

Terms of Service

Welcome to Esimo. Please read these terms and conditions (“**Term of Service**”) carefully. The following Terms of Service govern your use and access of the Website (defined below) and the use of the Services.

All Terms of Service in this document are applicable for your use of our website (or any application on your mobile device) of **Global M Connect (Thailand) Co., Ltd. (“Esimo”)** which includes <https://esimo.co/th/>. The Website is available for your use of our Platform Service only in the condition that you agree to the Terms of Service as set forth below. If you do not accept to be legally bound by the terms of any or all of the conditions stated herein, please do not use the Website (or application on your devices). By accessing or using the Website, you and the entity you are authorized to represent (“**You**” or “**Your**”) signify your agreement to be bound by the Terms of Service, as well as to follow our Privacy Policy available here <https://assets-cdn.omise.co/esimo/esimo-privacy-policy.pdf>

Esimo reserves the sole right to amend or change this Terms of Service, policy or manual of the Website at the discretion of Esimo from time to time. Any amendment will be effective immediately upon the announcement of the revised version of the Website and any right that may exist within the acknowledgement notice shall be waived. Therefore, if you do not agree to such changes, please cease using the Website.

Definitions and Interpretations

Account shall mean your service account which you registered and created on the Website

Applicable Law shall mean all laws, statutes, orders, decrees, injunctions, and regulations of any governmental authorities having jurisdiction over the matter in question

Materials shall mean all activities and contents including but not limited to photos, images, videos, graphics, written contents, audio files, code, information or data uploaded, collected, generated, stored, displayed, distributed, transmitted or exhibited on or in connection with your Account

Platform Service shall mean Esimo’s platform service located or accessible through the Website

Service Fee shall mean the rate of service fees charged by Esimo

Source of Fund shall mean commercial banks, issuing banks, acquiring banks, financial institutions, debit, credit card or electronic card networks or associations, electronic money or wallet operator and/or any other payment service providers

Third-Party Products shall mean any third-party information, website, product, service, or materials referenced in, accessible through, or provided in connection with the Website or the Platform Service

Transaction Amount shall mean a price or value of goods or services purchased by or transacted each time by your customer

Website shall mean Esimo's website located at <https://esimo.co> together with Esimo's websites, webpages, web applications accessible and the Account control panel.

1. Registration and the User Account

Esimo reserves the right to provide the Platform Service to you when you register to create the Account on the Website. You shall be able to use the Platform Service along with the activities provided in the Website. When you register to create an Account, you agree to be bound by the following terms:

- You agree to register with one Account only;
- You agree to provide the detailed information that is required to be accurate and up-to-date;
- You agree to update the information regularly if there is any changes about your information;
- You are not authorized to share your username and password or other account access information with any other person;
- You agree to notify Esimo immediately of any unauthorized use of your Account;
- For minors, according to Thailand Civil and Commercial Code, you acknowledge that by using the Platform Service, you have obtained the consent from your legal representative (where applicable) prior to your registration. Please refrain from accessing our Platform Service if such consent has not been obtained;
- By registering, you warrant and undertake that you must not act with fraudulent intent or in bad faith which possibly affect Esimo or other people;
- You are responsible for maintaining the security of your Account, password and for all Platform Service ordered, accessed, or otherwise used in connection with your Account and all actions taken in association therewith. Esimo will not be responsible and liable for any loss or damage from your failure to maintain such above-mentioned securities; and
- You acknowledge and agree that Esimo may use the email address you provide on opening an Account or as updated by you from time to time as the primary method for communication with you. You must monitor the primary Account email address you provide to Esimo and procure that your primary email address must be capable of both sending and receiving messages.

2. Restrictions

In the use of our Website, you will proceed under the Applicable Law and agree to act as follows:

