

## **TERMS OF USE**

**Last updated: June 14, 2023**

**PLEASE READ THESE TERMS OF USE CAREFULLY. YOUR ACCEPTANCE MAY LIMIT OR WAIVE CERTAIN OF YOUR RIGHTS. IT IS YOUR RESPONSIBILITY TO RE-REVIEW THE TERMS OF USE IF YOU HAVE NOT REVIEWED THEM SINCE THE “LAST UPDATED” DATE ABOVE.**

**THIS AGREEMENT PROVIDES FOR MANDATORY INDIVIDUAL ARBITRATION IN THE BRITISH VIRGIN ISLANDS. BY ACCEPTING THESE TERMS OF USE, YOU HEREBY IRREVOCABLY WAIVE ALL RIGHTS TO TRIAL BY JURY OR TO PROCEED IN A COLLECTIVE ACTION IN RELATION TO YOUR USE OF THE SITES.**

**YOU ARE AGREEING NOT TO USE THE SITES FOR PROHIBITED USES (AS DEFINED BELOW), OR FROM EXCLUDED JURISDICTIONS (AS DEFINED BELOW).**

**YOU MAY NOT USE THE SITES UNLESS YOU AGREE TO THESE TERMS OF USE.**

### **1. ACCEPTANCE OF TERMS**

- 1.1 In these terms of use (these “**Terms**”), (i) “we”, “our”, “us,” or the “**Company**” refers to DMM Technology Inc., an entity formed under the laws of the British Virgin Islands (the “**Company**” and, with its Affiliates as further defined below, each a “**KyberSwap Party**” and collectively the “**KyberSwap Parties**”); and (ii) “**You**” refers to any person accessing, or using any Services (as defined in Paragraph 2.1 of these Terms) as accessible through, our website <https://kyberswap.com> (the “**Site**”), mobile applications or any other applications (collectively referred to as, “**Sites**”), and “your” shall be construed accordingly.
- 1.2 By connecting a Wallet to the Sites or otherwise utilizing any of the Services as provided and offered by any KyberSwap Party:
  - (a) You agree to be bound by and to abide by these Terms and any privacy policy contained in the Sites, as may be updated from time to time by the Company. In the event of any change, amendment or update to these Terms or any such privacy policy by the Company, you agree to be bound by these Terms and any such privacy policies, as may be amended, if you continue thereafter utilizing any of the Sites or the Services after notice that there has been a change, amendment or update, which may take the form of alerting you to the “last updated” date so that you can determine whether there has been an update since your last review, or any other form of notice the Company elects to provide in its sole discretion. **If you do not agree to these Terms, please exit the Sites and immediately cease usage of the Sites and the Services.**
  - (b) You represent and warrant that (i) in the jurisdiction to which you are subject, you are of legal age to use the Sites or the Services and to create a binding legal and

financial obligation for any liability or obligation you may incur as a result of your use of the Sites or the Services; and (ii) you are not a Disqualified Person/Entity (as defined in Paragraph 2.1 of these Terms) or acting on behalf of a Disqualified Person/Entity.

1.3 No information contained in or on, and no part of:

- (a) the Sites;
- (b) any electronic sites, communication or applications directly or indirectly linked to the Sites; or
- (c) any other information or document,

shall constitute part of these Terms (unless otherwise stated on the Sites or in these Terms), and no representations, warranties or undertakings are or are intended or purported to be given by any KyberSwap Party in respect of any information contained in or on, or through any part of, the items as stated in Paragraphs 1.3(a) to (c) above.

## 2. DEFINITIONS AND INTERPRETATIONS

### 2.1 Definitions

In these Terms, unless the context otherwise requires:

**“Address”** means an address on the applicable digital ledger or blockchain network;

**“Affiliate”** means with respect to any person or entity, any other person or entity directly or indirectly controlling, controlled by or under common control with such person; and as used in this definition, **“control”** means the power to direct or cause the direction of the management or policies of a person or entity, whether through the exercise of voting power or by contract and **“controlling”** and **“controlled by”** shall have correlative meanings;

**“Applicable Laws”** means all relevant or applicable statutes, laws (including any reporting or withholding tax requirements of any government), rules, regulations, directives, circulars, notices, guidelines and practice notes of any Governmental Authority;

**“Approvals”** has the meaning ascribed thereto in Paragraph 6.1(m) of these Terms;

**“Community Proposals”** means any proposal put forward by KNC Tokenholders pursuant to a DAO Smart Contract Protocol;

**“Company”** has the meaning ascribed thereto in Paragraph 1.1 of these Terms;

**“DAO Services”** has the meaning ascribed thereto in Paragraph 4.2.3 of these Terms;

**“DAO Smart Contract”** means the open source computer protocol relating to Staking, Voting and Delegated Voting in connection with the decentralized autonomous organization referred to as “KyberDAO”, as further described at

<https://docs.kyberswap.com/kyber-dao/kyber-dao-introduction> (including all related trademarks and other intellectual property, whether such use is via the Sites or otherwise);

**“DAO Smart Contract Protocols”** means the decentralized autonomous governance protocols, functions and implementations programmed into the DAO Smart Contract relating to Staking, Voting, Delegated Voting and the other functions of the DAO Smart Contract, which such functions, protocols and implementations may be modified from time to time;

**“Delegated Voting”** means the delegation by a KNC Tokenholder of Voting Power to a KNC Pool Operator in accordance with and subject to DAO Smart Contract Protocols whereby:

- (a) such KNC Pool Operator will be accorded such Voting Power which will be exercisable by such KNC Pool Operator for Voting on Community Proposals in the same manner and to the same extent as such KNC Tokenholder would have been able had there been no delegation; and
- (b) subject to such KNC Pool Operator’s Voting on a Community Proposal in furtherance of an exercise of such Voting Power, Voting Rewards attributable to such Voting will be allocated to such KNC Pool Operator, and such KNC Pool Operator can elect to retain such Voting Rewards or distribute all or part of such Voting Rewards to such KNC Tokenholder at such KNC Pool Operator’s discretion;

**“Disqualified Person/Entity”** means (a) any person seeking to access the Sites or use the Services from within the Excluded Jurisdictions; (b) any person (being a natural person) who is citizen of, domiciled in, or resident of, a country whose laws prohibit or conflict with the access of the Sites or use of Services; (c) any entity that is incorporated in, domiciled in, or organized in, a country whose laws prohibit or conflict with the access of the Sites or use of Services; (d) any person designated that are subject to sanctions implemented by the United Nations, the European Union, or the Office of Foreign Asset Control of the United States Treasury Department;

**“Excluded Jurisdiction”** means the countries that are designated as high risk by the Financial Action Task Force, that are subject to embargoes or sanctions implemented by the United Nations, the European Union, or the Office of Foreign Asset Control of the United States Treasury Department, or are included on a list of jurisdictions not permitted to use the Services as determined by the Company, available at [https://docs.kyberswap.com/getting-started/quickstart/faq#which-countries-are-kyberswap-available-in](https://docs.kyberswap.com/getting-started/quickstart/faq#which-countries-are-kyberswap-available-in;);

