES AND OTHER SUMS DUE FROM CUSTOMER

- 9.1 You shall pay the fees applicable to the OPGSP Services as set out in <https://www.instarem.com/en-in/business> ("Fees").
- 9.2 NIUM shall be entitled, without prior notice, to deduct any funds held from time to time by NIUM on Your behalf any amount become due, owing or incurred to NIUM at any time under these Terms and Conditions. In the event such funds held by the NIUM on Your behalf are so applied are insufficient, You shall remain liable to NIUM for any balance and You shall forthwith pay or reimburse such balance in full on demand.

9.3 All sums payable by You in respect of the OPGSP Services shall be paid in full without any deductions (including deductions in respect of items such as income, corporation, withholding, sales or other taxes, charges and/or duties). If You are required by Applicable Laws to make a deduction or withholding from any payment due under these Terms and Conditions, You shall pay such additional amounts as are required to ensure that the net amount received and retained by NIUM equals the full amount that would have been received and retained by NIUM had no such deduction or withholding been made and/or no such liability to tax been incurred.

10. SET- OFF

10.1 Without prejudice and in addition to any other rights and remedies available to NIUM under these Terms and Conditions, You authorise NIUM, without prior notice and both before and after demand, to set off the whole or any part of Your liabilities to NIUM, whether such liabilities are actual or contingent, liquidated or unliquidated against any funds held from time to time by NIUM for You.

10.2 NIUM is entitled to convert any currency at the exchange rate to be determined by NIUM at its sole discretion for the purpose of exercising its rights under Section 10.1.

10.3 You shall not be entitled to set off any of NIUM's liabilities under these Terms and Conditions against any liability owed by it to NIUM.

11. RIGHT OF AUDIT

11.1 Not more than once annually (unless pursuant to Applicable Laws, a request by any regulatory authorities with jurisdiction over NIUM or the NIUM Entities or any event or events giving rise to a security breach pertinent to these Terms and Conditions), You shall permit NIUM and/or its authorised representative to access during business hours such premise or systems on which Your business takes place or where Your records are located and to take and retain copies of all such records to ascertain if You are performing Your obligations under these Terms and Conditions and Applicable Laws.

11.2 Where an audit is undertaken pursuant to Applicable Laws, a request by any regulatory authorities with jurisdiction over NIUM or the NIUM Entities or any event or events giving rise to a security breach pertinent to these Terms and Conditions, You shall pay any cost and expenses incurred by NIUM with respect to such audit.

12. CONFIDENTIALITY

12.1 Each Party will, and each will procure that its personnel will, keep confidential all Confidential Information of, or concerning the other Parties received by it.

12.2 Confidential Information will not include information that the receiving Party can demonstrate: (i) is now or thereafter becomes generally known or available to the public, through no act or omission on the part of the receiving party; (ii) was known by the receiving party prior to receiving such information from the disclosing party and without restriction as to use or disclosure; (iii) is rightfully acquired by the receiving party from a third party who has the right to disclose it under the circumstances and who provides it without restriction as to use or disclosure; (iv) is independently developed by the receiving party without access to any Confidential Information of the disclosing party or (v) is required to be disclosed by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body or by any applicable law or regulation provided that to the extent permitted by laws or regulations, the receiving party uses reasonable efforts to give the disclosing party reasonable advance notice of such required disclosure.

12.3 Each Party agrees: (i) to take all reasonable action necessary to protect the confidentiality of the other Party's Confidential Information; and (ii) not to use any such Confidential Information for any

purpose except in accordance with the terms of these Terms and Conditions. Each Party may disclose the Confidential Information of the other Party to its employees, officers, agents or independent contractors who have a bona fide need to know such Confidential Information, to fulfill its obligations and exploit its rights under these Terms and Conditions and who are under legally binding obligations of confidentiality no less restrictive than those set forth in this section. The receiving Party will be liable to the disclosing Party for any unauthorised disclosure by its employees, officers, agents or independent contractors. Unless expressly permitted under these Terms and Conditions, on expiry or termination of these Terms and Conditions, each Party will immediately cease to use any Confidential Information of the other and will return on written demand or, at its election, destroy, so far as practicable permanently erase all copies of that Confidential Information in its possession or control save that a Party is permitted to retain such part of that Confidential Information only for the purposes of, and for so long as is required by any Applicable Laws or its legitimate internal compliance requirements.

