



Wallet Terms

Stake Airwallex Wallet Services

22 July 2021

WALLET TERMS

STAKE AIRWALLEX WALLET SERVICES

1. THESE TERMS

- 1.1. These Wallet Terms (the **Agreement**) comprise the terms and conditions governing the relationship between you (**Customer, your or you**) and Airwallex Pty Ltd ACN 609 653 312 (**Airwallex, us, our or we**) that apply to our Airwallex Services (which we describe in clauses 5, 8 and 9). Please read this Agreement carefully and contact us if anything is unclear. The Customer and Airwallex will individually be referred to as a **Party**, and collectively, as the **Parties**.
- 1.2. The Application Form, as amended by you, is incorporated into and forms part of this Agreement. We will provide you with separate terms and conditions for any services that fall outside the scope of this Agreement.
- 1.3. You should also download a copy of the Agreement and keep it for future reference. You can also ask us for a copy at any time. You can always see the most current version of the Agreement (as well as the documents listed in clause 1.4 below), on our website: www.airwallex.com/au/terms/stake-scale.
- 1.4. Please read the following additional documents which also apply to your use of the Stake Platform and Airwallex Services and should be read together with this Agreement:
 - (a) Financial Services Guide;
 - (b) Product Disclosure Statement;
 - (c) Acceptable Use Policy;
 - (d) the Privacy Policy;
 - (e) Electronic Communications Consent;
 - (f) Identity Verification Terms;
 - (g) Connected Account Terms; and
 - (h) any other terms referenced in this Agreement.

Unless otherwise specified, the above documents do not form part of this Agreement.

- 1.5. If we need to send you information in a form you can keep, we will either send you an email or provide the information on our website or via the Stake Platform in a downloadable format. Please keep copies of all communications that we send to you.

2. WHO WE ARE AND HOW TO CONTACT US

- 2.1. **Our company information.** The Airwallex Services are offered by Airwallex Pty Ltd (ABN 37 609 653 312; AFSL 487 221), which has its registered office at Level 7, 15 William Street, Melbourne, Victoria, 3000.
- 2.2. **How to contact us.** You can contact us by:
 - sending an email to: support@airwallex.com;
 - sending postal mail to: Level 7, 15 William Street, Melbourne, Victoria, 3000; and
 - calling us at: 13 32 99 (Australia) or +61 3 9068 5517 (International).
- 2.3. **How we will contact you.** We will contact you by using the contact details you provided when you registered or such other contact details that you provide to us – please keep these up to date. By using our Airwallex Services, you agree to receive electronic communications from us. If we have reasonable concerns either about the security of the Airwallex Services, or any suspected or actual fraudulent use of the Airwallex Services, we will contact you via

telephone, email, or both (unless contacting you would be unlawful or compromise our reasonable security measures).

3. CHANGES TO THIS AGREEMENT

- 3.1. We may change this Agreement (including any Service Fees) by giving you thirty (30) days' prior written notice. We will consider that you have accepted the proposed changes if you do not terminate this Agreement by giving us written notice during the notice period.
- 3.2. We may also make some changes immediately, without prior notice, if they:
 - (a) are required by Applicable Law; or
 - (b) relate to the addition of a new service or extra functionality of the Airwallex Services and do not affect terms relating to the existing Airwallex Services.
- 3.3. You should stop using the Airwallex Services if you do not agree to any such changes. If you keep using the Airwallex Services after we have announced any changes, we will treat you as having accepted them.

4. CUSTOMER DUE DILIGENCE

- 4.1. To meet our obligations under Applicable Law, before we provide the Airwallex Services to you, and from time to time during our provision of the Airwallex Services to you, we may carry out customer due diligence checks on you, any of your directors, partners, ultimate beneficial owners and employees (as relevant) and any Authorised User, together with any parties involved in your transactions. You must provide us with complete, accurate and up to date information at all times. You will promptly provide any additional information that we require at any time, at the latest within two (2) Business Days of a request from us. You acknowledge that we may not provide you with any of the Airwallex Services until we have received all the information we require. We will not be responsible for any loss arising out of your failure or delay in providing us with the information we require.

You agree that we may make, directly or by using a third party, any inquiries we believe are necessary to verify any information that you provide to us, including checking commercial databases or credit reports. We may keep records of such customer due diligence checks in accordance with Applicable Law.

5. ABOUT THE AIRWALLEX SERVICES

- 5.1. **Wallet.** The '**Wallet**' enables you to electronically hold, send and receive funds in the form of non-cash payments using the user interface provided by Stake through the Stake Platform. The funds in the Wallet can be in multiple currencies but only in the Supported Currencies that we offer, which may change from time to time. The funds in your Wallet may be used to make Payments in accordance with this Agreement.
- 5.2. **How balances are represented.** The funds topped up or collected through the Airwallex Services will be represented in your Wallet as part of the balance in each relevant Supported Currency.
- 5.3. **Segregated Account.** Airwallex will hold funds reflecting the balance of your Wallet on trust in one or more accounts that we hold with an authorised deposit-taking institution (each, a **Segregated Account**). A Segregated Account may include funds of other Airwallex users but will be held separately from Airwallex's own funds. Airwallex is entitled to keep the interest (if any) earned on these accounts.
- 5.4. The balance of your Wallet:
 - (a) will not expire, except when your Wallet is closed – see clause 17 for more details;
 - (b) will not earn any interest or rewards; and

(c) can be withdrawn at any time, subject to certain conditions – see clause 9 for more details.

5.5. We may place interim or permanent restrictions on your use of the Wallet or any other part of the Airwallex Services depending on certain regulatory requirements, identity verification checks or business requirements, which will be set out in the Acceptable Use Policy or any Additional Terms. These will be communicated to you at the time the restriction is put in place or, if that is not practicable due to urgent or unforeseen circumstances, promptly after the restriction is put in place.

5.6. **Supported Currencies.** The Airwallex Services relate to a range of Supported Currencies. The Supported Currencies may differ depending on the Airwallex Service – for instance, you can top up and hold Australian Dollars or United States Dollars in your Wallet to enable you to make Payments.

6. GETTING STARTED

6.1. **Creating your Airwallex Profile.** In order to use the Airwallex Services, you must apply by providing the necessary information as prompted through the Stake Platform to register and create your Airwallex Profile. You must provide your bank account details to Stake to be linked to the Stake Profile which will also be linked to your Airwallex Profile. We will review your application and contact you if we agree to provide you with the Airwallex Services either directly or via Stake.

6.2. We will only create your Airwallex Profile and allow you to use the Airwallex Services if we are satisfied with the information you have provided, and we have been able to verify this information. We reserve the right to refuse (in our sole discretion) a request to create your Airwallex Profile and use the Airwallex Services – for example, if we reasonably believe that you may be in breach of our Acceptable Use Policy, or due to regulatory restrictions. You must inform us promptly if any details previously provided as part of your Airwallex Profile changes or is incorrect.

6.3. You can only have one Airwallex Profile, unless we agree otherwise in writing. If we discover that you have more than one Airwallex Profile, at our discretion we may either merge or close any duplicate profiles, or terminate the Airwallex Services (for example, if we reasonably believe you have opened them in order to bypass any restrictions in the Airwallex Services).

6.4. You confirm that you are acting on your own account and not on behalf of any other person or legal entity. Where you are a company, sole trader, partnership or other commercial entity, you confirm that the Airwallex Services are being used in connection with business or commercial purposes and not for personal, domestic or household purposes. If you are entering into this Agreement as a trustee of a trust, you must disclose that to us. We will deem any use of the Wallet, including any transfers into and out of the Wallet, to have been carried out by you.