**“Fork”** means a change in the existing source code or the creation of new or additional source code for a blockchain;

**“Governmental Authority”** means any nation or government, any state or other political subdivision thereof, any entity exercising legislative, executive, judicial or administrative functions of or pertaining to government, including any government authority, agency,

department, board, commission or instrumentality, and any court, tribunal or arbitrator(s) of competent jurisdiction, and any self-regulatory organization. For the avoidance of doubt, Governmental Authority may include private bodies exercising quasi-governmental, regulatory or judicial-like functions such as securities exchanges or similar self-regulating authorities to the extent they relate to either you, any KyberSwap Party, the KyberSwap Smart Contracts, the DAO Smart Contract, the DAO Smart Contract Protocols, the Tokens or the Services;

**“Indemnified Persons”** has the meaning ascribed thereto in Paragraph 9.2 of these Terms;

**“KNC Delegator”** means a KNC Tokenholder who participates in Staking in respect of KNC Tokens held by such KNC Tokenholder and assigns Voting Power attributable to such KNC Tokens to a KNC Pool Operator for Delegated Voting;

**“KNC Pool Operator”** means a person who has been delegated Voting Power by a KNC Tokenholder through Staking in accordance with the DAO Smart Contract Protocols;

**“KNC Tokens”** means “Kyber Network Crystals,” or “KNC,” the cryptographic token native to the Sites, as described in the following website: <https://kyberswap.com/about/knc>;

**“KNC Tokenholder”** means a person who (a) holds the private key(s) to an Address; (b) holds KNC Token(s) at such Address; and (c) is able to transfer such KNC Token(s) from such Address;

**“KNC Voting Claim Request”** has the meaning ascribed thereto in Paragraph 4.2.1(c)(iv) of these Terms;

**“KyberSwap Parties”** and **“KyberSwap Party”** has the meaning ascribed thereto in Paragraph 1.1 of these Terms;

**“KyberSwap Services”** means, collectively, any services or any variations thereof provided through, via, or on the Sites, including any of the services described at <https://docs.kyberswap.com/introduction> except, in each case, for the DAO Services;

**“KyberSwap Smart Contracts”** means any open source computer protocol as may be deployed on, via or through the Sites from time to time (including all related trademarks and other intellectual property, whether such use is via the Sites or otherwise) as described at <https://docs.kyberswap.com/introduction>, except for the DAO Smart Contract, the DAO Smart Contract Protocols contained therein and any variations thereof;

**“Linked Address”** has the meaning ascribed thereto in Paragraph 4.1.4 of these Terms;

**“Liquidity Provider”** means a User that funds a liquidity pool with Tokens in exchange for Transaction Fees in connection with the Services;

**“Loss”** means any and all losses, claims, liabilities, damages, suits, actions, demands, proceedings, costs, charges or expenses of whatsoever nature or howsoever arising,

including any indirect, special, incidental, consequential or other losses of any kind, in tort, contract or otherwise (including loss of revenue and income or profits);

**“Network Attack & Vulnerabilities”** means hacks, cyber-attacks, network attacks (including double-spend attacks, majority mining power attacks and “selfish-mining” attacks, 51% or network attacks), distributed denials of service or errors, or any attacks, vulnerabilities or defects on the network;

**“Parties”** means both of the Company and you;

**“Party”** means either of the Company and you;

**“Payable Tax”** has the meaning ascribed thereto in Paragraph 15.1 of these Terms;

**“Prescribed Timeframe”** has the meaning ascribed thereto in Paragraph 4.2.3(d)(i) of these Terms;

**“Prohibited Uses”** has the meaning ascribed thereto in Paragraph 8.3 of these Terms;

**“Services”** means, collectively, any of the KyberSwap Services, the DAO Services or any other services provided through, via or on the Sites;

**“Sites”** have the meaning ascribed thereto in Paragraph 1.1 of these Terms;

**“Staked KNC Tokens”** means KNC Token(s) which are subject of Staking;

**“Staking”** means, with respect to a KNC Tokenholder, an election made by such KNC Tokenholder:

- (a) for the DAO Smart Contract to transfer KNC Tokens from such KNC Tokenholder’s Linked Address to another person’s Address as specified by the DAO Smart Contract; and
- (b) for such transferred KNC Tokens to be held at such other person’s Address for a period selected by such KNC Tokenholder, during which period:
  - (i) such KNC Tokens cannot be transferred from such other person’s Address; and
  - (ii) the Voting Power of such KNC Tokens is accorded to such other person’s Address through such KNC Tokens, in accordance with and subject to DAO Smart Contract Protocols;

and **“Stake”** and **“Staked”** shall be construed accordingly;

**“Third Party Integrated Applications”** means the third party applications and interfaces which are not created by the Company and are integrated to the Sites, including those set forth at <https://docs.kyberswap.com/third-party-integration>;

“**Tokens**” means any cryptographic asset, digital asset or virtual currency, including the KNC Tokens;

“**Transaction Fee**” means such transaction cost payable, whether denominated in Tokens or otherwise, for the use of or execution of transactions on a blockchain network or in connection with the Services;

“**User**” means a person, as identified by such person’s Wallet address, who uses the Sites or the Services;

“**User Information**” in respect of a User has the meaning ascribed thereto in Paragraph 4.1.3(a) of these Terms;

“**Voting**” means voting on Community Proposal(s) in accordance with and subject to DAO Smart Contract Protocols, and “**Vote**”, and “**Votes**” shall be construed accordingly.

“**Voting Power**” means the extent of the right accorded by the DAO Smart Contract (in accordance with and subject to DAO Smart Contract Protocols) to KNC Tokens for Voting on a Community Proposal;

“**Voting Rewards**” means, with respect to a KNC Tokenholder or a KNC Pool Operator with Voting Power and who exercises such Voting Power for Voting on Community Proposals, the rewards (denominated in KNC Tokens) accorded to such KNC Tokenholder or KNC Pool Operator for such Voting in accordance with and subject to DAO Smart Contract Protocols; and

“**Wallet**” has the meaning ascribed thereto in Paragraph 4.1.2 of these Terms.

## 2.2 Miscellaneous

In these Terms, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa, words importing any gender include every gender;
- (b) references to a “**person**” include any individual, company, limited liability partnership, partnership, business trust or unincorporated association (whether or not having separate legal personality) and references to a “**company**” include any company, entity, corporation or other corporate body, wherever and however incorporated or established;
- (c) the word “**or**” shall be construed to mean “**and/or**”;
- (d) the word “**including**” shall be non-exhaustive and construed to mean “**including without limitation**”;
- (e) paragraph headings are for convenience of reference only and shall not affect the interpretation of these Terms; and

- (f) the words “**written**” and “**in writing**” include any means of visible reproduction.

