DOSHII TERMS OF SERVICE

THESE TERMS OF SERVICE ("TERMS") CONSTITUTE A CONTRACT BETWEEN YOU AND DOSHII AND GOVERN THE USE OF AND ACCESS TO THE DOSHII API AND DOSHII SERVICE BY YOU AND YOUR AGENTS.

By accepting these Terms, entering into an Agreement, or by accessing, using or continuing to use the Doshii API or receive the Services, or authorising or permitting any Agent to access or use the Doshii API or receive the Services, You agree to be bound by these Terms. If You enter these Terms on behalf of a company, organisation or another legal entity (an "**Entity**"), You agree to these Terms for that Entity and represent to Doshii that You have the authority to bind such Entity and its affiliates to these Terms, in which case the terms "**Subscriber**," "**You**," "**Your**" or related capitalised terms herein shall refer to such Entity and its affiliates. If You do not have such authority, or if You do not agree with these Terms, You must not accept these Terms and may not use the API or accept and receive the Service.

Doshii's API and Service permits streamlined connectivity between software applications and point of sales systems. Access to the Doshii API is by subscription and may be subject to Subscription Charges as agreed between You and Doshii.

1. DEFINITIONS

When used in these Terms the following definitions apply:

Account: means all Doshii accounts created by or on behalf of You or Your Agents within the API or Service.

Agreement: means any Doshii generated service order form, Subscriber Agreement, POS Vendor Subscriber Agreement or Partner Subscriber Agreement or any other written document or exchange between Doshii and You, which is executed, confirmed or approved by You with respect to Your Subscription to the API or Service and including a request to activate a specific third party application or Point of Sale to your venue, which may detail, among other things, the number of Agents or Venues authorised to use the API or Service under Your Subscription, the API or Service Plan applicable to Your Subscription and the applicable Subscription Charges.

Agent: means an individual authorised to use the API or Service through Your Account as an agent and/or administrator and as identified through a unique login.

App Partner Subscribers: Any entity that has entered into a Partner Subscriber Agreement with Doshii.

API: means the application programming interface developed and enabled by Doshii that permits You to access certain functionality provided by the API or Service, including without limitation, enabling the interaction between Doshii, You and other Doshii subscribers, and the integration of a Doshii environment with other software applications.

Business Day: means a day which is not a Saturday, Sunday or a public holiday in Melbourne, Australia.

Confidential Information: means all information disclosed by You to Doshii or by Doshii to You which is in tangible form and labelled "confidential" or which a reasonable person would understand to be confidential given the nature of the information and circumstances of disclosure. For the purposes of these Terms, Identifying Data shall be deemed Confidential Information.

De-identified & De-identify: In respect of data or information means that the relevant data or information is not capable of identifying an individual.

Documentation: means any written or electronic documentation, images, video, text or sounds specifying the functionalities of the API or Service provided or made available by Doshii to you or Your Agents.

Doshii: means Doshii Connect Pty Ltd (ACN 645 980 203) of Upper Ground, The Foundry, 1 Locomotive Street, Eveleigh NSW 2015 Australia and any of its successors or assignees.

Doshii Data: means all electronic data, text, messages or other materials submitted to the API or Service by You or Your Agent.

End User: means, in the case of a POS Vendor Subscriber or a App Partner Subscriber, a user of that Subscribers application, point of sale or platform that is integrated into the point of sale system, and, in the case of a Venue, a Venue staff member.

GST and **GST Law:** have the respective meanings given to them by section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Identifying Data: means all electronic data, text, messages or other materials submitted to the API or Service by You or Your Agent in connection with Your use of the API or Service which identifies, or could be used to identify, an individual.

Intellectual Property Rights: has the meaning given to that term by clause 5.1.

Malicious Software: means:

a.   viruses, malware, worms, trojan horses, time bombs, phishing software or any other similar harmful software; and

b.   all other code that has the effect or intended effect of disabling or otherwise shutting down the API or the Service.

Marks: has the meaning given to that term in clause 5.5.

Other Services: means third party products (including products of POS Vendor Subscribers and App Partner Subscribers), applications, services, software, networks, systems, directories, websites, databases and information which the API or Service links to, or which You may connect to or enable in conjunction with the API or Service.

Personal Information: means 'personal information' as defined in the *Privacy Act 1988* (Cth).

POS Vendor Subscribers: Any entity that has a signed POS Vendor Agreement with Doshii.