7. AUTHORISED USER

7.1. You may appoint an **'Authorised User'** (for example, any of your directors, officers, employees or professional advisors) to access information about the Airwallex Services and act on your behalf to enter into and confirm Payments under this Agreement. You must set up each Authorised User with a User Profile and promptly provide us with the following details of any of your proposed Authorised Users: Customer name, name of Authorised User, Customer address and billing address, phone and email address of Authorised User, and any other contact or identification information of the Authorised User that we may reasonably require. You must inform us promptly if any details provided in respect of an Authorised User changes or is incorrect. You will ensure that your Authorised Users comply with this Agreement and in respect of your obligations and liabilities under this Agreement and for

such purposes any references to 'you' shall, where the context requires, be read as including your Authorised Users.

7.2. You may set up your Authorised Users to have different levels of authority by following the relevant prompts on the Stake Platform. You acknowledge that Airwallex will rely on Stake passing this information on to Airwallex.

7.3. You agree that:

- (a) your Authorised Users have the authority to provide instructions to us for the provision of the Airwallex Services on your behalf;
- (b) we may rely on instructions given by the Authorised User, and you will be bound by the actions of your Authorised Users, until and unless you provide us with written notice withdrawing or otherwise varying the authority of an Authorised User;
- (c) we may refuse access to any Authorised User if we are concerned about unauthorised or fraudulent access; and
- (d) you will promptly report to us any infringements or unauthorised access to the Airwallex Services or the Stake Platform.

8. RECEIVING PAYMENTS & LOADING MONEY INTO THE WALLET

8.1. **Funding your Wallet.** You can load funds to your Wallet by logging in to the Stake Platform and following the steps as prompted. You may load funds into the Wallet by way of a bank transfer to Airwallex. You may also receive funds to your Wallet through Stake making a payment to you and by you directing us to receive and credit your Wallet with such funds on your behalf. We may permit additional methods of receiving or loading money into the Wallet from time to time.

8.2. **We will credit your Wallet when we receive your funds.** When transferring money to your Wallet, you should ensure that you or any transferee enters the correct bank details and any unique transaction reference number details that are specified by Airwallex. If you do not provide the correct details, then we may not be able to credit your Wallet and we will not be responsible for any loss that you incur as a result. We are not responsible for any funds transferred, and will not record them as available in the Wallet, until we have actually received the funds from you or via a collection from Stake. The transfer of funds from you or other payers to your Wallet is a service provided by third parties and is not part of the Airwallex Services. We have no control over the time it may take for the transfer of such funds to clear and settle. If you think that a mistake has been made, in transferring money to your Wallet, you should promptly contact the third party responsible for the transfer in the first instance. We will use reasonable efforts to cooperate with any such third party in investigating any such mistaken transfer.

8.3. **Reversals.** We may need to reverse a transaction and either deduct funds we have credited to your Wallet, or return funds we have debited from your Wallet, including in the following circumstances:

- (a) where the sender, or any relevant payment services provider, reverses a transaction or is likely to reverse a transaction;
- (b) where the sender made a transfer to you by mistake or your account has been credited in error;
- (c) where you have provided us with incorrect instructions for the transaction;
- (d) where we suspect that a transaction is fraudulent, or is in breach of this Agreement, the Acceptable Use Policy or Applicable Law; and
- (e) where we exercise our rights under clauses 9.14 and 16.

- 8.4. If you do not have enough funds in your Wallet for us to make a deduction, you must reimburse us as soon as possible, as set out in clause 9.13.
- 8.5. Where we make a reversal, we may choose whether to make the reversal in the currency of the original transaction or in a separate currency. For example, where the original transaction is not in a Supported Currency that can be held in your Wallet, we will generally choose to convert the amount of the reversal into the Base Currency.
- 8.6. You must promptly notify Airwallex in writing if you become aware that your Wallet has been credited in error.

9. MAKING PAYMENTS

- 9.1. **Your instructions.** You may instruct us to make a Payment by providing the necessary details as prompted in the Stake Platform.
- 9.2. You should check each instruction that you provide to us carefully to ensure that all details contained in the instruction, including the bank account details of any payee, are correct. If you do not provide accurate details, then we may not be able carry out your instructions correctly. In such cases, we will not be liable for any loss that you incur, although we will use reasonable efforts to investigate and credit or return incorrect and inaccurately referenced payments into or from your Wallet. You should inform us promptly if you think that a mistake has been made in your instructions. However, we may not be able to stop, amend or reverse a transaction undertaken in accordance with your instructions once a Confirmation has been issued.
- 9.3. **Confirmation.** You must have sufficient funds in your Wallet in the relevant source currency to cover the full amount of any Payment that you wish to make. We may decline your instructions if you do not have enough funds, if you exceed any applicable limits, or in accordance with clause 17.
- 9.4. Where there are insufficient funds for one or more Payments at Settlement Cut-Off, Airwallex reserves the right to make the Payment at its discretion (for example, on a time basis, converting the earliest booked Payment up to the value of the funds available to Airwallex at the applicable Settlement Date or Payment Date).
- 9.5. We may impose daily or periodic limits on the amount of Payments that you may enter into.
- 9.6. **Settlement requirements.** The issue of a Confirmation means that the Payment has been created and cannot be cancelled by you. We will deduct the relevant proceeds due and payable in connection with the Payment from your Wallet on the Settlement Date. You must ensure that there are sufficient funds available in your Wallet by the relevant Settlement Cut-Off time.
- 9.7. If a Settlement Date or Payment Date is not a Business Day or the day is not a day banks are open for business (other than a Saturday, Sunday or public holiday) in the countries of the currencies that are being transacted (**Local Business Day**), then the Settlement Date or Payment Date (as applicable) may be adjusted by us to the next day that is both a Business Day and a Local Business Day.
- 9.8. If any other date specified in this clause 9 is not a Business Day, or if we receive your instructions after 5.00pm on a Business Day, then the date may be adjusted by us to the next day that is a Business Day.
- 9.9. **Execution time.** If you are making a Payment, we will generally remit the Payment on the Payment Date or Settlement Date (as applicable) provided that we have received corresponding payment or funds from you in accordance with clause 9.6.
- 9.10. For a Payment, the methods of crediting the funds may be provided by third parties (for example the bank where the payee has their bank account) and are not part of the Airwallex Services. We do not have any control over the amount of time it may take for a payee's bank

or payment provider to credit funds to the payee, but would generally expect this to take less than five (5) Business Days, unless a longer period is required by Applicable Law.

- 9.11. **Failed Payments.** We may in our sole discretion decide to cancel a Payment or delay the Settlement Date of a Payment by rolling it over to the next Settlement Date or Payment Date (as applicable), due to reasons outside of our control such as:
- (a) failure of Payment in the Payment currency by the Customer to Airwallex on any Payment; or
 - (b) due to any closure or disruption to the normal operation of banks in the countries of the currencies that are being transacted.
- 9.12. **Right of rejection.** We reserve the right to withhold, block, suspend, reject or delay any transaction in order to comply with Applicable Law. We may not accept your instructions for a Payment if:
- (a) any relevant anti-money laundering or counter-financing of terrorism conversion limits are exceeded; or
 - (b) you have not complied with your obligations under this Agreement or any Additional Terms.
- 9.13. **Obligation to repay.** You cannot have a negative balance in your Wallet. If any transactions or charges (including any chargeback, reversal of a transaction, or deduction of fees) take your Wallet below zero, you must immediately repay the amount owing to us, without requiring notice from us to do so. If you do not, we may suspend use of your Wallet or refuse to provide the Airwallex Services to you. We may also take reasonable steps to recover any amount owing to us (such as taking legal action or using debt collection services) and charge you for the cost of these services.
- 9.14. **We can deduct funds from your Wallet if you owe us money, including the Service Fees.** You authorise us to deduct the Service Fees and any other amounts that you owe us from time to time from the funds in your Wallet. If you do not have enough funds in your Wallet to cover these amounts, we will not accept or process your instructions and may refuse to provide the Airwallex Services to you. We may also, at your cost, take reasonable steps to recover the amount owing (such as taking legal action or using debt collection services).