### **3. ELIGIBILITY**

- 3.1 Access to the Sites are intended for and extended only to, and the Services are intended for and extended only to, a person or body corporate who is not a Disqualified Person/Entity.
- 3.2 Accordingly, you are not eligible to access the Sites or use the Services if you are a Disqualified Person/Entity. If you are a Disqualified Person/Entity, or if you are acting on behalf of a Disqualified Person/Entity, you should exit the Sites and cease usage of all Services immediately.

### **4. THE SERVICES**

#### **4.1 Generally**

- 4.1.1 Governance. The Sites, but not the DAO Smart Contract or the KyberSwap Smart Contracts, will be overseen by the Company, and none of any KyberSwap Parties shall be liable for or have any obligations with respect to for any Losses arising from or relating to any use of the DAO Smart Contract or the KyberSwap Smart Contracts. The Company may modify or discontinue support for the Sites at any time without prior notice, in its sole discretion. Unless modified in accordance with the DAO Smart Contract or the KyberSwap Smart Contracts, the DAO Smart Contract and the KyberSwap Smart Contracts will not be maintained or modifiable by any KyberSwap Party.
- 4.1.2 Connecting a Wallet. In order to access the Services to engage in transactions using the Sites, a User must first connect a wallet (“**Wallet**”) to the Sites. Users of the Sites can connect a Metamask, Coinbase, Trezor, or Ledger Wallet or any other Wallet compatible with the WalletConnect protocol. Connecting a Wallet will enable the Sites to communicate with the third party software associated with such Wallet connected by the User. Such third party software shall be exclusively responsible for effecting any transactions with such Wallet, including any transactions relating to any KyberSwap Smart Contracts or the DAO Smart Contract.
- 4.1.3 User Information.
- (a) Your access to the Sites or use of the Services shall be conditional on you providing the following information (“**User Information**”):
- (i) your confirmation that you have read these Terms and acceptance thereof; and
- (ii) such other information as may be requested on the Sites or otherwise as determined by any KyberSwap Party in its sole discretion.
- (b) You agree that we may, without prior notice to you, suspend, restrict, or terminate your access to the Sites or use of the Services until any requested User Information has been provided to our satisfaction. You also irrevocably and unconditionally

agree that such User Information provided by you to us may be shared without limitation or restriction with any other KyberSwap Party for the purpose of compliance with any Applicable Laws in connection with the Services.

- (c) By submitting any of your User Information, you represent and warrant to each KyberSwap Party that such User Information as submitted is complete, accurate and authentic and you shall promptly update us of any changes to your User Information. In the event of any change to your User Information, you agree that we may, without prior notice to you, suspend, restrict, or terminate your access to the Sites or use of the Services until any such change has been provided to our satisfaction.
- (d) By submitting your User Information, you shall be deemed to have authorized and permitted:
  - (i) any KyberSwap Party to directly or through third parties make inquiries which any KyberSwap Party in its absolute discretion considers necessary or appropriate to verify such User Information for the purpose of complying with any Applicable Laws or otherwise; and
  - (ii) any KyberSwap Party to take any action which any KyberSwap Party deems necessary or appropriate based on the results of such inquiries.

4.1.4 Linked Address. Any User's Address (including those holding KNC Tokens or used for receipt of Voting Rewards) ("**Linked Address**") you link to the DAO Smart Contract or the KyberSwap Smart Contracts using the Sites:

- (a) shall be owned, held, and be fully controlled by you, and you shall hold and have full control of the private key (whether such private key is held through a personal Wallet or otherwise) and all other credentials to your Linked Address;
- (b) shall not be an Address owned, held, or controlled by a person other than you, including a cryptocurrency exchange address or a third party hosted wallet address (the access of which is controlled by such third party); and
- (c) must be fully compatible with and support the KNC Tokens and the Services.

4.1.5 Public Blockchain Information: The Sites and Services allow a user to read and display data from public blockchains, and to generate standardized transaction messages which can be used by the User's third party Wallet software (or other Third Party Integrated Applications) to engage with the KyberSwap Smart Contracts or the DAO Smart Contract. Because the KyberSwap Smart Contracts and the DAO Smart Contract are deployed on a public blockchain, they are directly accessible through command lines or command prompts, and may now or in the future be accessible through other decentralized applications (dApps) or other third party interfaces. Therefore, with the right technical expertise, it is possible to view substantially the same information, and to generate transaction messages to interact with the KyberSwap Smart Contracts and the DAO Smart



Contract, without use of the Sites or the Services. There is no prohibition herein, or separate license required or fee payable to the Company or the DAO, for doing so.

- 4.1.6 **License.** You are hereby granted a non-exclusive, non-transferable, revocable, limited license to electronically access and use the Sites in the manner described in these Terms. You do not have the right to sublicense the Sites. We may revoke or terminate such license at any time if you use, or attempt to use, the Sites in a manner prohibited by these Terms, or if these Terms are otherwise terminated pursuant to the terms hereof. Notwithstanding the foregoing, the DAO Smart Contract and the KyberSwap Smart Contracts are open-source software, are only accessible pursuant to an MIT license, and are not subject to the limited license described above. For more information regarding such MIT license applicable to the DAO Smart Contract and the KyberSwap Smart Contracts, please refer to the protocol documentation <https://github.com/KyberNetwork/KyberSwap/blob/master/LICENSE>

## 4.2 **DAO Services**

- 4.2.1 The Sites may enable a User to format transaction messages with which the User can direct their Wallet software (for example, Ledger or MetaMask), or other Third Party Integrated Applications, to interact with the following functions of the DAO Smart Contract:

- (a) link a Linked Address to the DAO Smart Contract;
- (b) select the number of KNC Tokens contained at the Linked Address which such User would like to deploy for Staking and be accorded Voting Power based on such number of KNC Tokens deployed for Staking; or
- (c) either:
  - (i) retain and exercise Voting Power as accorded to such User based on such User's Staked KNC Tokens for Voting on Community Proposals, and be accorded Voting Rewards;
  - (ii) effect Delegated Voting in respect of such Voting Power to a KNC Pool Operator;
  - (iii) if such User is a KNC Pool Operator, exercise Voting Power as assigned to such KNC Pool Operator or the Voting Power attributable to such KNC Pool Operator's own KNC Tokens in its capacity as a KNC Tokenholder for Voting on Community Proposals and be accorded Voting Rewards; or
  - (iv) if such User has been accorded Voting Rewards for Voting, request to claim (a "**KNC Voting Claim Request**") such Voting Rewards whereupon such Voting Rewards will be transferred to the Linked Address of such User.

- 4.2.2 While the Sites may assist in formatting messages, it is the responsibility of the User acting in connection with the User's third-party Wallet software and/or other Third Party Integrated Applications, to:

- (a) communicate a User's authentication and instruction to connect such Linked Address to the DAO Smart Contract;
- (b) communicate a User's selection of Staked KNC Tokens to the DAO Smart Contract;
- (c) communicate a User's Delegated Voting to a KNC Pool Operator to the DAO Smart Contract;
- (d) communicate a User's Vote(s) in respect of a Community Proposal; and
- (e) communicate a KNC Voting Claim Request to the DAO Smart Contract (such Services described in this Paragraph 4.2.3, collectively, the "**DAO Services**").