- Not use the Platform Service for illegal purposes, misleading, unlawful, or fraudulent activities;
- Not publish messages that may harm a person's reputation;
- Not publish unlawful, threatening, harassing, libelous, vulgar, obscene and pornographic content;
- Not incite a rebellion
- Not restrict anyone else from the Platform Service without the permission of Esimo;
- Not publish links or any other content that is unlawful or inappropriate from other websites to the Website;
- Not publish links or any other content that leads to any unlawful or inappropriate sources in the Website;
- Not publish or create unethical marketing methods including but not limited to spamming, misleading advertising, or controversial marketing;
- Not publish or create, in any way, any content that contains, or which you have reason to suspect that contains viruses, damaging components, spyware, malicious codes, Trojans or any other program to hide malicious files, causing damage to the data or Website or other parties;
- Not publish content that infringes or breaches a person's rights, including the intellectual property rights;
- Not impersonate any person or entity or to falsely state or otherwise misrepresent your affiliation with any person or entity;
- Not attempt to gain unauthorized access to or otherwise interfere or disrupt other computer systems or networks connected to the Platform Service;
- Not post, promote or transmit through the Platform Service any prohibited goods and/or services under Applicable Law and/or the Source of Funds Regulations; and
- Not reproduce, duplicate, copy, sell, resell or exploit any portion of the Platform Service, use of the Platform Service, or access to the Platform Service without the permission of Esimo.

3. Monitoring the use of Platform Service

Esimo reserves the rights at its sole discretion to monitor the Materials published by using the Platform Service. Esimo may investigate any breach of the Terms of Service contained herein and take any action as deemed appropriate. For the purpose of investigation, Esimo may reasonably request information and data from you in connection with your use of and/or access of the Platform Service at any time. In case that Esimo suspects that any Materials is suspected to be in violation of the Applicable Law and/or the Source of Funds Regulations, Esimo may report such activity to the relevant authorities and cooperate with such authorities.

You agree and acknowledge that you are responsible for all Materials. Esimo may remove any Materials if Esimo believes that it violates the Terms and Conditions, or Esimo is permitted or required to do so by the Applicable Law and/or the Source of Funds Regulations.

4. Omise Payment Service

- Upon completion of the registration process, you may enroll in Omise payment service which can support payment gateway services to your customers. By using Omise payment service, your customers may purchase goods and services from your store by using various payment methods. For avoidance of doubt, Omise payment service is a Third Party Services under this Term of Service.
- By using Omise payment service on your store, you agree to be bound by Omise's terms and conditions as stipulated in <https://www.omise.co/terms/thailand> and Omise's privacy policy as stipulated in <https://www.omise.co/privacy/thailand> as they may be amended by Omise from time to time.

5. Service Fee and Payment

- You will pay the Service Fee applicable to your subscription to the Platform Service and/or any other services ("**Monthly Service Fee**") and any other applicable fees including but not limited to the applicable fees in relation to the value of sales or transaction amount made through your store ("**Platform Fee**") at the rates stipulated in <https://esimo.co/pricing/>, and any fees in relation to your purchase of products or services such as Omise payment service or any other third party services ("**Additional Fee**"). For avoidance of doubt, the Monthly Service Fee and the Platform Fee shall be collected by Esimo, and the Additional Fee shall be collected by the third party service provider.
- The Monthly Service Fee shall be paid by the method as designated by Esimo. The Platform Fee shall be automatically deducted from the Transaction Amount. The Additional Fee shall be collected by the rate and manner as determined by each third party service provider.
- The Service Fee and any other applicable fees will be regardless of actual usage. Esimo will not provide any refund or credit for any partial days, months, or years and will not provide the refund to customers in any case.
- The Service Fee and any other applicable fees are exclusive of all applicable taxes and governmental fees, including without limitation to Value Added Tax, stamp duty and other taxes. You will be responsible for the payment of all taxes applicable to your use of the Platform Service.
- You are responsible for all applicable taxes that arise from or as a result of your sales by using the Platform Service.
- If the Service Fee and any other applicable fees are not promptly paid by the times and manners as stipulated in this Term of Service, you agree to pay the interest that accrues on such outstanding fees at the maximum rate permitted by the Applicable Law. Esimo may suspend your access to the Platform Service during any period in which payment is

overdue. The suspension will not terminate this Term of Service or relieve you of any obligations or liabilities.

- Esimo reserves the right to adjust the Service Fee at any time. The adjustment of the Service Fee shall be subject to change upon 30 days' notice from Esimo. Such notice may be provided by posting the changes to the Website. In this regard, Esimo shall not be liable to you or any third party for any modification, price change, suspension or discontinuation of the Platform Service.