10. SAFETY AND SECURITY

- 10.1. **Keep your Wallet safe.** In order to use the Airwallex Services through the Stake Platform, you (or your Authorised Users) must log in by using the unique password and any multiple-factor authentication. For example, we and Stake may require your Authorised User to authenticate that they are the Authorised User when logging in to the Stake Platform, or for certain transactions requested of Airwallex through the Stake Platform.
- 10.2. You must, and must ensure that your Authorised Users will:
- (a) store all login information and passwords necessary to gain access to the Airwallex Services through the Stake Platform, safely and securely at all times;
 - (b) not disclose such login information and passwords to any other person or allow any other person to use their Airwallex Profile or User Profile (as applicable) to access the Stake Platform;
 - (c) not use any identifiable numbers or words which can easily be guessed by someone else as a password; and
 - (d) contact us and Stake immediately in the circumstances specified in clause 10.3.
- 10.3. **Contact us if you suspect your Wallet may be compromised.** You must contact us immediately by email to support@airwallex.com and change your password if you suspect:

- (a) your Airwallex Services or access to the Stake Platform (or that of an Authorised User) or other security credentials of you or an Authorised User are stolen, lost, used without your authorisation or otherwise compromised;
 - (b) someone else finds out your or an Authorised User's login information and password for the Airwallex Services or the Stake Platform; or
 - (c) the security of the method that you use to access the Airwallex Services or the Stake Platform has otherwise been compromised.
- 10.4. Any undue delay in notifying us under clause 10.3 may affect the security of your Airwallex Services or access to the Stake Platform and result in you being responsible for financial losses. Until you notify us that the security of your access to the Stake Platform has been compromised, Airwallex shall be entitled to assume that any person that accesses the Stake Platform through:
- (a) the Airwallex Services using your (or any Authorised User's) login details and password; or
 - (b) any customer support contact of Stake or Airwallex,
- is acting on your behalf and is authorised to provide use with instructions in accordance with this Agreement.
- 10.5. **Check the transactions in your Wallet regularly.** Your transactional activity is displayed in the Stake Platform or available on request to Airwallex. You must contact us immediately by email to support@airwallex.com to report any suspected or actual unauthorised transaction or other security concerns regarding the Stake Platform. If you do not notify us of any unauthorised, or incorrectly initiated or executed transactions immediately and at the latest within ninety (90) days of the debit date of the transaction, you may lose the right to have the matter corrected or money refunded.
- 10.6. **Unauthorised transactions.** We may be able to refund money you have lost if the transaction is due to our mistake, fraud, or errors with your transaction. However, we will not be liable for any unauthorised transaction that is caused outside of our direct control. In particular, but without limitation, we are not liable (and you will be solely liable for all losses):
- (a) if you do not promptly notify us of any security issues (including under clause 10.3);
 - (b) if you have breached this Agreement or any Additional Terms;
 - (c) if we find that you or your Authorised Users, or anyone else acting on your behalf, has acted fraudulently or recklessly (and we will not refund you in any such circumstances);
 - (d) if you or any Authorised User has with intent or negligence compromised the security of your Airwallex Profile or User Profile (as applicable) or the Stake Platform or failed to comply with your obligations to use them in accordance with this agreement, and to keep all login information and passwords confidential and secure;
 - (e) if you gave us incorrect instructions for the Payment (we may however provide you with reasonable assistance to assist you to recover the funds, where possible, in accordance with clause 9.2, but do not guarantee that this would be successful); and
 - (f) in any other circumstance outside of our direct control, to the extent permitted by Applicable Law.
- 10.7. Where we refund you for an unauthorised transaction, but subsequently find that you did not comply with your obligations under this clause 10, you must reimburse us for the value of the unauthorised transaction.

10.8. You acknowledge that:

- (a) Airwallex will not be responsible for, or otherwise guarantee the performance of, any transaction that you enter into via the Stake Platform;
- (b) you must provide or obtain any equipment or telecommunications lines and connections that may be necessary for you to use or connect with the Stake Platform;
- (c) certain software and equipment you use may not be capable of supporting certain features of the Stake Platform;
- (d) it is your responsibility to configure and update your information technology, software and equipment in order to access the Airwallex Services or the Stake Platform; and
- (e) you will be liable for all costs, charges, claims, damages, fees, disbursements, losses, expenses, fines, and liability incurred by Airwallex arising out of:
 - (i) (where applicable) your incorrect instructions, overpayment, payment error, or other invalid payment you cause;
 - (ii) any error, default, negligence, misconduct, or fraud by you, your employees, directors, officers, or representatives, or anyone acting on your behalf; and
 - (iii) any costs, charges, claims, damages, fees, disbursements, losses, expenses, fines and liability incurred by Airwallex in respect of a failure by you to comply with this Agreement.

11. SERVICE FEES

11.1. Airwallex will not charge you any Service Fees for using the Airwallex Services. However, we may introduce new Service Fees and revise any new Service Fees in accordance with clause 3.

11.2. **Tax.** All amounts payable to us under the Agreement:

- (a) are exclusive of all taxes and similar fees now in force or enacted in the future, all of which you will be responsible for and will pay in full;
- (b) will be paid in full without any set-off, counterclaim, deduction or withholding unless prohibited by Applicable Law. If the Customer is obliged by Applicable Law to deduct withholding tax from any payment:
 - (i) it will promptly notify Airwallex of the requirement;
 - (ii) the Parties will make all necessary filings in order to ensure the provisions of any applicable tax treaty applies to the payment;
 - (iii) the Customer will pay to Airwallex such additional amount as will result in the receipt by Airwallex of the full amount which would otherwise have been receivable had no withholding or deduction been payable;
 - (iv) the Customer will pay to the relevant authorities the full amount required to be deducted or withheld when due; and
 - (v) the Customer will promptly forward to Airwallex an official receipt (or a certified copy), or other documentation reasonably acceptable to Airwallex, evidencing payment to such authorities.

11.3. **Security.** We may, at any time, require that you procure, within thirty (30) days (or such longer period as we may determine is reasonable) after receiving our written request, a guarantee, indemnity or other security (including the replacement of any existing security) in such form and over such assets as we may reasonably require to secure to our reasonable satisfaction the performance of your obligations (including contingent or potential obligations) from time to time under this Agreement.