4.2.3 By accessing or using the Sites or DAO Services, you acknowledge, agree and accept that:

- (a) based on the DAO Smart Contract, if you effect Delegated Voting with a KNC Pool Operator, any Voting Rewards attributable to the Voting Power delegated to such KNC Pool Operator pursuant to such Delegated Voting will be distributed to the Linked Address of such KNC Pool Operator (and not you), and such KNC Pool Operator may choose not to distribute any of such Voting Rewards it receives to you;
- (b) while such KNC Pool Operator may develop an arrangement with you to onward distribute such Voting Rewards (or a part thereof) to you as a KNC Delegator of such KNC Pool Operator, such arrangement would be a separate arrangement between such KNC Pool Operator and you as a KNC Delegator; and our Services do not include, and no KyberSwap Party is responsible for any, recovery of Voting Rewards from such KNC Pool Operator on your behalf;
- (c) the DAO Smart Contract will be exclusively maintained and modified in accordance with the DAO Smart Contract Protocols and not by any KyberSwap Party. KNC Tokenholders may, through Voting on Community Proposals, update or alter the DAO Smart Contract from time to time in order to add new features and functionality, in response to Forks, chain migrations, or other changes to the underlying blockchains, in order to address security incidents or vulnerabilities, or as otherwise determined by KNC Tokenholders Voting on Community Proposals. For more information regarding the DAO Smart Contract, please see the documentation available at <https://docs.kyberswap.com/kyber-dao/kyber-dao-introduction>;
- (d) based on the DAO Smart Contract, in order to be eligible to receive the Voting Rewards attributable to Voting or Delegated Voting in respect of a particular Community Proposal:
  - (i) you (in the case of Voting) or your designated KNC Pool Operator (in the case of Delegated Voting) must exercise your or such KNC Pool Operator's (as the case may be) Voting Power for Voting within the timeframe

prescribed by the DAO Smart Contract for Voting in respect of such Community Proposal (“**Prescribed Timeframe**”); and

- (ii) you must maintain your Staked KNC Tokens to which such Voting Power is attributed for the full duration of the Prescribed Timeframe and cannot initiate a release of such Staked KNC Tokens from Staking during the Prescribed Timeframe.

#### 4.3 **The KyberSwap Services**

4.3.1 The KyberSwap Services include a user interface provided through the Sites that display and format information with which the User may choose to direct third-party software to interact with the KyberSwap Smart Contracts for, among other things, the creation of liquidity pools for digital asset pairs. For more information regarding the KyberSwap Services, which may change from time to time, please visit <https://docs.kyberswap.com/introduction>.

4.3.2 **Token and Transaction Information:** The Sites and Services can be used to format transaction messages compatible with a wide variety of Tokens, and the ability of the Site or Services to display information or format messages that enable interaction with any given Token does not constitute an endorsement or approval by the Company or by the Sites or Services of any such Token, or its project team.

- (a) The content displayed on the Site is for informational purposes only and no such information or other material should be construed as legal, tax, investment, financial, or other advice.
- (b) By default, the Sites and Services allow Users to format transaction messages related to a pre-populated list of Tokens generated in whole or in part from third-party token lists (i.e. <https://tokenlists.org/>). The inclusion of any Token on such pre-populated list does not convey any endorsement or approval of that Token by the Sites or Services. The presence of a Token’s liquidity on KyberSwap also does not indicate any endorsement of the token or project team which disclaim all responsibility for interacting with any such Tokens or their associated smart contracts. Users can also use the Site or Services to format messages to interact with Tokens not included on the pre-populated list, by entering a Token’s smart contract address. The Site and Services disclaim all responsibility for any such interaction. By accepting these Terms, the User agrees to assume all risk of interacting with any Tokens or associated smart contracts.

4.3.3 **Confirming Transactions.** The User is responsible for confirming the parameters of any transaction message before directing their third-party wallet software to enter into a transaction. Crypto asset prices and liquidity are volatile and transaction parameters may change between the time a User first selects parameters and when the User seeks to confirm a transaction. The User hereby agrees that it is the User’s sole responsibility to re-confirm all details of any potential transaction at each stage of the process through and including final confirmation of the transaction.

4.3.4 **Transaction Fees.** By using the Sites or the Services, you acknowledge and agree that a Transaction Fee may be charged for each transaction executed through the KyberSwap Smart Contracts, and may be divided among Liquidity Providers as determined and modified by the DAO Smart Contract from time to time, in its sole discretion, and will be payable in either the source Token or the destination Token at the discretion of the DAO Smart Contract. The Company will publish a Transaction Fee schedule (with such modifications, if any, as determined by the DAO Smart Contract) accessible on the Sites at <https://docs.kyberswap.com/kyber-dao/fees-to-kyber-dao>, as may be updated from time to time by the Company. The Transaction Fee for a specific transaction will be displayed to Users of the Sites during the initiation of a transaction and must be accepted by a User before executing such a transaction. By using the Sites or the Services, you hereby consent to such Transaction Fees being debited from either or a combination of both of the source Token or destination Token applicable to your relevant transaction at the time such transaction is processed. Persons accessing and using the KyberSwap Smart Contracts outside of the Sites will also see a similar Transaction Fee schedule.

#### 4.4 **Third Party Integrated Services**

4.4.1 In addition to the KyberSwap Services and the DAO Services, the KyberSwap Parties may provide access to additional Services through the Sites from time to time, including by integrating or providing links to Third Party Integrated Applications, including, for example, services relating to (i) “bridging” Tokens from one chain to another, (ii) providing analyses regarding Token on-chain data, trading volumes and price trendlines or (iii) offering conversions from fiat currency to Tokens or vice versa. Without limiting the generality of the foregoing, you acknowledge, agree and understand that the KyberSwap Parties, the Services and the Sites do not, and will not, permit you to purchase, sell, trade or transfer Tokens or other forms of cryptocurrency directly through the Sites or via the Services, and that no KyberSwap Party shall be responsible or liable for any Losses suffered or incurred by you in connection with the use of Third Party Integrated Applications provided through the Sites or the Services. For a description of the Third Party Integrated Applications made available through the Services or the Sites, please reference <https://docs.kyberswap.com/third-party-integration>.

### 5. **CONDITIONS**

5.1 The Company’s performance of Services is conditional on the following:

- (a) your representations and warranties as set out in these Terms (including Paragraph 6 below) being true and accurate at all times on and after the date of these Terms while you continue to use the Services; and
- (b) that neither your use of, or our provision of, the Services, constitute, or would be reasonably expected to result in a breach, default, contravention or violation of any Applicable Laws applicable to you or any KyberSwap Party, or any contract or agreement to which you or any KyberSwap Party is a party or by which you are, or any KyberSwap Party is, bound, including these Terms.