6. Intellectual Property Rights

You agree and acknowledge that you are not granted any license to any software by these Terms of Service. You will not directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of or included in the Platform Service or any software, documentation or data related to the Platform Service; modify, translate or create derivative works based on the Platform Service or any software; or copy, distribute, pledge, assign or otherwise transfer or encumber rights to the Platform Service or any software; or otherwise for the benefit of a third party; or remove any proprietary notices or labels. By using the Platform Service, you hereby agree and acknowledge that the matters in relation to the intellectual property rights shall be agreed as the Clause hereinafter.

6.1 Your Content

- Esimo will not claim any intellectual property rights over the content you provide to Esimo by using the Platform Service. All of your content remains yours. When providing content using the Platform Service (directly or indirectly), you grant us a non-exclusive, worldwide, royalty-free, right to exercise any and all copyright, trademark, patent, publicity, moral, database, and/or other intellectual property rights you have in that content or associated with your store in connection with our provision of the Platform Service, in any media known now or developed in the future in order that Esimo may advertise, publish or present the content, name, trade name, trademark or other symbol of you as a user of services provided by Esimo or a participant of Esimo's specific marketing campaign(s) on the Website, media, articles, publication, platform or network.
- You represent and warrant that, for all such contents you provide, you own or otherwise control all necessary rights to do so and to meet your obligations under this Term of Service. You represent and warrant that such content is accurate. You represent and warrant that use of any such content (including derivative works) by us, our users, or others in contract with us, and in compliance with this Terms of Service, does not and will not infringe any intellectual property rights of any third party.

6.2 Esimo's Content

- All rights not expressly granted by Esimo to you in this Term of Service are hereby reserved by Esimo. The Platform Service, the APIs, and all software, documentation, information, hardware, equipment, devices, templates, tools, documents, processes, methodologies, know-how, websites, images, videos, contents, logos, page headers, custom graphics, designs and user interface elements, scripts, and other materials contained therein or provided in connection therewith, and all modifications, enhancements, and updates thereto, as well as any additional intellectual or other property used by or on behalf of Esimo or Esimo related entities or otherwise related to the Platform Service, together with all copyrights, trademarks, patents, trade secrets and any other proprietary rights inherent therein and related thereto shall be and remain the sole and exclusive property of Esimo.
- You may not use, imitate, or copy, whether in whole or in part, any Esimo's intellectual property rights or proprietary rights without, in each instance, Esimo's prior written consent, at Esimo's discretion. All permitted uses will pass the benefits on Esimo. You have no right or license in or to Esimo intellectual property rights or proprietary rights other than the right to use the Platform Service, in compliance with the Terms of Service.

7. Confidentiality

- Confidential Information shall include but not be limited to any and all information of a Party
- ("**Disclosing Party**") associated with such party's business and not publicly known and disclosed to the other Party ("**Receiving Party**"), including specific business information, technical processes and formulas, software, customer lists, prospective customer lists, names, addresses and other information regarding the customers and prospective customers, product, design, sales, costs, price lists, and other unpublished financial information, business plans and marketing strategies and any other confidential and proprietary information, whether or not marked as confidential and whether or not in oral or written form. Esimo's Confidential Information shall include all information that you receive relating to us, or to the Platform Service, that is not known to the general public.
- Confidential Information shall not include any information that the Receiving Party can prove that such information:
 - was already in the public domain, or was already known by or in the possession of the Receiving Party, at the time of disclosure of such information;
 - is independently developed by the Receiving Party without use or reference to the Disclosing Party's Confidential Information, and without breaching any provisions of this Term of Service; and
 - is thereafter lawfully obtained by the Receiving Party from a third party without breach of this Term of Service.

- The Receiving Party will hold the Confidential Information in trust and confidence and not disclose, transmit or release it to any third party except expressly permitted by this Term of Service.
- The Receiving Party will not use the Confidential Information for any purpose except for the purposes described in this Term of Service.
- The Receiving Party agree and acknowledge that the disclosure of the Confidential Information pursuant to this Term of Service is not intended to transfer or grant any rights, title or interest in or to such Confidential Information to the Receiving Party unless otherwise expressly indicated by the Disclosing Party in writing.
- The Receiving Party will disclose the Confidential Information to those of its employees, consultants and contractors who have a need to know and agreed, either as a condition of employment, representation or in a written agreement, to be bound by terms and conditions substantially as protective as the confidentiality terms and conditions applicable to the Receiving Party under this Clause.
- The Receiving Party agrees to take all reasonable steps to ensure at least substantially equivalent to the steps it takes to protect its own proprietary information to prevent the duplication, disclosure or use of any the Confidential Information.
- The Receiving Party may disclose the Confidential Information pursuant to a valid court order or order of an authorized government agency or as required by any Applicable Laws, regulations, provided that (if not legally prohibited) the Receiving Party has given the Disclosing Party prompt notice so that the Disclosing Party will have an adequate opportunity to defend, limit or protect against such disclosure and the Receiving Party limits such disclosure only the Confidential Information subject to the applicable order.
- The terms and conditions under this Clause shall survive for as long as the Confidential Information remains confidential.