12. INTELLECTUAL PROPERTY RIGHTS

- 12.1. **Licence.** We grant you a personal, revocable, non-transferable, non-sublicensable and non-exclusive licence to access and use the Stake Platform via any supported web browser for the management of the Airwallex Services, provided that you comply with this Agreement.
- 12.2. **Ownership.** We own all Intellectual Property Rights in and to the Stake Platform and its proprietary technology, including its software (in source and object forms), algorithms, user interface designs, architecture, and documentation (both printed and electronic), and network designs, and including any modifications, improvements, and derivative work thereof. This Agreement does not transfer from Airwallex to the Customer any ownership rights in the Stake Platform nor Airwallex's proprietary technology.
- 12.3. **Restriction on use.** You do not have any right to the Airwallex Services, including the Stake Platform, other than the right to use them in accordance with the licence granted in clause 12.1. Except as allowed by Airwallex (or otherwise by law), you cannot use, distribute, reproduce, modify, copy, adapt, translate, create derivative works from, transfer, loan, rent, sublicense, sell, frame or otherwise re-publish or redistribute, publicly perform or publicly display any part of our Stake Platform, the Airwallex Services, or included software. You will not allow any unauthorised person to access or use the Stake Platform, or trade on the Stake Platform for speculative purposes. You also cannot reverse engineer, decompile, disassemble or attempt to extract the source code of the Stake Platform or software.
- 12.4. **Customer Data.** You grant Airwallex a royalty-free, non-exclusive, irrevocable, transferable and sublicensable to any Group Company, third party supplier and outsourcer, licence to use your customer data including any proprietary business information, as well as details of your transactions transmitted via the Stake Platform (**Customer Data**), for the purposes of operating the Stake Platform, providing the Airwallex Services, and fulfilling Airwallex's rights and discharging its obligations under this Agreement. You are solely responsible for the quality, accuracy, and completeness of any Customer Data transmitted via the Stake Platform.
- 12.5. **Other people's rights.** You cannot use the Airwallex Services, including the Stake Platform, in any way that infringes or violates our or anyone else's copyright, trade mark or other intellectual property rights or otherwise breaks any Applicable Law. The Stake Platform may display content that we do not own and we are not responsible for. You may not use content from any of the Airwallex Services, including the Stake Platform, unless you get permission beforehand from us or the owner of the content, or you are permitted by law.
- 12.6. **Airwallex compensation.** If a third party alleges that authorised use of the Stake Platform as permitted by this Agreement infringes any Intellectual Property Rights then Airwallex will:
- (a) at its own expense defend you or, at Airwallex's option, settle any claim or action brought against you (**Claim**) and will be responsible for any reasonable losses, damages, costs (including reasonable legal fees) and expenses incurred by or awarded against you as a result of or in connection with any such Claim, and clauses 16.3 and 16.4 will apply accordingly; and
 - (b) if the quiet enjoyment of the Stake Platform is prevented, as soon as reasonably practicable, secure the right for you to continue using the Stake Platform or replace or modify the Stake Platform to make it non-infringing (without degrading its performance or quality).
- 12.7. Clause 12.6 will not apply where the Claim is attributable to:
- (a) any Customer Data;
 - (b) any modification of the Stake Platform, other than by or on behalf of Airwallex;
 - (c) your possession or use of the Stake Platform (or any part of it):
 - (i) other than in accordance with this Agreement; or

- (ii) in combination with any other products, services, or materials if the Stake Platform would not be infringing without such combination;
 - (d) use of a non-current release of the Stake Platform; or
 - (e) compliance with your specifications or instructions.
- 12.8. **Promotion.** If you operate a business, you agree that we may include and use your company name, logos, trade name, trademarks and general business information in our promotional and marketing materials for the Airwallex Services and on our website. You may at any time and by giving reasonable notice request in writing that we stop using your company name, logos, trade name, trademarks or general business information for these purposes.
- 12.9. **Feedback.** If you provide us with any comments, questions, ideas, suggestions or other feedback relating to the Stake Platform or the Airwallex Services (**Feedback**), you agree that we may freely use, copy, disclose, license, distribute and exploit any Feedback in any manner without any obligation, royalty or restriction based on Intellectual Property Rights or otherwise. Feedback will not be considered as your Confidential Information.
- 13. CONFIDENTIALITY, PRIVACY AND USE OF DATA**
- 13.1. **Confidential Information.** You acknowledge that you may have access to Confidential Information belonging to us and that you must keep such information confidential in accordance with the terms of these terms.
- 13.2. **Confidentiality Undertakings.** You agree that you:
 - (a) will not disclose any of our Confidential Information to any third party except as required:
 - (i) by law or any authority of competent jurisdiction;
 - (ii) to your attorneys, accountants and other advisors as reasonably necessary; or
 - (iii) for the purposes of defending itself in relation to actual or threatened proceedings, provided that in respect of paragraphs (i) and (iii) above, you will give us reasonable notice in advance of such required disclosure, together with such details as we may request (where notice to us is permissible under Applicable Law); and
 - (b) will take reasonable precautions to protect the confidentiality of such information, at least as stringent as those taken to protect its own Confidential Information.
- 13.3. **Disclosures to employees and agents.** In addition, you may only reveal our Confidential Information to your agents, representatives and employees who have a 'need to know' such information in connection with this Agreement, and are informed of the confidential nature of such Confidential Information and agree to act in accordance with the terms and conditions of this clause 13. You will remain liable for any disclosure of Confidential Information by your agents, representatives and employees, as if you had made such disclosure.
- 13.4. **Privacy and Personal Data.** The protection of Personal Data is very important to us. In addition to these terms, our Privacy Policy explains how and for what purposes we collect, use, retain, disclose, and safeguard the Personal Data you provide to us. You agree to review the terms of our Privacy Policy, which we update from time to time.
- 13.5. **Purposes.** You agree to share Personal Data with Airwallex and authorise Airwallex to collect, use, store or otherwise process such Personal Data to enable us to do the following (together, the **Agreed Purposes**):
 - (a) assist in providing information to you about a product or service;
 - (b) consider your request for a product or service;
 - (c) provide a product or service;

- (d) manage Airwallex's relationship with the Customer;
- (e) manage accounts and perform other administrative and operational tasks (including risk management, systems development and testing, credit scoring, staff training, collecting debts and market or customer satisfaction research);
- (f) design new products and services or improve existing products and services provided by us;
- (g) general and specific communication between us and you;
- (h) consider any concerns or complaints you raise against us, to manage any legal action involving Airwallex, or both;
- (i) carry out any enforcement activities including to collect any money due from you;
- (j) identify you or establish your tax status under any local or foreign legislation, regulation or treaty or pursuant to an agreement with any tax authority;
- (k) identify, prevent or investigate any fraud, unlawful activity or misconduct (or suspected fraud, unlawful activity or misconduct);
- (l) comply with all Applicable Law, including conducting anti-money laundering, financial crime and other screening checks;
- (m) verify any information and records relating you;
- (n) comply with these terms and the Privacy Policy;
- (o) enable an actual or proposed assignee(s) of all or any part of our business and/or assets to evaluate the transaction intended to be the subject of the assignment and to enable the actual assignee(s) to use the Personal Data provided by you in the operation of the business; and
- (p) for any other purpose set out in our Privacy Policy.

13.6. **Data Subjects.** The categories of Data Subjects who we may collect Personal Data about may include the following where they are a natural person: the Customer, the directors and ultimate beneficial owner(s) of the Customer, your customers, employees and contractors, payers and payees. You may share with Airwallex some or all of the following types of Personal Data regarding Data Subjects:

- (a) full name;
- (b) email address;
- (c) phone number and other contact information;
- (d) date of birth;
- (e) nationality;
- (f) public information about the data subject;
- (g) other relevant verification or due diligence documentation as required under these terms; and
- (h) any other data that is necessary or relevant to carry out the Agreed Purposes.

13.7. **Compliance.** Neither Party will knowingly perform its obligations under these terms in a way that causes the other Party to breach applicable Data Protection Legislation. Neither Party will be responsible for any consequences resulting from the other Party's failure to comply with applicable Data Protection Legislation in relation to Personal Data that it shares.

13.8. **Undertakings.** To the extent that either you or Airwallex processes any Personal Data, each Party will:

- (a) process the Personal Data fairly and lawfully and ensure it has legitimate grounds under Data Protection Legislation for such processing;
- (b) obtain and maintain all appropriate registrations required under Data Protection Legislation to allow it to use the Personal Data in accordance with these terms;
- (c) ensure appropriate technical and organisational security measures are in place to protect Personal Data under its control;
- (d) ensure that all personnel who have access to and/or process the Personal Data are obliged to keep it confidential;
- (e) transfer Personal Data between jurisdictions only where it has taken appropriate measures to make such a transfer lawful under Data Protection Legislation;
- (f) notify the other Party promptly if it receives any request, complaint or other communication from a Data Subject or a Regulatory Body that is addressed to or intended for the other Party; and
- (g) notify the other party promptly if it becomes aware of a Personal Data breach that is directly relevant to the other Party.

13.9. **Data Security.** You will ensure that any Personal Data that is transferred to Airwallex is transferred by a method and means that is secure and compliant with Data Protection Legislation in addition to any other reasonable information security requirements specified by us.