## **6. ACKNOWLEDGEMENTS, OTHER REPRESENTATIONS AND WARRANTIES**

6.1 By accepting these Terms, you represent and warrant to each KyberSwap Party as follows:

- (a) you acknowledge and agree that the KNC Tokens you are seeking to engage in Staking in connection with the Sites are not to be construed, interpreted, classified or treated as:
  - (i) any kind of currency;
  - (ii) debentures, stocks or shares;
  - (iii) rights, options or derivatives in respect of such debentures, stocks or shares;
  - (iv) rights under a contract for differences or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss;
  - (v) units in a collective investment scheme;
  - (vi) units in a business trust;
  - (vii) derivatives of units in a business trust; or
  - (viii) any form of investment;
- (b) you acknowledge and agree that the Services, Staking, the KyberSwap Smart Contracts, the DAO Smart Contract and Tokens do not and are not intended to constitute securities of any form, units in a business trust, units in a collective investment scheme or any other form of investment in any jurisdiction and these Terms do not and are not intended to constitute an offer of securities of any form, units in a business trust, units in a collective investment scheme or any other form of investment in any jurisdiction or a solicitation for any form of investment in any jurisdiction;
- (c) you acknowledge and agree that none of the Services, Staking, the KyberSwap Smart Contracts, the DAO Smart Contract or Tokens shall be construed, interpreted, classified or treated as enabling, or according any opportunity to you, to participate in or receive profits, income, or other payments or returns arising from or in connection with any of the Services, Staking, and the Tokens, or to receive sums paid out of such profits, income, or other payments or returns, solely by virtue of you holding Tokens;
- (d) you acknowledge that no regulatory authority has examined or approved of these Terms, no such action has been or will be taken under the Applicable Laws of any jurisdiction, and the provision of these Terms to you does not imply that Applicable Laws have been complied with;

- (e) you have read and understood all of these Terms and any privacy policy provided through the Sites;
- (f) any Linked Address provided by you is fully operational, secure and valid;
- (g) you are not, and you are not acting on behalf of, a Disqualified Person/Entity;
- (h) you have full power and capacity to accept these Terms and perform all your obligations hereunder and in the case where you are accepting these Terms on behalf of an entity:
  - (i) such entity is duly incorporated and validly existing under the Applicable Laws; and
  - (ii) you are duly authorized to accept these Terms and procure the performance of obligations hereunder;
- (i) you have a basic degree of understanding of the operation, functionality, usage, storage, transmission mechanisms and other material characteristics of Staking, cryptographic tokens, digital assets and Tokens (including the KNC Tokens), digital ledger-based software systems, digital asset Wallets, the Sites (including the DAO Smart Contract's participation user interfaces), and other related Token storage mechanisms, Token exchanges, blockchain and distributed ledger technology, and smart contract technology;
- (j) you are fully aware of and understand and agree to assume all the risks (including direct, indirect or ancillary risks) associated with (i) any of the Services, Staking, the Sites, the KyberSwap Parties, the KNC Tokens and (ii) your use of any of the Services, any digital asset Wallet or user interface used in connection with any of the Services, Linked Address, your provision of any Linked Address, the Sites and any extension of the Sites;
- (k) these Terms constitute legal, valid and binding obligations on you, which are enforceable in accordance with these Terms, and neither your use of any of the Services, nor purchase, receipt or holding of any Tokens is in breach or contravention of any Applicable Laws in your jurisdiction;
- (l) (i) you are not a citizen or resident of any jurisdiction in which either the use of any of the Sites or the Services, nor the exchange, purchase, receipt, or holding of any Tokens is prohibited, restricted, curtailed, hindered, impaired or otherwise adversely affected by any Applicable Laws, (ii) you are legally permitted to use the Services in your jurisdiction, including that you are legally permitted to own the digital assets and interact with the Services you use and (iii) you are responsible for ensuring compliance with the laws of your jurisdiction in connection with your use of the Services and the Sites, and acknowledge that the Company is not liable for your compliance or non-compliance with any such laws;

- (m) no consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any regulatory authority in any jurisdiction (the “**Approvals**”) is required on your part in connection with your use of any of the Services, or where any Approvals are required, such Approvals have been obtained and remain valid and in full force and effect and your use of the Services and the Sites does not constitute, and you do not expect it to result in, a breach, default, or violation of any Applicable Laws or any contract or agreement to which you are a party or are otherwise bound;
- (n) the KNC Tokens to be used for Staking have not been obtained through any acts in connection with money laundering, terrorism financing or any other acts in breach or contravention of any Applicable Laws;
- (o) the KNC Tokens or Voting Rewards received by you will not be used for any purpose in connection with money laundering, terrorism financing or any other acts in breach or contravention of any Applicable Laws;
- (p) you will not disrupt, interfere with, or otherwise adversely affect the normal flow of the Services or the Sites or otherwise act in a manner that may negatively affect other Users' experiences when using the Services or the Sites (including by taking advantage of software vulnerabilities or any other act that intentionally abuses or exploits the design of the Services or the Sites);
- (q) you will not, and will not attempt to, authorize anyone other than you to access any liquidity pool available through the Services using a Wallet owned by you or a blockchain address for which you control the private keys, or otherwise engage in Prohibited Uses (as defined below) of the Wallet; and
- (r) all of the above representations and warranties are true, complete, accurate and non-misleading from the time of your acceptance of these Terms, and shall be deemed renewed each time you use the Services.

6.2 You acknowledge and agree that none of the KyberSwap Parties makes or purports to make, and each KyberSwap Party hereby expressly disclaims, any representation or warranty in relation to the subject matter set forth in these Terms, including any representations or warranties relating to the Sites, the KNC Tokens, the Services, the KyberSwap Smart Contracts, the DAO Smart Contract or otherwise.

6.3 **You further acknowledge and accept that by using the Sites and/or the Services:**

- (a) **the Site and the Company have no control over, and assume no responsibility for, the KyberSwap Smart Contracts, the DAO Smart Contract or any of the functions thereof or changes thereto;**
- (b) **the Sites function solely as an interface to communicate your instructional input to the KyberSwap Smart Contracts and the DAO Smart Contract and to receive output from the KyberSwap Smart Contracts and the DAO Smart Contract (and, in the case of the DAO Smart Contract, only in the relation to**

**Staking, Voting, Delegated Voting and the other functions thereof). The Sites do not execute trades on your behalf, and merely serve as an interface that may provide information with which you may direct third parties who may do so;**

- (c) you shall not claim, and have no claim, against the Company or any KyberSwap Party (i) in respect of, in connection with any change to, or in connection with any failure of, the KyberSwap Smart Contracts, the DAO Smart Contract or any of the functions thereof; or (ii) in respect of any failure of the Sites or Services to facilitate access to and usage of the KyberSwap Smart Contracts, the DAO Smart Contract and any of the functions thereof; and**
- (d) none of the information available on the Sites or in these Terms, or made available to you in relation to the use of the Sites or the Services constitutes any advice, including legal, tax, financial, accounting or trading advice. If you are in any doubt as to the action you should take, you should consult your legal, financial, tax or other professional advisors.**