Privacy Laws: means the *Privacy Act 1998* (Cth) and all other relevant laws, regulations, code of practice or other legally enforceable instrument which relate to the privacy and protection of Personal Information.

Privacy Policy: means Doshii's privacy policy as updated from time to time, located at doshii.io/privacy.

Renewal Term: means any renewal term as defined in an Agreement.

Service: means the customer solutions and tools provided by Doshii, including, individually and collectively, Software, Doshii marketplace environment, the API and any Documentation and Upgrades.

Service Plan: means the plan for the API or Service and the functionality and services associated therewith for which You subscribe under an Agreement.

Software: means software provided by Doshii that allows You or an Agent to use any functionality in connection with the API or Service.

Subscriber: includes an App Partner Subscriber, POS Vendor Subscriber or a Venue that is using the API.

Subscription: means Your subscription to the API and/or Service as set out in Your Agreement.

Subscription Charges: means the fees and charges to access and use the API and Service as agreed between the parties in an Agreement and set out in a Subscription Charge Schedule.

Subscription Charge Schedule: means the schedule to Your Agreement, if any, that specifies the Subscription Charges payable to Doshii by You for use of the API and Service.

Subscription Term: means the period during which You have agreed to subscribe to the API or Service in an Agreement.

Upgrade: means any new or modified features added to or augmenting the API or Service or updates or enhancements to the API or Service.

Venue: means a single specified location from which the API or Service is accessed by a Subscriber or an Agent.

2. GRANT OF LICENCE

1. Subject to these Terms, and Your compliance with these Terms, Doshii grants to You a non-exclusive, non-sublicensable, non-transferable right, during the Subscription Term and any Renewal Term, to use the API (in object code format only), and to access the Service for the Subscription Charges, that may apply, as specified in Your Agreement.

2. Your right to access and use the API and Service is also subject to the verification and compatibility assessments, restrictions and policies implemented by Doshii, from time to time, with respect to the API as set forth in the Documentation or otherwise communicated to You in writing.

3. GENERAL CONDITIONS, ACCESS TO AND USE OF THE API OR SERVICE

1. You acknowledge and agree that:

a. where you are a Subscriber that is a Venue, a high speed internet connection is required for proper use of the API and Service and that You are responsible for procuring and maintaining the network connections that connect Your Venue to the API and Service;

b. You are responsible for compliance with the provisions of these Terms by Your Agents and Your End Users and for any and all activities that occur under Your Account.

c. App Partner Subscribers and POS Vendor Subscribers are responsible for ensuring that their use of the API or Service to store and transmit Identifying Data complies with all applicable laws, including Privacy Laws, and regulations;

d. You are responsible for determining whether the API or Service or the information generated from it is accurate or sufficient for Your purposes;

e. any Upgrade are also subject to these Terms and Doshii reserves the right to deploy an Upgrade at any time; and

f. You will not, and You will ensure your Agents and Your End Users will not;

    i. license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, share, time share or otherwise commercially exploit or make the API or Service available to any third party, other than authorised Agents in furtherance of Your internal business purposes as expressly permitted by these Terms;

    ii. use the API or Service to process data on behalf of any third party;

iii.   modify, adapt, or hack the API or Service or otherwise attempt to gain unauthorised access to the API or Service or related systems or networks;

iv.   charge, encumber or purport to use as security any of the rights granted to You under Your Agreement or these Terms;

v.   falsely imply any sponsorship or association with Doshii;

vi.   use the API or Service to send, or facilitate the sending of, unsolicited or unauthorised junk mail, spam, pyramid schemes or other forms of duplicative or unsolicited messages;

vii.   use the API or Service to store or transmit files, materials, data, text, audio, video, images or other content that infringes Doshii or any other person or entities intellectual property rights;

viii.   use the API or Service in any manner that interferes with or disrupts the integrity or performance of the API or Service and its components;

ix.   attempt to decipher, decompile, reverse engineer or otherwise discover the source code of any software making up the API or Service;

x.   use the API or Service to knowingly post, transmit, upload, link to, send or store any content that is unlawful, abusive, libellous, offensive, or that infringes on any third party's rights; or

xi.   use the API or Service to knowingly post transmit, upload, link to, send or store any Malicious Software.