13.10. **Cooperation.** Each Party will be responsible for responding to requests from supervisory authorities or individuals exercising their rights under applicable Data Protection Legislation. Each Party will provide the other with reasonable cooperation and assistance to comply with all obligations imposed on them by the Data Protection Legislation and any relevant Applicable Law, including:

- (a) dealing with and responding to any communications from Data Subjects;
- (b) dealing with, mitigating and responding to any breach of personal data; and
- (c) with respect to security, impact assessments and consultations with supervisory authorities or any Regulatory Body.

13.11. **Data Disposal.** On termination of this Agreement, or once the processing of any Personal Data is no longer necessary to carry out the Agreed Purposes, each Party will securely dispose of any such Personal Data in its possession as required by Applicable Law.

13.12. **Data Security.** We will take all steps required under Data Protection Legislation to ensure appropriate information security safeguards are put in place regarding such disclosure.

13.13. **Personal data you provide about someone else.** If you give us Personal Data about someone else, including (but not limited to) your Authorised Users, your director and ultimate beneficial owner(s), your customers, employees and contractors, payers and payees, you undertake that we may rely on you to obtain such other persons' consent for disclosing their Personal Data to us which we will use in accordance with the terms of these terms. You are required to show them information about these provisions so that they may understand the manner in which their Personal Data may be collected, used and disclosed by Airwallex in connection with your dealings with us and our use of their Personal Data including our use of Personal Data for direct marketing purposes and their consent to our use of their Personal Data provided by you on their behalf.

14. DISCLOSURE OF INFORMATION AND USE OF PERSONAL DATA FOR DIRECT MARKETING

14.1. **We may disclose your information to others.** Airwallex may disclose your Customer Data, Payment Data and Personal Data, including any Confidential Information, to:

- (a) any branch, subsidiary, holding company, associated company, affiliate or related entity of Airwallex;
- (b) any agent, contractor or service provider that we engage or propose to engage to carry out or assist us with our functions and activities who is under a duty of confidentiality to keep such information confidential;
- (c) any participant in the payments system including card schemes, financial institutions and payments organisations, such as Society for Worldwide Interbank Financial Telecommunication;
- (d) any person to whom Airwallex may enter into any assignment, fundraising, share purchase or other commercial agreement who is under a duty of confidentiality to keep such information confidential;
- (e) any person to whom information is permitted or required (or expected) to be disclosed by Applicable Law or regulation or pursuant to any order of court;
- (f) any referee or representative of yours (including any professional advisor, broker, introducer, attorney or executor);
- (g) any third party provider of collateral, security or credit support (if any);
- (h) credit reference agencies, and, in the event of default, to debt collection agencies;
- (i) any of your agents you have authorised or who is authorised under law, such as an administrator or trustee in bankruptcy or your legal representative; and
- (j) any actual or proposed assignee of all or any part of our business and/or assets and/or interests of Airwallex.

14.2. **Use of Personal Data in Direct Marketing**

We may use the Personal Data provided by you in direct marketing and we require consent (or an indication of no objection) from the Data Subject for that purpose. In this context, please note that:

- (a) the name, contact details, products and any other service-related information, transaction pattern and behavior, financial background and demographic data of the Data Subjects held by us from time to time may be used by us in direct marketing;
- (b) the following classes of services, products and subjects may be marketed:
 - (i) financial, insurance, credit card, banking and related services and products;
 - (ii) reward, loyalty, co-branding or privileges programmes and related services and products;
 - (iii) services and products offered by our co-branding partners (the names of such co-branding partners will be provided during the application for the relevant services and products, as the case may be); and
 - (iv) donations and contributions for charitable and/or non-profit making purposes;
- (c) the above services, products and subjects may be provided by us or (in the case of donations and contributions) solicited by us and/or any of the following:
 - (i) any branch, subsidiary, holding company, associated company, affiliate or related entity of Airwallex;
 - (ii) third party financial institutions, insurers, credit card companies, securities and investment services providers;
 - (iii) third party reward, loyalty, co-branding or privileges programme providers;

- (iv) co-branding partners of Airwallex or any branch, subsidiary, holding company, associated company, affiliate or related entity of Airwallex (the names of such co-branding partners will be provided during the application of the relevant services and products, as the case may be); and
- (v) charitable or non-profit making organisations.

If you (or any persons for whom you provide the Personal Data to us) do not wish us to use or provide to other persons their Personal Data for use in direct marketing as described above, you and such persons for whom you provide the Personal Data to us (as the case may be) may exercise the right to opt out by notifying us.

15. LIMITATION OF LIABILITY

- 15.1. Nothing in the Agreement excludes or limits either Party's liability where it would be unlawful to do so. If warranties or conditions are implied under the *Australian Securities and Investments Commission Act 2001* (Cth) or any similar law in respect of goods or services supplied under this Agreement or in connection with the Airwallex Services, then our liability for a breach of any such warranty or condition is limited to:
- (a) in the case of goods, the replacement cost of the goods, the repair of the goods or the costs of having the goods repaired as determined in our discretion; or
 - (b) in the case of services, supplying the Airwallex Services again or the payment of the costs of supplying the Airwallex Services again,
- each as determined in our discretion.
- 15.2. Subject to this clause 15, Direct Losses will be recoverable under this Agreement. However, save as otherwise stated in this Agreement, neither Party will be liable for any Indirect or Consequential Losses.
- 15.3. Without limiting any other provision of this Agreement, we will not be liable to you for:
- (a) any loss outside of our direct control that arises from the negligence, fraud or wilful misconduct or the insolvency of any third party correspondent bank, liquidity provider, or other financial institution who is part of the payment network used to provide the Airwallex Services;
 - (b) the non-execution, or defective execution, of a payment if any information you provide in your instructions is incorrect;
 - (c) acting in good faith on any instructions provided to us by you or any Authorised User or which reasonable appear as if they have been provided to us by you or an Authorised User;
 - (d) errors, mistakes, or non-performance arising from the payee/beneficiary bank if the payee/beneficiary bank fails to process the payment correctly; and
 - (e) to the maximum extent permitted by law, any loss that arises from the conduct or omission of any Australian Financial Services Licence holder (other than Airwallex) that has appointed Stake as its authorised representative (within the meaning of the *Corporations Act 2001* (Cth)).

In the case of paragraph (b) or (c), we will make reasonable efforts to recover the funds involved in the payment. You will be responsible for all costs incurred by us as part of any such recovery attempt, even if we are unable to successfully recover the funds.

In the case of paragraph (e), you acknowledge and agree that any claim for recovery in respect of such loss (provided that the claim does not relate to our non-cash payment facility) must first be made against Stake and the relevant authorised representative of Stake.

- 15.4. Airwallex's total aggregate liability to you for all Actions arising under this Agreement will not exceed the total amount of Service Fees paid by you to Airwallex during the one (1) year period prior to the date the liability first arose.
- 15.5. Damages alone may not be an adequate remedy for breach and accordingly either Party will be entitled to seek the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach.
- 15.6. Each Party agrees to use reasonable endeavours to mitigate any loss in respect of which it is indemnified under the Agreement.