## **7. DISCLAIMERS**

7.1 Notwithstanding any other provision in these Terms, to the fullest extent permitted by Applicable Laws, you acknowledge and agree that each KyberSwap Party shall in no case be liable to you or any person in relation to:

- (a) the Services, which you agree to use at your own risk acknowledging that:
  - (i) the Services are provided to you on as “as is” and “as available” basis;
  - (ii) the Services may experience system failures, unplanned interruptions, hardware or software defects, or other security breaches;
  - (iii) the KyberSwap Parties may not detect, or provide timely notice, of any such failure, interruption, or breach; and
  - (iv) no KyberSwap Party provides any guarantee or warranty in relation to the Services, including that such Services will be available, meet any performance parameters, or that your use of such Services will be uninterrupted, secure or error-free.
- (b) any discontinuation of the Services, which could be discontinued at any time, in the sole discretion of the KyberSwap Parties;
- (c) the DAO Smart Contract and the KyberSwap Smart Contracts, which you further acknowledge are an open source protocol (which terms of use or license conditions are incorporated hereunder and apply to you), are integrated with the Sites and, in conjunction with the Services, are provided on as “as is” and “as available” basis;



- (d) use of the Sites, the Services, any Tokens or Staking for any purpose in connection with money laundering, terrorism financing or any other acts in breach or contravention of any Applicable Laws;
- (e) failure or delay in the operation of the Sites, the Services, Staking, the KyberSwap Smart Contracts or the DAO Smart Contract;
- (f) failure, malfunction or breakdown of, or disruption to, the operation of any KyberSwap Party, the Services, the Sites, the KyberSwap Smart Contracts, the DAO Smart Contract, Tokens, or any technology (including Staking and smart contract technology) on which any KyberSwap Party, the Sites, the KyberSwap Smart Contracts, the DAO Smart Contract or any Tokens rely or relies upon, due to occurrences of a Fork, Network Attack & Vulnerabilities, defects, flaws in programming or source code or otherwise, regardless of when such failure, malfunction, breakdown, or disruption occurs;
- (g) any virus, error, bug, flaw or similar defect adversely affecting the operation, functionality, usage, storage, transmission mechanisms, transferability, tradeability and other material characteristics of the Sites, the Services, any KyberSwap Smart Contract, any DAO Smart Contract, Staking, or Tokens;
- (h) decreases or volatility in trading prices or trading volume of Tokens;
- (i) failure or unfitness of any of the Services, the Sites, any KyberSwap Smart Contract, any DAO Smart Contract, Staking, or Tokens for any specific purpose;
- (j) loss of possession of the credentials for accessing, or loss or destruction of the private keys of, any Wallet or Linked Address, in any manner and to any extent;
- (k) any prohibition, restriction or regulation by any Governmental Authority in any jurisdiction of the operation, functionality, usage, storage, transmission mechanisms, transferability or tradability of the Tokens or other material characteristics of Tokens;
- (l) any prohibition, restriction or regulation by any Governmental Authority in any jurisdiction of the operation, functionality, usage, transmission mechanisms of the Services, the Sites, any KyberSwap Smart Contracts or the DAO Smart Contract or other material characteristics of the Services, the Sites, any KyberSwap Smart Contracts or the DAO Smart Contract;
- (m) any risks (whether direct, indirect or ancillary) associated with the Sites, the Services, any KyberSwap Party, the KyberSwap Smart Contracts, the DAO Smart Contract, Staking, and your use of the Services; and
- (n) Transaction Fees which you may have to pay in connection with your use of the Services.

- 7.2 You acknowledge and agree that you shall access and use the Sites and the Services at your own risk. The risks associated with handling Tokens and Staking can be substantial. You should, therefore, carefully consider whether your participation in Staking is suitable for you in light of your circumstances and financial resources. None of the KyberSwap Parties at any point in time assume the risk of Losses arising from or in connection with your use of the Services, the Sites, the KyberSwap Smart Contracts or the DAO Smart Contract, whether or not such Loss was due to factors beyond your or any KyberSwap Party's control.
- 7.3 In the event of any Loss, hack or theft of Tokens (including the KNC Tokens), you acknowledge and confirm that you shall have no right(s), claim(s) or causes of action in any way whatsoever against any KyberSwap Party.

## **8. GENERAL TERMS AND PROHIBITED USE**

- 8.1 You shall be responsible for the reporting requirements under the Applicable Laws in respect of any dealing with Tokens including the reporting requirements in respect of any taxable income derived in connection with the use of Services to the relevant Governmental Authority.
- 8.2 Your relationship with us and the operation and use of Services shall be subject at all times to the Applicable Laws. Any KyberSwap Party may take or refrain from taking any action whatsoever, and you shall comply with, and shall do all things required by any KyberSwap Party, in order to procure or ensure compliance with Applicable Laws. You acknowledge and agree that no KyberSwap Party shall be liable to you as a result of any action taken by any KyberSwap Party to comply with Applicable Laws.
- 8.3 You may not use the Services to engage in the following categories of activity ("**Prohibited Uses**"). The specific types of uses listed below are representative, but are **not** exhaustive. We may update the Prohibited Uses of the Services from time to time, and you hereby acknowledge and agree that it shall be your sole responsibility to ensure that your use of the Services does not involve a Prohibited Use. By using the Services, you confirm that you will not, and you will not aid, abet, encourage or induce any third party to engage in any of the following activities in any manner utilizing the Services, each of which constitutes a Prohibited Use:

(a) **unlawful activity:** activities which would:

- (i) violate, or assist in the violation of, any Applicable Laws administered in the countries where the KyberSwap Parties conduct business;
- (ii) involve proceeds of any unlawful activity; or
- (iii) publish, distribute or disseminate any unlawful material or information;

(b) **abusive activity:** actions which:

- (i) impose an unreasonable or disproportionately large load on our infrastructure, or detrimentally interfere with, intercept, or expropriate any system, data, or information;
  - (ii) transmit or upload any material to the Sites, the KyberSwap Smart Contracts or the DAO Smart Contract that contains viruses, trojan horses, worms, or any other harmful or deleterious programs;
  - (iii) attempt to gain unauthorized access to the Sites, the KyberSwap Smart Contracts or the DAO Smart Contract, computer systems or networks connected to the Sites, the KyberSwap Smart Contracts or the DAO Smart Contract, through password mining or any other means;
  - (iv) use User Information of another party to access or use the Sites, the KyberSwap Smart Contracts or the DAO Smart Contract; or
  - (v) develop any third-party applications that interact with the Sites, the KyberSwap Smart Contracts or DAO Smart Contract without our prior written consent;
- (c) **abuse other Users:** activities which:
- (i) interfere with another User's access to or use of any of the Services;
  - (ii) defame, abuse, extort, harass, stalk, threaten or otherwise violate or infringe the legal rights (including rights of privacy, publicity and intellectual property) of others, including the KyberSwap Parties or their respective representatives, employees, agents, and affiliates;
  - (iii) incite, threaten, facilitate, promote, or encourage hate, racial intolerance, or violent acts against others; or
  - (iv) use any robot, spider, crawler, scraper or other automated means or interface not provided by us to access the Services or to harvest or otherwise collect information from the Sites, the KyberSwap Smart Contracts or the DAO Smart Contract, including identification numbers, email addresses, phone numbers, or addresses without proper consent;
- (d) **fraud:** activity which operates to defraud Users or any other person, or provide any false, inaccurate, incomplete, or misleading information to any KyberSwap Party, including by engaging or participating in "front-running", "wash trading", "pump and dump schemes" or similar activities;
- (e) **gaming:** gaming activities (including the playing of any game of chance or of mixed chance and skill for money or other consideration) such as:
- (i) lotteries;