8. Personal Data Protection

Esimo is firmly committed to protecting the privacy of your personal data and the personal data of your customers. By using the Platform Service, you acknowledge and agree that Esimo's collection, use and disclosure of your personal data shall be governed by our Privacy Policy as stipulated in <https://assets-cdn.omise.co/esimo/esimo-privacy-policy.pdf>

9. Indemnification and Limitation of Liability

- You will defend, indemnify and hold Esimo and its suppliers, affiliates, respective directors, officers, employees and agents harmless from and against any and all claims, losses, damages, liabilities and costs (including without limitation to the attorneys' fees and court costs) arising out of or in connection with your breach of any Term of Service by you or any third party (authorized, permitted or enabled by you), except to the extent the foregoing directly result from Esimo's own gross negligence or wilful misconduct.

- You acknowledge and agree that, to the extent permitted by the Applicable Law, Esimo shall
- not be liable for any indirect, incidental, punitive, extraordinary, special, consequential or exemplary damages including but not limited to, damages for loss of profits, business interruption, loss of revenue, goodwill, loss of use, loss of data or other intangible losses arising out of or in connection with the use of Platform Service for whatsoever causes whether such losses or damages are alleged in tort, contract or any other legal or equitable theory and whether Esimo is aware of the possibility of such losses or damages.

10. Disclaimers

- Your use of the Website, software and Platform Service will be at your own risk and are provided “As is” and “As available” basis without any warranty or condition, express, implied or statutory. All representations, warranties and undertaking of accuracy, reliability (system or otherwise), merchantability, fitness for a particular purpose and non-infringement are expressly excluded and disclaimed to the fullest extent permitted by the Applicable Laws.
- Esimo does not warrant that the Platform Service will be uninterrupted, timely secure, or error-free and does not warrant that the quality of any products or services, information or other materials purchased or obtained by you through the Platform Service meet your expectations, or that any error in the Platform Service will be corrected.
- The Reference to, or availability of, third-party products or services in connection with the Platform Service or Website does not constitute, and will not be construed as constituting, an endorsement, authorization, sponsorship, or affiliation by or with Esimo with respect to such third-party products or services.

11. Term and Termination

- The Platform Service will be provided to you unless otherwise earlier cancelled by you or terminated by Esimo.
- You may cancel your Platform Service at any time by contacting support@esimo.co and then following the specific instructions indicated to you by Esimo. After the cancellation, Esimo may terminate your Platform Service within 30 (thirty) days.
- Esimo reserves the rights at its sole discretion to revoke, suspend, deactivate or terminate your Account or prevent or restrict your access to the Platform Service immediately without prior notice, whether permanently or temporarily, if Esimo finds you have committed any of the following actions:
 - You provide false information on registration, including not updating data information to be current;
 - Esimo discovers that your Account is used or has been used by another person;
 - Any action which is a breach of this Term of Service;

- Any restricted action of Clause 2 as aforementioned.
- Upon termination of the Platform Service by either party for any reason, or cancellation or expiration of the use of Platform Service:
- Esimo will cease providing the Platform Service and you will no longer have access to your Account.
- You will not be entitled to any refunds of any fees, pro rata or otherwise.
- Any outstanding amount you owe to Esimo for your use of Platform Service through the effective date of such termination, cancellation or expiration shall become due and payable in full.
- Your Account is deemed to be offline and Esimo may delete your Account together with your data upon reasonable time and manner.