16. INDEMNITY

- 16.1. Customer's indemnity. You agree to indemnify us against all losses, damages, costs (including reasonable legal fees) and expenses incurred or suffered by us in connection with or as a result of:
 - (a) your breach of this Agreement, failure to comply with Applicable Law, or your use or misuse of the Airwallex Services;
 - (b) (where applicable) your incorrect instructions, overpayment, payment error, or other invalid payment you cause;
 - (c) any error, default, negligence, misconduct, or fraud by you, your employees, directors, officers, or representatives, or anyone acting on your behalf;
 - (d) a third party alleging that our use of the Customer Data as permitted by this Agreement infringes any Intellectual Property Rights;
 - (e) any of your Payments, including where any Payment is made by us acting on any of your instructions which we reasonably believe to have been made by you or an Authorised User; or
 - (f) the closure or cancellation of all or any part of a Payment before its Settlement Date or Payment Date, including if we have to do so due to you failing to provide funds for the Payment.
- 16.2. This clause 16.2 and clauses 16.3 and 16.4 apply in respect of the obligations in this clause 16 and clause 12.6. If a Party becomes aware of any claim or proceeding which might lead to a claim under this clause 16 or clause 12.6 (each, a **Third Party Claim**), the Party will promptly notify the other Party in writing and, subject to the other Party complying at all times with clause 16.3, the first Party will:
 - (a) allow the other Party to control the defence of such Third Party Claim; and
 - (b) at the request and expense of the other Party, provide reasonable assistance for the other Party to defend any such Third Party Claim.
- 16.3. If the other Party assumes the defence of a Third Party Claim, the other Party will:
 - (a) promptly notify the first Party that it has assumed such defence;
 - (b) at all times have regard for the interests and reputation of the first Party and comply with all applicable court rules in the defence of such Third Party Claim;
 - (c) consult and keep the first Party informed, in relation to any negotiations, settlement or litigation; and
 - (d) not, without the prior written consent of the first Party, enter into any settlement or compromise of the Third Party Claim that involves a remedy other than the payment of money.
- 16.4. If the other Party does not assume the defence of a Third Party Claim in accordance with clause 16.3 within fourteen (14) days of being notified in writing of that Third Party Claim, the

first Party, or a Person designated by the first Party, may defend the Third Party Claim in such manner as it may deem appropriate, and the other Party will indemnify the first Party in relation to all costs, claims and liabilities incurred by the first Party in relation to such Third Party Claim.

17. TERMINATION AND SUSPENSION

- 17.1. **Stopping Services or closing your Wallet.** At any time, you can stop using any part of the Airwallex Services, close your Wallet and terminate this Agreement by giving us thirty (30) days' prior written notice provided that there are no outstanding transactions between you and Airwallex.
- 17.2. **Airwallex's rights to suspend or terminate.** We may terminate this Agreement at any time by giving you thirty (30) days' prior written notice that we are closing your Wallet and ending the provision of the Airwallex Services. In addition, we may without notice immediately suspend or terminate all or any part of this Agreement or any of the Airwallex Services, or block any transactions, if:
- (a) we suspect criminal activity on your Wallet, that your Wallet is being used fraudulently, or we reasonably believe you have fraudulently requested a refund for an unauthorised transaction;
 - (b) we reasonably believe you are in breach of Applicable Law;
 - (c) we are legally required to do so, including by any relevant Regulatory Body;
 - (d) you have breached this Agreement or exceeded any applicable limits or restrictions set out in the Acceptable Use Policy;
 - (e) you have given us false or inaccurate information, or we have been unable to verify any information you have provided;
 - (f) you notify us, or we suspect or identify, any suspected or actual unauthorised transactions;
 - (g) you have been abusive to anyone at Airwallex;
 - (h) we have reasonable concerns about the security, or unauthorised use, of the Stake Platform, your Wallet or the other Airwallex Services;
 - (i) your Wallet has a negative balance and you have failed to promptly repay the amount owing to us;
 - (j) one of our banking partners, or other service provider necessary to provide the Airwallex Services, requires us to terminate the Agreement; or
 - (k) you do not use your Wallet for twelve (12) months or more.
- 17.3. We may also block any transaction if your instructions are unclear, incomplete or contain an error.
- 17.4. **We will give you notice of suspension where possible.** We will give you notice of any suspension and the reason(s) for such suspension as soon as we can, either before the suspension is put in place, or immediately after, unless it would compromise our reasonable security measures or otherwise be unlawful. We will lift the suspension as soon as practicable after the reasons for the suspension have ceased to exist.
- 17.5. **Immediate termination.** Without affecting any other right or remedy available to it, either Party may terminate this Agreement immediately on written notice to the other Party and without liability to the other Party:
- (a) if the other Party:

- (i) commits a material breach of the Agreement, and, in the case of a breach capable of remedy, fails to remedy such breach within thirty (30) days after receiving formal written notice to do so; or
 - (ii) commits a series of breaches of the Agreement which when taken together have the impact or effect of, or otherwise amount to a material breach;
 - (iii) becomes subject to an Insolvency Event;
- (b) if the Party reasonably determines that it has become unlawful to perform its obligations under the Agreement; or
 - (c) in the event of a Force Majeure Event that has the effect of preventing the other Party from performing any of its obligations under the Agreement for a period exceeding one (1) month.
- 17.6. On termination of this Agreement, you will need to repay any money you owe us. In the circumstances set out in clause 17.2 or clause 17.5 we may charge you for any costs, expenses and losses we incur (including any action we may take to cover or reduce the exposure).
- 17.7. **Withdraw your funds.** After you have repaid any money you owe us, if you still have funds in your Wallet at the time this Agreement or the Airwallex Services are terminated, you should withdraw those funds either before the Wallet is closed, or within a reasonable period of time following its closure. After a reasonable amount of time has passed since we closed your Wallet, we will attempt to transfer any remaining funds to the bank account you last notified to us. If we are unable to do so, we will deal with any remaining balance as may be required by Applicable Law.
- 17.8. **Effect of termination.** On termination of this Agreement:
- (a) you will not be able to use the Stake Platform. All rights granted to you under this Agreement will cease;
 - (b) you must immediately return or delete copies of any documentation, notes and other materials comprising or regarding the Stake Platform;
 - (c) all of your payment obligations under this Agreement for Airwallex Services provided through to the effective date of termination will immediately become due and payable;
 - (d) each Party will return or delete all Confidential Information of the other Party in its possession within thirty (30) days of the termination of this Agreement, and will not make or retain any copies of such Confidential Information except as necessary to comply with Applicable Law; and
 - (e) any provision that expressly or by implication has effect after termination will continue in full force and effect.

18. SERVICE PROVIDERS

- 18.1. You acknowledge and agree that:
- (a) we may work with third parties (including any other Group Company of Airwallex) to provide the Airwallex Services;
 - (b) if you receive information from us regarding, or provided by, such third parties, you will not rely on such information and will not make any claims against us or the third party in relation to such information. You agree that you bear all risk and responsibility if you choose to rely on such information in contravention of this clause.
- 18.2. If we use a third party to provide the Airwallex Services, you acknowledge that the Airwallex Services are provided by Airwallex to you and not by the third party, unless any Additional

Terms for the use of an Airwallex Service or feature of an Airwallex Service specifically provide otherwise in writing.