2.   Doshii reserves the right to temporarily suspend Your access to and use of the API or Service:

a.   during planned downtime for upgrades and maintenance to the API or Service (of which Doshii will use commercially reasonable efforts to notify You in advance);

b.   during any unavailability caused by circumstances beyond Doshii's reasonable control, including but not limited to, acts of God, acts of government, acts of terror or civil unrest, technical failures (including, without limitation, inability to access the Internet), or acts undertaken by third parties, including without limitation, distributed denial of service attacks;

c.   if Doshii suspects or detects any Malicious Software connected to Your Account or Venue or use of the API or Service by You, Your Agents or End Users; or

d.   if You do not comply with or breach any of these Terms or the terms of an Agreement.

4.   DATA PRIVACY AND SECURITY & CONFIDENTIALITY

1.   You warrant to Doshii that You have obtained all consents, authorities and any other acceptances required to be obtained under the Privacy Laws (or otherwise) to legally access and use any data or information (including Identifying Data) which is obtained by You in the course of Your business and to disclose that data to Doshii as necessary for the provision of the API and the Service including as contemplated in 4(3) below.

2.   Subject to 4(3) below, Doshii will maintain commercially reasonable administrative, physical and technical safeguards to protect the security, confidentiality and integrity of Identifying Data which comes into its possession, in line with any requirements imposed by the Privacy Laws and in accordance with the Privacy Policy.

3.   To the extent necessary to provide the API or Service, including, without limitation, in response to Your support requests, You agree that Doshii, and the service providers used to assist in providing the API or Service to You, shall have the right to access Your Account and to use, modify, reproduce, distribute, display and disclose Identifying Data to Subscribers . Any third party service providers Doshii utilises will only be given access to Your Account and

Identifying Data as is reasonably necessary to provide the API or Service and will be subject to confidentiality obligations and the Privacy Policy. Doshii will only disclose information as necessary to provide the API or Service and only Subscribers who have signed a POS Subscriber Agreement or App Partner Agreement.

4. You give permission to Doshii to access, collect, use or disclose information, including Identifying Data, about You, Your Account, Agents, or End Users, in accordance with Privacy Laws and the Privacy Policy to:

    (i) perform analytics (but only on a De-identified basis); or

    (ii) De-identify information for Doshii to use, share or exercise control over (but only on a De-identified basis).

5. You agree that You will not use, share, collect or exercise control over Confidential Information, including the Identifying Data, other than to use the information for the specific purpose for which the Confidential Information has been collected and for the avoidance of doubt will not sell the Identifying Data for use by any third party without the prior written consent of Doshii.

5. INTELLECTUAL PROPERTY RIGHTS

1. Each party will maintain all of its rights, title and interest in and to all respective patents, inventions, copyrights, trademarks, domain names, trade secrets, know-how and any other intellectual property and/or proprietary rights (collectively, "**Intellectual Property Rights**").

2. Without limiting clause 4(3) of these terms and conditions, You grant Doshii a royalty-free, worldwide, transferable, sub-licensable, irrevocable and perpetual licence to use, share, reproduce, analyse and commercialise the Doshii Data but, in the case of Identifying Data, only on a De-identified basis. For the avoidance of doubt, this licence survives termination or expiry of Your Agreement or these Terms for whatever reason. You further warrant to Doshii that you are able to grant this licence to Doshii.

3. You acknowledge and agree that the rights granted to You and Your Agents to use the API or Service under these Terms do not convey any proprietary or additional rights in the API or Service, or in any Intellectual Property Rights associated therewith. Subject only to limited rights to access and use the API or Service as expressly herein, all rights, title and interest in and to the API or Service and all hardware, software and other components of or used to provide the API or Service, including all related Intellectual Property Rights, will remain with and belong exclusively to Doshii.

4. Any modifications or new Intellectual Property Rights created in response to suggestions, enhancement requests, recommendations or other feedback Doshii receives from You or Your Agents will be owned solely by Doshii and, to the extent that any ownership is deemed to vest in You, Doshii shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable and perpetual licence to same for the purposes which include incorporation into the API or Services. For the avoidance of doubt, this licence survives termination or expiry of Your Agreement and these Terms for whatever reason. You further warrant to Doshii that you are able to grant this licence to Doshii.

5. The name "Doshii" and Doshii's other product and service names, and logos used or displayed on the API or Service are registered or unregistered trademarks of Doshii (collectively, "**Marks**"), and You may only use such Marks to identify You as a Subscriber, provided you do not:

    a. attempt, now or in the future, to claim any rights in the Marks;

    b. degrade the distinctiveness of the Marks; or

c. use the Marks to disparage or misrepresent Doshii, its services or products.