- 12.4 You authorise NIUM, directly or through third parties, to make any inquiries NIUM considers necessary for the performance of NIUM's obligations under these Terms and Conditions including validate Your identity. This may include making periodic searches of, and provide information about You to credit reference, market research, customer feedback, fraud prevention agencies, group companies of NIUM and agents for any purpose in connection with the OPGSP Services.

13 INTELLECTUAL PROPERTY

- 13.1 You agree that the NIUM Platform, NIUM web-pages, the OPGSP Services, applications, process and systems, and deliverables produced by NIUM to perform Your obligations under these Terms and Conditions (including without limitation, reports, compilations and databases in any and all media) (collectively, **NIUM IP** which shall include service marks, logos and trademarks) are and shall remain the exclusive property of NIUM and are protected by copyright law or other intellectual property laws. You agree that no copyright or other intellectual property rights, title or interest, whether express or implied, in any of NIUM IP shall be acquired by You, except to the extent expressly contemplated in these Terms and Conditions. Save as permitted under these Terms and Conditions, You shall not distribute, disclose, sell NIUM IP to, or permit use of NIUM IP by, any third party whether in whole or in part without the express written consent of NIUM. You shall not, directly or indirectly disassemble, reverse engineer or otherwise attempt to derive or discern the source code or internal workings of the NIUM IP. You may not: (i) reproduce any part(s) of NIUM IP in any form; (ii) create any derivative work based thereon; or (iii) incorporate the site into other websites, electronic retrieval systems, publications or otherwise.

14. PERSONAL DATA

- 14.1 You represent and warrant to NIUM that it has the legal right to disclose all Personal Data that it does in fact disclose to NIUM under or in connection with these Terms and Conditions.
- 14.2 NIUM and You each acknowledge and agree that You act as independent data controller, or the equivalent under Data Protection Laws in relation to the Personal Data You Process under or in connection with these Terms and Conditions. Each shall comply with its respective obligations under the Data Protection Laws.
- 14.3 NIUM and You shall each ensure that access to Personal Data is limited to NIUM's or Your personnel who have a reasonable need to access Personal Data to enable NIUM or You to perform Your respective duties under these Terms and Conditions.
- 14.4 If NIUM or You receive or become aware of any of the following, it shall promptly notify the other Party of:
- (a) any breach of security or unauthorised access to Personal Data within 48 hours of the occurrence of such incident; and

- (b) any complaint, inquiry or request from a Data Subject or Data Protection Authority regarding Personal Data unless such notice is prohibited by Data Protection Laws.

If a notice is prohibited under Data Protection Laws, NIUM or You shall refrain from notifying or responding to any Data Subject or Data Protection Authority on behalf of the other Party unless (i) specifically requested to do so by the other Party in writing or (ii) by Data Protection Laws.

- 14.5 You acknowledge and agree that NIUM, at its sole discretion, may disclose any Personal Data or transaction-related information to any Service Providers or third parties in order to perform NIUM's obligations under these Terms and Conditions and/or legal obligations under Applicable Laws, including but not limited to anti-money laundering, Sanctions, or as may otherwise be required by law or court order. Furthermore, such disclosure may be made to any governmental agency, body or department that exercises regulatory or supervisory authority with respect to NIUM's operations, where such disclosure is made to satisfy routine governmental audit or examination requirements or as part of informational submissions required to be made to such governmental entities in the ordinary course of business.

15. INDEMNITY

- 15.1 You agree to indemnify, defend and hold harmless NIUM and the NIUM Entities from and against any and all Losses whatsoever and howsoever arising which NIUM or any NIUM Entities may sustain, incur, suffer or pay arising out of, in connection with or pursuant to any of the following:
 - (a) Your access and/or use of the NIUM Platform and/or the Services (including any security breach), whether or not such access and/or use was authorised or whether it was due to any act or omission on Your part;
 - (b) NIUM's relying and acting on any notice, request or instruction given by You;
 - (c) any information provided by You to NIUM in connection with these Terms and Conditions being or being alleged to be inaccurate or misleading in any material respect;
 - (d) any breach of these Terms and Conditions, including, but not limited to a breach of its representations, warranties, obligations, covenants, and undertakings hereunder; and
 - (e) all taxes, levies, imposts, duties, assessments, fees, charges and withholdings of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon ("**Tax**"), howsoever levied or imposed upon You or any OPGSP Services (other than Tax payable on NIUM's or any NIUM Entity's net income, profit or gains) by any federal, state or local government or governmental subdivision or taxing authority together with any cost incurred by NIUM or any NIUM Entity of defending such Tax.