- 18.3. If we use a third party to provide the Airwallex Services, we will ensure that the third party complies with Data Protection Legislation relating to the processing of personal data pursuant to clause 14 of this Agreement.
- 18.4. **Airwallex warranties.** We represent and warrant that:
- (a) we have the right, power and authority to enter into this Agreement and to perform all of our obligations under it; and
 - (b) we have used, and will continue to use, reasonable commercial efforts to provide the Airwallex Services.
- 18.5. **Disclaimer.** Except as expressly stated in this Agreement, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise (including any implied warranties of satisfactory quality or fitness for a particular purpose or non-infringement) are excluded to the fullest extent permitted by law. We do not make any commitments about the content or data within the Stake Platform, the specific functions of the Stake Platform or its accuracy, reliability, availability or ability to meet your needs. We cannot guarantee that the Stake Platform will operate uninterrupted or error-free, that it will always be available, that the information it contains is current or up-to-date, that it will be free from bugs or viruses, or never be faulty. Occasionally we may have to interrupt your use of the Stake Platform. In such a case we will restore access as quickly as practicable.
- 18.6. **Customer warranties.** You represent and warrant to us that you:
- (a) will comply with this Agreement and all Applicable Law regarding your use of the Airwallex Services, the Stake Platform and Customer Data;
 - (b) have the right, power and authority to enter into this Agreement and to perform all of your obligations under it;
 - (c) have the valid right to grant to us the rights as defined in this Agreement without violating any Applicable Law or the proprietary rights of any third party;
 - (d) will provide us with accurate, up-to-date and complete Customer Data at all times, pursuant to clause 4 of this Agreement;
 - (e) will pay all sums to us free and clear of any claims, encumbrances or any other interest of any third person;
 - (f) will use the Airwallex Services and the Stake Platform only for lawful purposes; and
 - (g) if you are an individual, you are eighteen (18) years of age or older.
- 18.7. **Customer conduct.** You are solely responsible for any use of the Airwallex Services, and the use of the features of the Stake Platform to access the Airwallex Services, including the content of any data or transmissions you execute through the Stake Platform yourself, or by any Authorised User you permit to access the Stake Platform. You will use all reasonable endeavours to ensure that no unauthorised person will or could access the Airwallex Services or other features of the Stake Platform. You will not interfere with, disrupt, or cause any damage to other users of the Stake Platform or Airwallex Services.
- 18.8. **You must not misuse the Airwallex Services.** You cannot:
- (a) access the Airwallex Services through the Stake Platform using a method other than as permitted by Stake which is authorised by Airwallex. For example, you cannot use automated means (including harvesting bots, robots, spiders, or scrapers) without our permission;
 - (b) do anything that may disrupt, disable, overburden, or damage the Airwallex Services or the Stake Platform, such as a 'Denial of Service' attack; and

- (c) cause viruses or other malicious code to interfere with the use of the Airwallex Services or the Stake Platform.

19. ANTI-BRIBERY & CORRUPTION

- 19.1. Each Party will (and ensure that any person it engages for the performance of its obligations under or in connection with this Agreement, including, employees, agents, consultants and subcontractors will):
 - (a) comply with all Applicable Law relating to sanctions, bribery and corruption including the UK Bribery Act 2010, the US Foreign Corrupt Practices Act, *Crimes Act 1914* (Cth) and *Criminal Code Act 1995* (Cth) (**ABC Legislation**);
 - (b) not do or omit to do anything likely to cause the other Party to be in breach of any such ABC Legislation;
 - (c) not give or receive any bribes, including in relation to any public official;
 - (d) maintain throughout the term a programme designed to ensure compliance with ABC Legislation, including an education and training programme and measures reasonably calculated to prevent and detect violations of ABC Legislation;
 - (e) if requested, and at the other Party's reasonable cost, provide the other Party with sufficient reasonable assistance to enable the other Party to perform any actions required by any government or agency in any jurisdiction for the purpose of compliance with ABC Legislation or in connection with any investigation relating to ABC Legislation; and
 - (f) promptly notify the other Party of any allegation of sanctions violation, fraud, bribery or corrupt or unlawful practices made against it in court, arbitration or administrative proceedings, or any investigation commenced in respect of the same.
- 19.2. You will indemnify the us against all liabilities, losses, and expenses which we suffer as a result of a breach of this clause 19 by you.

20. MARKET DISRUPTION, ERRORS & FORCE MAJEURE

- 20.1. **Force majeure.** Without limiting clause 17.5(c), neither Party will be responsible for any failure to fulfil any obligation for so long as, and to the extent to which the fulfilment of such obligation is impeded by, a Force Majeure Event. The Party subject to the Force Majeure Event will:
 - (a) promptly notify the other Party of any circumstances which may result in failure to perform its obligations; and
 - (b) use reasonable efforts to mitigate the effect of the Force Majeure Event on the performance of its obligations.

21. GENERAL

- 21.1. **Entire Agreement.** This Agreement represents the entire Agreement between the Parties and supersedes and extinguishes all previous Agreements, representations, promises, and statements between us, whether written or oral, relating to its subject matter. Each Party acknowledges that in entering into this Agreement it does not rely on, and will have no remedy in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.
- 21.2. **Complaints.** Please let us know if we have made a mistake or you feel that we have not met your expectations in the delivery of the Airwallex Services. We have internal procedures for handling complaints fairly and promptly in accordance with our regulatory requirements. A

copy of our complaints procedure is available upon request. If you are not satisfied with the decision in our final response, you may be able to refer your complaint to the Australian Financial Complaints Authority. The eligibility criteria and the procedures involved are available from the Australian Financial Complaints Authority. Their contact details are:

Australian Financial Complaints Authority

- Mail: GPO Box 3, Melbourne, Victoria, 3001
- Phone: 1800 931 678 (toll-free in Australia)
- Email: info@afca.org.au
- Website: www.afca.org.au

- 21.3. **Notices.** All notices, demands and other communications provided for or permitted under this Agreement will be made in writing to the Parties at their registered addresses and will be sent by:
- (a) registered or certified first-class mail, return receipt requested;
 - (b) email (delivery receipt requested); or
 - (c) courier or overnight service or personal delivery, and will be deemed received upon delivery, or, in the case of email, upon receipt of a delivery receipt.
- 21.4. **Relationship.** Nothing in this Agreement will be construed as creating a partnership or joint venture between the Parties, constitute any Party the agent of the other Party, or authorise any Party to make or enter into any commitments for or on behalf of the other Party. Each Party confirms it is acting on its own behalf and not for the benefit of any other person.
- 21.5. **Assignment.** You will not assign this Agreement, in whole or in part, without our prior written consent. Any attempt to do so will be void and constitute a material breach of this Agreement. We may assign this Agreement, in whole or in part, or subcontract our obligations under it, without your consent.
- 21.6. **Waiver.** No failure or delay by a Party to exercise any right or remedy provided under the Agreement or by law, or a single or partial exercise of such right or remedy, will constitute a waiver of that or any other right or remedy, nor will it preclude or restrict the further exercise of that or any other right or remedy.
- 21.7. **Severability.** If any provision of this Agreement is determined to be invalid, unenforceable or illegal by any court of competent jurisdiction, it will be deemed to have been deleted without affecting the remaining provisions. If such provision would be valid, enforceable and legal if some part of it were modified or deleted, the provision will apply with the minimum modification necessary to make it legal, valid and enforceable.
- 21.8. **Non-Solicitation.** Neither Party will (except with the prior written consent of the other Party) during the term of the Agreement and for a period of one (1) year after termination solicit the Airwallex Services of any staff of the other Party who have been engaged in the performance or management of the other Party's obligations under the Agreement other than by means of a public recruitment campaign not specifically targeted at any staff of the other Party.
- 21.9. **Set-Off.** We may at any time set off any payment liability you have to us against any payment liability that we have to you, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. If the liabilities to be set off are expressed in different currencies, we may convert either liability at a market rate of exchange for the purpose of set-off. Our right to set off includes, but is not limited to, setting off the amount of any payment you have requested against any amount collected on your behalf.
- 21.10. **Order of payments.** We may determine the order of transactions we process with respect to your account, subject to any requirements by Applicable Law. For example, if you have given us one or more payment instructions with an insufficient balance in the Wallet, we may use

any funds we subsequently receive for the purposes of one or more of those payment instructions at our discretion, unless we accept instructions from you otherwise.

- 21.11. **Other languages.** This Agreement is made in the English language. It may be translated to other languages for convenience only and in such cases the English language version will apply.
- 21.12. **Governing law.** This Agreement will be governed by and constructed in accordance with the laws of the Victoria, Australia. Each Party irrevocably submits to the exclusive jurisdiction of Victorian courts over any dispute, controversy or claim (including non-contractual claims) arising under or in connection with the Agreement.

22. DEFINITIONS & INTERPRETATION

- 22.1. In this Agreement, the following definitions apply:

ABC Legislation has the meaning given in clause 19.1(a).