6. THIRD PARTY SERVICES & SOFTWARE APPLICATIONS

1. If You decide to enable, access or use Other Services through or as a result of integration with or use of the API or Services, You acknowledge and agree your access and use of such Other Services is governed solely by the terms and conditions of such Other Services. You are expressly permitting Doshii to disclose your login as well as Identifying Data as necessary to facilitate the use or enablement of such Other Service.

2. While You may be subject to Doshii verification and/or certification, Doshii does not endorse, is not responsible or liable for, and makes no representations as to any aspect of Other Services which may be accessed through or as a result of integration with or use of the API or Service, including, without limitation, their content or the manner in which they handle data (including Identifying Data) or any interaction between You and the provider of such Other Services.

3. You irrevocably waive any claim against Doshii with respect to such Other Services including for the avoidance of doubt, any damage or loss caused or alleged to be caused by or in connection with Your enablement, access or use of any such Other Services, or Your reliance on the privacy practices, data security processes or other policies of such Other Services.

4. Doshii makes no representation regarding the ongoing use of the Services or the API by any particular Subscriber or that any particular Other Services will, or will remain, available through the API or Service.

7. CANCELLATION AND TERMINATION

1. Either party may elect to terminate your Account and Subscription (in whole or in part) at or after the expiry of your then current Subscription Term or Renewal Term by providing at least 30 days' written notice, in accordance with these Terms.

2. Where Your Account and Subscription is terminated in accordance with clause 7.1, then:

   a. in addition to other amounts You may owe Doshii, You must immediately pay any unpaid Subscription Charges associated with the remainder of such Subscription Term or Renewal Term; and

   b. where You have elected to terminate, no refunds or credits for Subscription Charges or any other fees or payments paid in advance will be made by Doshii.

3. Doshii may terminate your Account and Subscription immediately if:

   a. Any money payable to Doshii becomes overdue; or

   b. You become insolvent within the meaning of section 95A of the Corporations Act; or

   c. You enter or threaten to enter into bankruptcy, liquidation, administration, receivership or any other type of insolvency regime; or

   d. You cease to conduct business.

   e. You, or any of your associated entities, shareholders or directors (or their related entities) either: (i) engage in a business which is competitive with Doshii or threaten or propose to do so; or (ii) solicit or encourage customers of Doshii to cease doing business with, or reduce the amount of business they do with, Doshii.

4. Doshii reserves the right to modify or suspend Your Account or Your and/or Agents' rights to access and use the API or Service, and remove, disable and discard any Identifying Data if Doshii believes that You, Your Agents or End Users have violated these Terms.

5. On termination of these Terms, your Account and/or your Subscription, for any reason:

   a. You will lose all right to use the API or the Service;

   b. on Doshii's request, You must procure one of Your officers to certify to Doshii that all copies of the Software have been deleted as required under this clause; and

   c. Doshii reserves the right to delete all Identifying Data in the normal course of operation. Identifying Data cannot be recovered once Your Account is cancelled.

8. SUBSCRIPTION CHARGES

1. In consideration of Doshii providing the API or Services to You under these Terms, You may be required to pay the Subscription Charges specified in the relevant Subscription Charge Schedule of Your Agreement.

2. If You default in payment of any Subscription Charge when due, You shall indemnify Doshii from and against all of Doshii's costs and disbursements, including legal costs on an indemnity basis or on a solicitor and own client basis whichever is the higher and in addition all of Doshii's nominees costs of collection inclusive of debt collection and agency fees and commissions.

9. DISCLAIMER OF WARRANTIES

The Doshii website and the API or Service, including all server and network components are provided on an "as is" and "as available" basis, without any warranties of any kind to the fullest extent permitted by law, and Doshii expressly disclaims any and all warranties, whether express or implied, other than that expressly stated in these Terms to the fullest extent permitted by law. You acknowledge that Doshii does not warrant that the API or Service will be uninterrupted, timely, secure, error-free or free from Viruses, and no information or advice obtained by You from Doshii or through the API or Service shall create any warranty not expressly stated in these Terms.

10. LIMITATION OF LIABILITY

1. To the maximum extent permitted by law, under no circumstances and under no legal theory (whether in contract, tort, negligence or otherwise) will Doshii, or its Affiliates, officers, directors, employees, Agents, suppliers or licensors be liable to You or any third party for any indirect, incidental, special, exemplary, consequential, punitive or other similar damages, including lost profits, lost sales or business, lost data, business interruption or any other loss incurred by You or any third party in connection with Your Agreement or these Terms or the API or Service, regardless of whether You have been advised of the possibility of or a party could have foreseen such damages.