- (ii) bidding fee auctions;
- (iii) sports forecasting or odds making;
- (iv) fantasy sports leagues with cash prizes;
- (v) internet gambling;
- (vi) contests, sweepstakes, or other games of chance for which payment or other consideration is required to participate;
- ;
- (f) **intellectual property infringement:** any transactions, activities, or actions that:
  - (i) (whether or not involving items) infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under Applicable Laws, including the creation, issuance, sale, offer for sale, trading, distribution, solicitation, marketing, or promotion of any investment products (including digital assets, fiat currency, securities, commodities, investment or trading products, derivatives, structured products, investment funds, investment portfolios, commodity pools, swaps, securitizations or synthetic products), including where the price, return, or performance of the investment product is based on, derived from, or related to any KyberSwap Party or any portion thereof, without our express prior written consent;
  - (ii) modify, copy, reproduce, retransmit, distribute, sell, publish, broadcast, create derivative works from, or store proprietary or confidential data or other similar information provided via the Sites or the Services, without our express prior written consent;
  - (iii) make use of the intellectual property, name, or logo, including use of trade or service marks belonging to any KyberSwap Party, without our prior written consent or in a manner that otherwise harms any KyberSwap Party;
  - (iv) reverse engineer or disassemble any aspect of the KyberSwap Smart Contracts, the DAO Smart Contract or the Services;
  - (v) access or attempt to access non-public systems, programs, data, or services of any KyberSwap Party; or
  - (vi) implies an untrue endorsement by or affiliation with any KyberSwap Party;
- (g) **activity which brings disrepute or is detrimental to the KyberSwap Parties:** any activity which does or could be expected to bring disrepute upon or be detrimental to the KyberSwap Parties, the Services, the Sites, the KyberSwap Smart Contracts or the DAO Smart Contract;

- (h) **Disqualified Person/Entity:** if you are Disqualified Person/Entity, using any virtual private network, proxy service, or any other third party service network or product with the effect of disguising your internet protocol (IP) address or location;
- (i) **prohibited businesses:** use the Services in connection with businesses, activities, practices, or items which are prohibited by or in conflict with Applicable Laws;
- (j) **permitting access:** permit others to access the Services through your Wallet, User Information or a blockchain address you control or otherwise engage in transactions using the Services for any person other than the Wallet owner; or
- (k) **breach of these Terms:** any activities, inactions or actions that are in breach of or violate these Terms.

8.4 You also acknowledge and agree as follows:

- (a) the Sites, the Services, the KyberSwap Smart Contracts and the DAO Smart Contract may be subject to exploits. The KyberSwap Parties are not responsible for exploits and it is not possible to guarantee that the code is completely free from bugs or errors. Users accept all risks that arise from using the Sites, the Services, the KyberSwap Smart Contracts and the DAO Smart Contract, including the risk of any funds being lost due to a failure or exploit of the Sites, the Services, the KyberSwap Smart Contracts or the DAO Smart Contract.
- (b) You are solely responsible for securing the private keys associated with any Wallet or blockchain address you may use when accessing the Services. You understand that anyone who obtains your private keys and access to your device may access your Wallet or a blockchain address controlled with such private keys with or without your authorization and may transfer any digital assets accessible through your Wallet or such blockchain address.
- (c) We make no guarantees as to the price or value of any digital asset or Token on any secondary market, including the liquidity pools accessible using the Services.
- (d) There is a risk of inactivity in liquidity pools if the market rates associated with the digital assets or Tokens that make up the liquidity pool fall outside the minimum and maximum prices supported. You are ultimately responsible for determining what the minimum and maximum prices are.
- (e) Support for the Sites, the KyberSwap Smart Contracts or the DAO Smart Contract may be modified or discontinued at any time. The Company reserves the right, at any time, in our sole discretion and without prior notice, to modify the Sites.
- (f) In the event of a change to an underlying blockchain network, or other network disruption, resulting in a Fork of the existing blockchain into one (or more) additional blockchains, the Services may not support activity related to any new digital assets or Tokens created as a result of the Fork. In addition, in the event of

a Fork, transactions on the network may be disrupted, including transactions involving the KyberSwap Smart Contracts or the DAO Smart Contract.

- (g) Public blockchain networks may charge a Transaction Fee for engaging in a transaction on such network. Such Transaction Fees fluctuate over time depending on a variety of factors, and are in addition to any Transaction Fees referenced in Paragraph 4.3. You are solely responsible for paying all Transaction Fees and other fees associated with transactions you engage in or consummate while using the Services. You are also solely responsible for any other third-party fees that may be incurred in connection with your use of the Services.

## **9. LIMITATION OF LIABILITY AND INDEMNIFICATION**

### **9.1 NOTWITHSTANDING ANY OTHER PROVISION OF THESE TERMS AND TO THE FULLEST PERMITTED BY ALL APPLICABLE LAWS, YOU HEREBY AGREE:**

- (A) NO KYBERSWAP PARTY SHALL BE LIABLE FOR ANY LOSS ARISING OUT OF, RELATING TO OR IN CONNECTION WITH YOUR USE OF THE SERVICES OR THE SITES, OR THE USE, RECEIPT OR HOLDING OF TOKENS BY YOU, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR OTHER LOSSES OF ANY KIND, IN TORT, CONTRACT OR OTHERWISE (INCLUDING LOSS OF REVENUE, INCOME OR PROFITS, OR LOSS OF USE OR DATA), ARISING OUT OF, RELATING TO OR OCCURRING IN CONNECTION WITH YOUR USE OF THE SITES OR THE SERVICES;
- (B) NOTWITHSTANDING THE FOREGOING PARAGRAPH 9.1(A), THE AGGREGATE LOSSES THAT ALL KYBERSWAP PARTIES MAY COLLECTIVELY BE LIABLE FOR IN CONNECTION WITH YOUR USE OF THE SITES OR THE SERVICES SHALL BE LIMITED TO A MAXIMUM AMOUNT EQUAL TO THE TRANSACTION FEES PAID BY YOU TO ANY KYBERSWAP PARTIES FOR THE SERVICES IN CONNECTION WITH YOUR USE OF THE SERVICES DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE APPLICABLE CLAIM(S) FIRST AROSE; AND
- (C) YOU SHALL NOT ASSERT ANY CLAIMS, ACTIONS OR PROCEEDINGS OF ANY KIND OR NATURE AGAINST ANY KYBERSWAP PARTY UNDER APPLICABLE LAWS UNLESS EXPRESSLY PERMITTED PURSUANT TO THESE TERMS.