16. EXCLUSION AND LIMITATION OF LIABILITY

- 16.1 Under no circumstances, including negligence, shall either Party be liable for any indirect, incidental, punitive, special or consequential damages incurred or suffered by the other Party arising out of or in connection with these Terms and Conditions, including without limitation lost revenue, loss of income, or loss of business advantage, even if the party suffering such damages or an authorised representative of such party has been advised of the possibility of such damages.
- 16.2 NIUM does not make any representations or warranties, express or implied, including but not limited to any warranties of satisfactory quality, fitness for a particular purpose, no infringement and performance or otherwise. You agree that NIUM shall not be liable for any errors or losses caused by third parties, including but not limited to any banking institution. NIUM does not warrant any aspect of the underlying transaction(s), including, for example, whether goods or services for which payment

is being made are conforming or satisfactory or whether payment has been made in the right amount or within the time agreed between You and the payee.

- 16.3 Except expressly provided otherwise under these Terms and Conditions, to the extent permitted under Applicable Laws, under no circumstances shall NIUM's liability to You or any third party for any damages or losses of any kind whatsoever (however arising, regardless of the nature of the claim or the form of cause of action), exceed the amount of the total fees charged and collected by NIUM from You under these Terms and Conditions for the preceding twelve (12) months from the date giving rise to such claim. The Parties acknowledge and agree that the exclusion and limitation of liability in this section are reasonable having regard to all relevant factors, including the nature and cost of the Services provided and the allocation of risk and liability between the Parties.

17. TERMINATION AND CONSEQUENCE OF TERMINATION

- 17.1 Without prejudice to any other rights and remedies under these Terms and Conditions, You may at any time immediately terminate these Terms and Conditions or any Service by written notice to NIUM if:

- (a) NIUM commits a material breach of these Terms and Conditions which is not capable of remedy, or if capable of remedy, is not remedied to the Customer's reasonable satisfaction within thirty (30) days of service of a notice requiring such remedy;
- (b) NIUM becomes Insolvent; or
- (c) You are required to do so under Applicable Laws.

- 17.2 Without prejudice to any other rights or remedies under these Terms and Conditions, NIUM may at any time immediately terminate these Terms and Conditions or all or parts of the Services, or suspend the provision of all or parts of any Services, by written notice to You if:

- (a) You fail to pay any Fees on the due date set out in Section 7.1;
- (b) You commit a material breach of these Terms and Conditions which is not capable of remedy, or if capable of remedy, is not remedied to NIUM's reasonable satisfaction within thirty (30) days of service of a notice requiring such remedy;
- (c) You become Insolvent;
- (d) all or parts of the Services or the NIUM Platform is used for (i) any purpose contrary to Applicable Laws or Sanctions or (ii) to facilitate any Restricted Activities;
- (e) NIUM is required to do so under Applicable Laws or reasonably believe that any Transaction may be (i) contrary to Applicable Laws and/or Sanctions; (ii) security of any of the Services has been compromised; or (iii) unauthorized or fraudulent use of any of the Services;
- (f) the results of any "know your customer" or other similar checks or screenings under applicable laws or regulations conducted on You or in connection with any Transactions are unsatisfactory;
- (g) there is a withdrawal or termination of any licence, permission or authorisation required to operate Your business; or
- (h) You undergo a change of Control, or a sale or other disposal of any substantial division or part of Your business.

- 17.3 Upon termination of these Terms and Conditions, all rights and obligations of any Party will cease to have effect immediately, save that the sections which expressly or by implication have effect after

termination will continue to be enforceable notwithstanding such termination (including Sections 5.11, 7, 8, 10, 11, 12, 13, 14, 15, 17, 18, 21, and 22) and termination will not affect accrued rights, obligations and liabilities of any Party under these Terms and Conditions as at the date of termination. Termination shall not affect Your obligation to pay any minimum commitment fees under these Terms and Conditions which are expressed to be applicable for a certain period agreed between the Parties.