12. Feedback and review

Under no circumstances shall any disclosure of idea, suggestion or related material or any review of the Platform Service (“**Feedback**”) to Esimo be subjected to the obligations of confidentiality or expectation of compensation. By submitting feedback to Esimo, whether submitted directly to Esimo or posted on any Esimo hosted platform), you waive any and all rights in the Feedback and that Esimo is entitled to use the Feedback if desired as provided by you or as modified by Esimo, without obtaining permission or license from you or from any third party. Any Feedback that you submit to Esimo must be accurate to the best of your knowledge, and must not be illegal, obscene, threatening, defamatory, invasive of privacy, infringing of intellectual property rights, or otherwise injurious to third parties or objectionable. Esimo reserves the right (but not the obligation) to remove or edit Feedback, but does not regularly inspect posted Feedback.

13. Third Party Service

- Esimo may from time to time recommend, provide you with access to, or enable third party services, softwares, applications, products, or website links (collectively “**Third Party Services**”) for your consideration or use. Such Third Party Services are made available only as a convenience. Your purchase, access, or use of the Third Party Services is solely between you and the third party service provider. In addition to this Terms of Service, you agree to be bound by the additional terms and conditions applicable to the services you purchased from, or that are provided by third party service providers.
- Any use of Third Party Services offered through the Platform Service shall be entirely at your own risk and discretion, and it is your responsibility to read the terms and conditions and/or privacy policy applicable to such Third Party Services before using them. Esimo shall not provide any warranties or representations to you with respect to Third Party Services. You acknowledge and agree that Esimo has no control over any Third Party Services and shall not be liable or responsible for any obligations and/or liabilities arising from such Third Party Services.

- Esimo may disable access to any Third Party Services at any time in its sole discretion and without notice to you. Esimo is not responsible for or liable to you for discontinuation or suspension of access to, disablement of any Third Party Services.
- If you install or enable a Third Party Service for use with the Platform Service, you grant us permission to allow the applicable third party service providers to access your data and to take any other actions as required for the interoperation of the Third Party Services with the Platform Service, and any exchange of data or other interaction between you and third party service providers is solely between you and such third party service providers. Esimo is not responsible for any disclosure, modification or deletion of your data, or for any corresponding losses or damages you may suffer, as a result of access by Third Party Services or third party service providers to your data.
- You agree to indemnify and hold Esimo and (as applicable) our parent, subsidiaries, affiliates, Esimo's partners, officers, directors, agents, employees, and suppliers harmless from any claim or demand, including reasonable attorneys' fees, arising out of your use of a Third Party Services or your relationship with third party service providers.

14. Miscellaneous

14.1 Governing Law and Jurisdiction

This Term of Service shall be governed and interpreted in accordance with the laws of Thailand.

14.2 Severability

If any provision of these Terms is found to be unenforceable or invalid, such provision will be limited or eliminated to the minimum extent necessary so that the remaining provisions otherwise will remain in full force and effect.

14.3 Waiver

No waiver of any provision of this Term of Service, nor consent by Esimo to the breach of or departure from any provision of this Term of Service, will in any event be binding on or effective against Esimo unless it is in writing and signed by a duly authorized representative of Esimo, and then such waiver will be effective only in the specific instance and for the specific purpose for which given.

14.4 Notices

You consent to receive electronically any communications from Esimo. We may communicate with you through the email address specified in your account or by posting notices on the Website. You agree that all agreements, notices, disclosures and other communications that are provided to you electronically satisfy any requirement that such communications be in writing. All notices from us intended for receipt by you shall be deemed delivered when sent to the email address you provide to us.

Notice to Esimo must be sent to support@esimo.co

14.5 Headings

The section headings and titles in this Term of Service are for convenience only and have no legal or contractual effect. This Term of Service will be interpreted without application of any strict construction in favor of or against you or Esimo.

14.6 Independent Contractor

No agency, partnership, joint venture or employment relationship is created by this Term of Service or your use of the Platform Service, and you do not have any authority of any kind to bind Esimo in any respect whatsoever.

14.7 Marks

Esimo shall have the non-exclusive right and license to use the names, trademarks, service marks and logos associated with your store(s) to promote the Services.

14.8 Force Majeure

Esimo will have no liability to you, your customers, or any third party for any failure by Esimo to perform its obligations under this Term of Service in the event that such non-performance arises as a result of the occurrence of an event beyond the reasonable con

14.9 Third Party Service Integration

Certain Third Party Products or Services may be integrated with the Platform Service. Esimo may, in its discretion and without liability to you, decide to no longer support such integration and migrate your Platform Service to a different integration.