### **9.2 To the fullest extent permitted by the Applicable Laws, you shall indemnify, defend, and hold each KyberSwap Party and its respective subsidiaries, related companies, affiliates, directors, officers, employees, agents, representatives, successors, and permitted assignees (“Indemnified Persons”) harmless from and against any and all Losses (including reasonable legal fees incurred or those necessary or appropriate to successfully establish the right to indemnification) filed or incurred by any (i) Indemnified Person or (ii) other**

third party against any of the Indemnified Persons, in each case, that relate to, are in connection with or arise out of any breach by you of any provision of these Terms. The Company reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to provide indemnification pursuant hereto, and you agree to cooperate in the defense of such claims. You agree not to settle any such matter without the prior written consent of the Company. The Company will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

#### **10. NO ASSIGNMENT**

Subject to these Terms, only you and no other person shall have the right to any claim against any KyberSwap Party in connection with the Sites or the Services provided to you. You shall not assign, trade or transfer, or attempt to assign, trade or transfer, your right to any such claim. Any such assignment or transfer shall be void and shall not impose any obligation or liability on any KyberSwap Party to the benefit of such assignee or transferee.

#### **11. INTELLECTUAL PROPERTY AND DATA RIGHTS**

Except as expressly set forth herein, these Terms shall not entitle you to any intellectual property or data rights, including any rights relating to the use of, for any purpose, any information, image, user interface, logos, trademarks, trade names, internet domain names or copyrights of the Sites, the KyberSwap Smart Contracts, the DAO Smart Contract, the Services or any KyberSwap Party.

#### **12. SURVIVING TERMS**

Paragraphs 2 and 6 through 18 (including this Paragraph 12) hereto shall remain valid and in full force and effect notwithstanding any rescission or termination of these Terms. Without limiting the generality of the foregoing, any rights or obligations of the Parties in connection with any breach of these Terms accruing prior to, on or as a result of such termination or rescission shall continue to in full force and effect notwithstanding such termination or rescission of these Terms.

#### **13. NO WAIVER**

Any failure by any KyberSwap Party to enforce these Terms or to assert any right(s), claim(s) or causes of action against you under these Terms shall not be construed as a waiver of the rights of any KyberSwap Party to assert any such right(s), claim(s) or causes of action against you.

#### **14. ENTIRE AGREEMENT**

14.1 These Terms contain the entire agreement and the understanding among the Parties and supersedes all prior agreements, understandings or arrangements (both oral and written) in relation to the use of the Services or the Sites.

14.2 In the event that any KyberSwap Party discovers that you, in your use of the Services, have engaged in any of the Prohibited Uses or any other unfair, excessive or abusive usage or

conduct, the KyberSwap Parties reserve the right to take such actions as may be necessary, to the fullest extent possible under Applicable Laws, to protect any KyberSwap Party from any Loss.

## **15. TAXES**

- 15.1 The use of Services and the Sites shall be exclusive of all taxes that are applicable to, arising from, or in connection to your use of the Services or the Sites, including your receipt and holding of Tokens in any jurisdiction (any such taxes, a “**Payable Tax**”).
- 15.2 You shall be responsible for determining any Payable Tax and declaring, withholding, collecting, reporting and remitting the correct amount of Payable Tax to the appropriate tax authorities. You shall be solely liable for all Losses, penalties, claims, fines, punishments, or other liabilities arising from the non-fulfilment or non-performance to any extent of any of your obligations in relation to the Payable Tax.
- 15.3 No KyberSwap Party shall be responsible for, or responsible for determining, any Payable Tax attributable to you or declaring, withholding, collecting, reporting or remitting the correct amount of Payable Tax to any Governmental Authority.

## **16. GOVERNING LAW AND DISPUTE RESOLUTION; WAIVER OF JURY TRIAL**

- 16.1 These Terms shall be governed by, and construed in accordance with, the laws of the British Virgin Islands.
- 16.2 Any dispute arising out of or in connection with these Terms, including any question regarding its existence, validity or termination, shall be referred to and finally be resolved by arbitration in British Virgin Islands in accordance with the rules of the British Virgin Islands International Arbitration Centre (BVI IAC) Arbitration Rules for the time being in force, which rules are deemed to be incorporated by reference in this paragraph. In connection with the foregoing, there shall be a panel of three (3) arbitrators, with (i) the Company hereby having a right to appoint an arbitrator, (ii) you having a right to appoint an arbitrator, and (iii) such two (2) appointed arbitrators having a right to select an independent third arbitrator. The panel shall reach its decisions by a vote of a majority. The seat of the arbitration shall be British Virgin Islands. The language of the arbitration shall be English. Judgment on any award rendered by the arbitrators may be entered by any court of competent jurisdiction.
- 16.3 Each of the Parties irrevocably submits to the non-exclusive jurisdiction of the courts of British Virgin Islands to support and assist the arbitration process pursuant to Paragraph 16.2 of these Terms, including, if necessary, the grant of interlocutory relief pending the outcome of such arbitration.
- 16.4 **BY AGREEING TO THESE TERMS AND NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS PARAGRAPH 16 OR ANY OTHER PROVISION CONTAINED HEREIN, YOU HEREBY IRREVOCABLY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR**



**OTHERWISE) BROUGHT BY YOU OR ON YOUR BEHALF THAT RELATES TO OR ARISES UNDER OR IN CONNECTION WITH THESE TERMS OR THE PRIVACY POLICY CONTAINED ON THE SITES. YOU FURTHER WAIVE THE RIGHT TO PARTICIPATE IN ANY CLASS ACTION OR OTHER COLLECTIVE ACTION THAT RELATES TO OR ARISES UNDER OR IN CONNECTION WITH THESE TERMS OR THE PRIVACY POLICY CONTAINED ON THE SITES.**

**17. SEVERANCE AND PARTIAL INVALIDITY**

- 17.1 If any of these Terms is rendered void, illegal or unenforceable by any legislation to which it is subject, it shall be rendered void, illegal or unenforceable to that extent and no further and, for the avoidance of doubt, the rest of these Terms shall continue to be valid and in full force and effect.
- 17.2 The illegality, invalidity or unenforceability of any provision of these Terms under the law of any jurisdiction shall not affect these Terms' legality, validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision.

**18. ELETRONIC COMMUNICATIONS**

- 18.1 The communications between you and any KyberSwap Party may use electronic means, either through the Sites, electronic mail or by posting notices on the Sites. For contractual purposes, you: (i) hereby consent to receive communications from any KyberSwap Party in any electronic form; and (ii) hereby agree that all terms and conditions, agreements, notices, disclosures, and other communications that any KyberSwap Party provides to you electronically satisfies any legal requirement that would also be satisfied if such communications were to be via a physical copy. The foregoing shall not affect your non-waivable rights under any Applicable Law.

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