- 17.4 Upon termination of these Terms and Conditions for whatever reason, NIUM shall have no obligation to retain, store or make available to You any data, records or other information relating to any of the Services or Transactions and You shall cease using the NIUM IP and the NIUM Platform.

18. FORCE MAJEURE

- 18.1 Except for the obligation to pay for Services delivered, non-performance of either Party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, other natural disasters, governmental acts, acts of terror or orders or restrictions, failure of suppliers, market disturbance, or act of God, or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing Party ("**Force Majeure Event**").

- 18.2 The affected Party shall promptly notify the non-affected Party of the nature and extent of the circumstances giving rise to the Force Majeure Event.

19. NOTICE

- 19.1 All notices, demands and other communications required or desired to be given hereunder shall be in writing and shall be deemed to be given: (i) if personally delivered, upon such delivery; (ii) if mailed by certified mail, return receipt requested, postage pre-paid, to such address listed in these Terms and Conditions, three (3) days after such mailing; or (iii) if deliver by electronic mail, as soon as it has been sent by the sender (provided that the sender does not receive a notification that the e-mail was not sent). Addresses may be changed by written notice given as provided herein and signed by the Party giving the notice.

- 19.2 You may not serve notice to terminate these Terms and Conditions or all or parts of the Services by electronic mail.

20. DISPUTE RESOLUTION

- 20.1 If any dispute between the parties (each a "**Disputing Party**") arises out of or in connection with these Terms and Conditions ("**Dispute**"), either Disputing Party shall give to the other a written notice of the Dispute, setting out the nature and full particulars of such Dispute, together with any relevant supporting documents ("**Dispute Notice**"). Following service of the Dispute Notice, the Disputing Parties shall attempt to resolve the Dispute in good faith.

- 20.2 If the Disputing Parties are unable to resolve the Dispute within fourteen (14) Business Days of service of the Dispute Notice or such other period as mutually agreed between the Disputing Parties ("**Period**"), either Disputing Party shall be entitled to commence proceedings under Section 13.

- 20.3 If the Dispute is resolved within the Period, any settlement shall be recorded in writing and signed by the authorised representative of each Disputing Party.

- 20.4 Nothing in this Section shall prevent either Disputing Party from making any application for injunctive relief it considers necessary to protect its position.

21. SERVICE VARIATIONS AND AMENDMENTS TO AGREEMENT

- 21.1 NIUM may, from time to time, make changes to the Services and/or the NIUM Platform which do not materially affect the nature or qualify of the Services and/or the NIUM Platform. If such changes lead

to a material change in software, interfaces or operating procedures affecting You, NIUM will notify You as soon as reasonably practicable prior to the implementation.

- 21.2 NIUM in its sole and absolute discretion may amend, revise or update the terms of these Terms and Conditions and any other related terms and conditions in connection with the Services by posting a revised version on this website. The revised version will be effective once posted. You are required to check the website from time to time for any updates to the Terms & Conditions and its use of any services after the effective date of an amendment or modification shall constitute acceptance of such amendment or modification. You may terminate its use of any services if You do not agree with any modification or amendment.

22. ASSIGNMENT AND SUBCONTRACTING

- 22.1 You may not assign, novate, charge, declare a trust over or transfer the benefit of all or any part of these Terms and Conditions.
- 22.2 You may not delegate the performance of its obligations under these Terms and Conditions to an agent or subcontractor save with the prior written consent of NIUM, which NIUM may reasonably withhold or withdraw at any time. You shall remain liable to NIUM for the acts or omissions of any of its agents or subcontractors, regardless of whether the Customer has obtained the consent for that person.
- 22.3 NIUM shall be entitled to novate and/or assign any or all of its rights and obligations under these Terms and Conditions to a third party at any time on giving at least one (1) month's notice to You.

23 GOVERNING LAW AND JURISDICTION

- 23.1 These Terms and Conditions shall be governed by and construed in accordance with the laws of India.
- 23.2 Each party irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of Mumbai for all disputes arising from, as a result of or in connection with these Terms and Conditions.