2. To the maximum extent permitted by law, notwithstanding anything to the contrary in these Terms, Doshii's aggregate liability to You or any third party arising out of these Terms or otherwise in connection with any subscription to, or use or employment of the API or Service, shall in no event exceed the Subscription Charges (if any) paid by you during the 12 months prior to the first event or occurrence giving rise to such liability. You acknowledge and agree that the essential purpose of this clause 10.2 is to allocate the risks under these Terms between the parties and limit potential liability given the Subscription Charges, which would have been substantially higher if Doshii was to assume any further liability other than as set forth herein. Doshii relies on these limitations in determining whether to provide You the rights to access and use the API or Service provided for in these Terms.

3.   Nothing in these Terms is intended to have the effect of contracting out of any applicable provisions of the Commonwealth Trade Practices Act 1974, the Competition and Consumer Act 2010 (Cth), or the Fair Trading Acts in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.

11.   INDEMNIFICATION

You will indemnify and hold Doshii harmless against any claim brought against Doshii by a third party arising from or related to:

a.   use of the API or Service by You, Your Agents or End Users in breach of these Terms;

b.   use of the Doshii Data in accordance with the terms of the licence in clause 5.3 or use of the Identifying Data in accordance with clause 4.5; or

c.   matters which You have expressly agreed to be responsible pursuant to these Terms.

12.   ASSIGNMENT, ENTIRE AGREEMENT, VARIATIONS

1.   You may not, directly or indirectly, by operation of law or otherwise, transfer, assign or novate all or any part of these Terms or Your rights under these Terms or delegate performance of Your duties under these Terms without Doshii's prior written consent, which will not be unreasonably withheld.

2.   Doshii may, without Your consent, transfer, assign or novate Your Agreement with You to any related body corporate (as that term is defined in the *Corporations Act 2001* (Cth)) or in connection with any merger or change of control of Doshii or the sale of all or substantially all of Doshii's assets provided that any such successor agrees to fulfil its obligations pursuant to these Terms. Subject to the foregoing restrictions, these Terms will be fully binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

3.   These Terms, together with any Agreements, constitute the entire agreement, and supersede any and all prior agreements between the parties with regard to the subject matter hereof.

4.   Doshii may amend these Terms from time to time, in which case the new Terms will supersede prior versions. Doshii will make commercially reasonable attempts to notify You in writing not less than seven days prior to the effective date of any such amendment and Your continued use of the API or Service following the effective date of any such amendment may be relied upon by Doshii as Your consent to any such amendment.

5.   Doshii's failure to enforce any provision of these Terms does not constitute a waiver of that provision or of any other provision of the Terms.

13.   SEVERABILITY

If any provision in these Terms is held by a court of competent jurisdiction to be unenforceable, such provision shall be modified by the court to the minimum extent required, and interpreted so as to best accomplish the original provision to the fullest extent permitted by law, and the remaining provisions of these Terms shall remain in effect.

14.   DISPUTE RESOLUTION

1.   Any dispute concerning these Terms which cannot be resolved by the parties will be submitted to arbitration before an arbitrator agreed upon by the parties or, if parties cannot agree upon an arbitrator within 30 days of the dispute arising, to an arbitrator appointed by the Chairman of the Australian Computer Society.

2. Arbitration will be in the state of Victoria and the arbitration will be conducted under the rules then prevailing of the Institute of Arbitrators Australia for the arbitration of commercial disputes.

3. The arbitrator may award costs as part of his award. The award of the arbitrator will be binding and the award of the arbitrator may be entered as a judgement in any court of competent jurisdiction.

15. SURVIVAL

Clauses 3 to 7 and 9 to 19 shall survive any termination of these Terms and any Agreement with respect to use of the API or Service by You, Your Agents or End Users. Termination shall not limit either parties' liability for obligations accrued as of or prior to such termination or for any breach of these Terms or any Agreement.

16. NOTICE

1. All notices to a party may be delivered in writing by mail or electronic mail to the address provided in the relevant Agreement by that party from time to time.

2. All notices shall be deemed to have been received:

   a. if sent by electronic mail, immediately upon delivery; and

   b. if sent by post, within three Business Days after the date of posting (if posted within Australia) and 10 Business Days after posting (if posted to an address outside of Australia).

17. GOVERNING LAW

These Terms are governed by the law of Victoria, Australia and the parties submit to the jurisdiction of the Courts of that State.

18. PRECEDENCE

In the event of a conflict or inconsistency between these Terms and any Agreement, the Agreement will take precedence.