24 MISCELLANEOUS

- 24.1 These Terms and Conditions embodies the entire understanding and agreement of the parties with respect to the subject matter hereof and supersedes and replaces, in their entirety, any and all prior agreements, written or oral related to the subject matter hereto.
- 24.2 You acknowledge and agree that all Transactions, wherever originated, may be processed by NIUM or may be processed on behalf of NIUM by one or more of the Service Providers. All Transactions, wherever originated, shall be processed in accordance with the laws and regulations of the jurisdiction where the Transaction is being processed, including but not limited to, those laws relating to anti-money laundering, anti-terrorism and foreign asset control. NIUM does not make any representation or statement or endorsement of the quality, safety or legality of any services provided by any Service Provider and shall not be liable to You for any delays or Losses incurred as a consequence of NIUM or any Service Provider making such enquiries as they deem necessary in order to discharge their legal and regulatory responsibilities.
- 24.3 At any time after the date of these Terms and Conditions, You shall, at NIUM's request, execute or procure the execution of such documents and do or procure the doing of such acts or things as NIUM may reasonably require for the purpose of giving effect to these Terms and Conditions.

- 24.4 The Parties confirm and agree that a person who is not a party to these Terms and Conditions shall have no rights to enforce any term of these Terms and Conditions or have the benefit of any of its terms.
- 24.5 In the event any provision or part of these Terms and Conditions is found to be invalid or unenforceable, only that particular provision or part so found, and not the entire Agreement, will be inoperative.
- 24.6 Any delay in enforcing a party's rights under these Terms and Conditions or any waiver as to a particular default or other matter shall not constitute a waiver of such party's rights to the future enforcement of its rights under these Terms and Conditions, except with respect to an express written and signed waiver relating to a particular matter for a particular period of time.
- 24.7 NIUM is an independent contractor for all purposes. Nothing in these Terms and Conditions will be construed as constituting a partnership, joint venture or agency between or among the Parties.
- 24.8 Save to the extent expressly set out in these Terms and Conditions, NIUM hereby excludes all warranties, conditions, terms, obligations, undertakings and representations, whether in each case express or implied by statute, common law, custom, trade usage, course of dealing or otherwise, (including but not limited to implied undertakings of satisfactory quality and reasonable fitness for purpose) to the fullest extent permissible by Applicable Laws, and You hereby waive irrevocably any rights or remedies it may otherwise have had in respect of any of the same.

25 DEFINITIONS

In these Terms and Conditions, the following capitalized terms shall have the following meaning:

“AD-Category-I Bank”

means a bank in India approved by the RBI to carry out all permissible current and capital account transactions as per directions issued from time-to-time by the RBI;

“Access Codes”

means a unique identification number and/or password provided to enable You to access and/or use the NIUM Platform and/or any Services;

“Applicable Laws”

means any law, regulation or generally accepted practices or guidelines in the relevant jurisdictions applicable to the Services from time to time, including but not limited to laws governing payment services such as those related to anti-money laundering or countering the financing of terrorism, consumer protection, data protection, gambling, false advertising, illegal sales, purchases or exchanges of any goods or services, export/import activity, taxes or foreign currency transactions;

“Approved Jurisdictions”

means those countries as notified by NIUM to You from time to time being where NIUM has the ability to facilitate processing of Transactions pursuant to any Services provided under these Terms and Conditions;

“Authorised User”

means an individual authorised by You and approved by NIUM to access and use the Receive Services and NIUM Platform;

“Buyer”

any individual, company or organization located in an Approved Jurisdiction that deposits funds into any NIUM Customer Account pursuant to a, or a series of, legitimate business transactions in relation to any Export Services between You and such individual, company or organisation

“Confidential Information”

means these Terms and Conditions and any technical or business information of a Party provided in relation to these Terms and Conditions which: (i) might reasonably be presumed to be proprietary or confidential in nature; (ii) is disclosed in a writing that is marked “confidential” or “proprietary” at the time of such disclosure; or (iii) is disclosed orally and identified as “confidential” or “proprietary” at the time of such disclosure, and is summarised in a writing sent by the disclosing Party to the receiving Party within fourteen (14) days after any such oral disclosure

“Customer Bank Account”

means an account with a duly licensed financial institution held in Your name used to receive funds Remitted by NIUM pursuant to the Receive Services;

“Data Protection Authority” shall mean an independent public authority that is legally tasked with overseeing compliance with applicable data protection laws;

“Data Protection Laws”

means all Applicable Laws relating to the protection of Personal Data;

“Data Subject” shall mean any individual whose Personal Data is being collected, held or Processed in connection with these Terms and Conditions;

“Export Payments”

means such sum paid by any Buyer into any NIUM Customer Money Account in a Supported Currency for the benefit of the Customer pursuant to a, or a series of, legitimate business transactions in relation to any Export Services;

“Export Services”

means the export of goods and services by You in accordance with the Foreign Trade Policy issued by the Government of India from to time

“Insolvent”

means circumstances under which a Party (i) has a receiver or similar officer appointed over all or a material part of its assets or undertaking; (ii) passes a resolution for winding-up (other than a winding-up for the purpose of, or in connection with, any solvent amalgamation or reconstruction) or a court makes an order to that effect or a court makes an order for administration (or any equivalent order in any jurisdiction); (iii) enters into any composition or arrangement with its creditors (other than relating to a solvent restructuring); (iv) ceases to carry on business; (v) is unable to pay its debts as they become due in the ordinary course of business;

“Instruction”

means an instruction provided by You or by any third party on behalf of You to NIUM including any instruction made by telephone, letter, text message, email or via the NIUM Platform. Any Instruction shall be binding upon the Customer once it is submitted to NIUM;

“Losses”

means any liability of any kind, loss, claim, damage, interest, fine, penalty, fee, charge, cost and/or expense (including any foreign exchange losses and reasonably incurred legal and other professional fees, costs and/or expenses);

“NIUM Customer Money Account”

means a non-interest bearing bank account established and maintained by (i) NIUM; or (ii) any Service Provider on behalf of NIUM with a financial institution in accordance with Applicable Laws for the sole purpose of safeguarding funds held on behalf of the Customer which is held separately from any operating funds of NIUM'

“NIUM Entities”

means any affiliates or subsidiaries of NIUM at any time;

“NIUM Platform”

means the proprietary online system(s) and the components thereof, developed, owned and maintained by NIUM that enables You to obtain the Services from NIUM, including any replacement thereof and any related software, websites, URLs, software programs and deliverable ancillary to the NIUM Platform such as reports, compilations or databases;

“Notional Account”

means an unfunded account set up by NIUM on the NIUM Platform for the sole purpose of maintaining a record of the total balance of Export Payments received by NIUM on Your behalf;

“Nostro Collection Account”

means a non-interest bearing bank account opened and maintained by NIUM with the AD Category-1 Bank for the purposes of safeguarding the Export Payments which is held separately from any operating funds of NIUM;

“OPGSP Collection Request”

means a request submitted by You to NIUM via the NIUM Platform to accept any Export Payment into any NIUM Customer Money Account located in any Approved Jurisdiction;

“OPGSP Services”

means the services provided by NIUM as an online payment gateway service provider in association with an AD Category-1 Bank which (i) enable You to receive Export Payments from Buyers located in any Approved Jurisdictions; and (ii) facilitate the provision of foreign exchange services, bulk payment services and profit repatriation services from any Nostro Collection Account to the Customer Bank Account;

Personal Data”

means any information relating to an identified or identifiable living individual that is Processed by NIUM or You in connection with these Terms and Conditions;

“Process”

means any operation which is performed upon Personal Data, whether or not by automatic means;

“RBI”

means Reserve Bank of India;

“Remittances”

means a transfer of funds received by NIUM (which may be net of any Fees, applicable bank charges and taxes) on Your behalf pursuant to the Receive Services (and "Remit" will be construed accordingly)'

“Restricted Activities”

means any of the restricted activities as set out in Appendix 1;

“Sanctions”

means any economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by: (i) the Monetary Authority of Singapore; (ii) the European Union; (iii) the United States government; (iv) the United Nations; or (v) any other relevant sanctions authorities;

“Service Providers”

means such persons whom NIUM may from time to time utilise to facilitate the provision of any Services under these Terms and Conditions, including but not limited to the NIUM Entities, other financial institutions, third party banking counterparts and/or such other payment providers that NIUM may from time to time utilise or determine. For the avoidance of doubt, Service Providers do not act as agents of NIUM;

“Supported Currency”

means a currency in which a Transaction may be processed under these Terms and Conditions, as notified by NIUM to You in writing from time to time;

“Transaction”

means any transaction processed under these Terms and Conditions in connection with any Services; and

“Transaction Limit”

means a single limit of USD10,000 or such other monetary limit as imposed by RBI from time to time in respect of an Export Payment.

APPENDIX 2

RESTRICTED ACTIVITIES

NIUM does not support businesses or transactions which are involved in any of the following categories. While this list is representative, it is not exhaustive, and NIUM reserves the right to deny Services to any customers who exceed our risk tolerance.

- (A) Products or services that:
- in any way that breaches any applicable local, national, or international law or regulation, or causes NIUM to breach any applicable law or regulation (including evasion, or facilitation of evasion of applicable taxes or tax laws);
 - in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
 - for the purpose of harming or attempting to harm minors in any way;
 - for anything that is abusive, harmful, or does not comply with our content standards;
 - for any unsolicited or unauthorised advertising, promotional material, or any other form of spam; or
 - to deal in harmful programs such as viruses, spyware, or similar computer code designed to adversely affect the operation of any computer software or hardware.
- (B) Regulated or illegal products and services
- Adult content: Pornography and other visual content depicting explicitly sexual acts. Services of sexual nature (webcam shows, live chats, prostitution, escorts, etc). Sexually oriented establishments (massage parlors, strip clubs, gentleman's clubs).
 - Alcohol, Tobacco and Firearm related products, including electronic cigarettes
 - Drug and drug related products including Cannabis, products containing CBD, any other products or services related to legal marijuana trade.
 - Controlled substances or other products that present a risk to consumer safety.
 - Drug paraphernalia: Any equipment, product, or material which is intended for making, using, or concealing drugs
 - Pharmaceuticals: Nutraceuticals, pseudo-pharmaceuticals, or similar products not approved by the applicable regulatory body. Online pharmacies. Prescription-only pharmaceutical drugs.
 - Chemicals. Nuclear Chemicals or related product sales, distribution or related businesses.
 - Counterfeit goods: Unauthorised sale of designer and/or brand products. Sale of illegally imported or exported goods.
 - Gambling: payments related to any types of gambling including lotteries, fantasy sports, games of chance.
 - Intellectual property, copyright, patent, trademark, trade secret, proprietary rights infringement.
 - Products and services which are not legal/meet the regulatory requirement in the jurisdiction they are being offered in or in any country that NIUM operates in.
- (C) Financial and other Professional Services
- Companies involved in the exchange or trading of cryptocurrencies, or any other virtual currencies, including payments for the purpose of purchasing cryptocurrencies.
 - Unregulated Money service businesses. Regulated payments service activity is only permissible with explicit approval by NIUM.
 - Investment & Credit Services – Securities brokers; mortgage consulting or debt reduction services; credit counselling or repair; real estate opportunities; lending instruments, crowdfunding, unless explicitly approved NIUM and regulated/authorised by relevant authority.
 - Others: Shell banks. Platforms allowing the trading and/or exchanging of FX/CFD/options. Superannuation funds. Syndicates. Trusts and trust formation activity.
 - Any other financial services operating without a licence/registration where one is required.
 - Services that facilitate anonymous payments/financial services.
 - Binary options. Factoring. Using the NIUM account as an escrow or safeguarding account.
- (D) Other Restricted Activities

- IPTV and VOIP services.
- Individuals, entities, or countries subject to international sanctions.
- Weaponry, military and semi-military goods and services.
 - 1. Weapons (including weapons of historic significance), military software, or any other goods or services intended for military use.
- Trade of restricted and/or endangered animal species and products derived from them.
- Trade of precious metals and stones
- Multi-level marketing, pyramid schemes, unreasonably high rewards schemes, referral marketing.
- Charities, except: - UNICEF - Prime Minister Relief fund - The International Red Cross. Any other registered and highly reputable charity only upon explicit approval by NIUM
- Section 311 of USA Patriot Act designated entities

NIUM may update this Appendix 1 from time to time by posting a revised version on the website.