Actions means any action, claim, demand or proceeding, in respect of any loss, damage, costs, fines, expenses and other liabilities of whatever nature (whether foreseeable or contingent and whether relating to a third-party claim), including in relation to any breach of contract, negligence, fraud, wilful misconduct, breach of statutory duty or other head of claim and however suffered, incurred or sustained.

Additional Terms means any additional terms of use applicable to the use of the Airwallex Services found on our website at www.airwallex.com/au/terms/stake-scale, including, but not limited to, any specific terms applicable to the use of an Airwallex Service in a particular region.

Agreed Purposes has the meaning given in clause 13.5.

Airwallex Data means details of transactions using Airwallex infrastructure, information used in fraud detection and analysis, aggregated or anonymised information generated in connection with the Airwallex Services, and any other information created by or originating from Airwallex or the Airwallex Services.

Airwallex Profile means the electronic information profile that records your customer details and that is used to log into and use the Stake Platform to use the Airwallex Services.

Airwallex Services means the Airwallex services offered by Airwallex to the Customer under this Agreement.

Applicable Law means all laws, legislation, regulations, binding codes of practice, or rules or requirements of any relevant Regulatory Body applicable to the activities undertaken or procured by the Parties under this Agreement, as interpreted by taking into account any code of practice or guidance issued by any Regulatory Body with which reputable financial institutions in Australia are required or accustomed to comply.

Authorised User has the meaning given in clause 7.1.

Base Currency means Australian dollars.

Business Day means any day (other than a Saturday, Sunday or public holiday in the Victoria, Australia) when banks are open for business in the Victoria, Australia.

Claim has the meaning given in clause 12.6(a).

Confidential Information means and includes all confidential information, whether verbal or written: (i) concerning the business and affairs of a Party, that a Party obtains or receives from the other Party; or (ii) which arises out of the performance of any obligations under this Agreement. Confidential Information does not include information which is: (a) known by the receiving party without restriction in relation to disclosure prior to receipt from the disclosing party; (b) received from a third party who lawfully acquired it and who was under no obligation

restricting its disclosure; (c) approved in writing for release from this Agreement by the disclosing party; (d) available in the public domain other than by breach of this Agreement; (e) independently developed without access to any Confidential Information disclosed by the disclosing party; or (f) expressed in this Agreement as not constituting Confidential Information.

Confirmation means a response and confirmation to your instructions for a Payment, which may be given via the Stake Platform.

Customer Data has the meaning given in clause 12.4.

Data means all Customer Data, Personal Data, Payment Data and Airwallex Data.

Data Protection Legislation means applicable privacy and data protection laws including the *Privacy Act 1988* (Cth).

Data Subject means any natural person who can be identified, directly or indirectly, via an identifier such as a name, an identification number, location data, or via factors specific to the person's physical, physiological, genetic, mental, economic, cultural or social identity.

Direct Losses means, in respect of any breach, those losses that the breaching Party knew, or a reasonable person in the breaching Party's position ought reasonably to have known, either: (i) at the time of entering into the Agreement; or (ii) at the time of the breach, were reasonably probable to result from the breach, provided, however, the following will not be Direct Losses, loss of: goodwill; business; profit; operation time; reputation; opportunity; or corruption of data or information; or loss of anticipated savings, even if the breaching Party was aware or ought reasonably to have been aware of the possibility that such loss or damage could occur.

Feedback has the meaning given in clause 12.9.

Force Majeure Event means an event beyond a Party's reasonable control including: Black Swan events; strikes, lock-outs, labour troubles (but excluding strikes or other forms of industrial action by the employees, agents or subcontractors of that Party); interruption or failure of a utility service including the internet, electric power, gas or water; riots, war, pandemic, or terrorist attack; nuclear, chemical or biological contamination; extreme abnormal weather conditions; the imposition of a sanction, embargo or breaking off of diplomatic relations; or any change in Applicable Law.

Group Company means any entity in respect of which a Party or a Party's ultimate holding company: (i) owns (directly or indirectly) more than fifty (50) percent of the voting rights or issued share capital; or (ii) can ensure that the activities and business of that entity are conducted in accordance with its wishes.

Indirect or Consequential Losses means those losses that are not Direct Losses.

Insolvency Event means: (i) any procedure commenced with a view to the winding-up or re-organisation of such Party; (ii) any step taken or any procedure is commenced with a view to the appointment of an administrator, receiver, administrative receiver or trustee in bankruptcy in relation to such Party or all or substantially all of its assets; (iii) the holder of any security over all or substantially all of the assets of such Party takes any step to enforce that security; (iv) all or substantially all of the assets of such Party is subject to attachment, sequestration, execution or any similar process; (v) such Party is unable to pay its debts as they fall due; (vi) such Party enters into, or any step is taken, whether by the board of directors of such Party or otherwise, towards entering into a composition or arrangement with its creditors or any class of them, including a company voluntary arrangement or a deed of arrangement; or (vii) such Party enters into, or any step is taken, whether by the board of directors of such Party or otherwise, towards any analogous procedure under the laws of any jurisdiction to the procedures set out in (i) to (vi) above, and in each case other than for the sole purpose

of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party.

Intellectual Property Rights means: (i) rights in, and in relation to, any patents, registered designs, design rights, trademarks, trade and business names (including goodwill associated with any trade marks or trade and business names), copyright and related rights, moral rights, databases, domain names, semi-conductor and other topography rights and utility models, and including registrations and applications for, and renewals or extensions of, such rights, and similar or equivalent rights or forms of protection in any part of the world; (ii) rights in the nature of unfair competition rights and to sue for passing off and for past infringement; and (iii) trade secrets, confidentiality and other proprietary rights, including rights to know how and other technical information.

Local Business Day has the meaning given in clause 9.7.

Payment means a payment to be made by the Customer to a payee requested through the Stake Platform.

Payment Date means the date nominated by you in your instructions to us, for the Payment to be transferred from Airwallex to the payee. The Payment Date for any transfer must be a Business Day in both countries (i.e. the countries where the Parties are located to transact business).

Personal Data means information that identifies a specific living person (not a company, legal entity, or machine) that is collected, transmitted to or accessible through the Airwallex Services and as otherwise defined in the Data Protection Legislation.

Privacy Policy means the privacy policy of Airwallex (as amended from time to time), available online at www.airwallex.com/au/terms/.

Regulatory Body means any person or regulatory body concerned with the creation, enforcement or supervision of, or compliance with Applicable Law, including the Australian Securities and Investments Commission and any regulatory body which replaces it.

Segregated Account has the meaning given in clause 5.3.

Service Fees means all fees applicable to the use of the Airwallex Services.

Settlement Date means the date on which the settlement of a Payment will occur as relevantly specified in the Confirmation or otherwise notified to you through the Stake Platform.

Settlement Cut-Off means, in respect of a Payment, the time and date where sufficient cleared funds must be in your Wallet in order to fund the relevant transaction which will generally be the time and date on which the relevant Confirmation is issued by Airwallex, unless a different time is specified in the Confirmation or otherwise notified to you through the Stake Platform.

Stake means Stakeshop Pty Ltd ACN 610 105 505.

Stake Platform means the proprietary technology and associated products devised by Stake to provide customers with access to certain services of Stake in addition to access to certain Airwallex Services.

Supported Currency means, in respect of each feature of an Airwallex Service, each currency approved by Airwallex from time to time that can be collected or paid out (as applicable) using that feature through the Stake Platform.

Third Party Claim has the meaning given in clause 16.2.

User Profile means, with respect to each Authorised User, the electronic profile that records the Authorised User's details and that is used by them to log into and use the Stake Platform on your behalf.

Wallet has the meaning given in clause 5.1.

22.2. Unless the context otherwise requires:

- (a) use of the singular includes the plural and vice versa;
- (b) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (c) any phrase introduced by the terms 'including', 'include', 'in particular', 'for example' or any similar expression will be construed as illustrative and will not limit the sense of the words preceding those terms.

22.3. References to the Parties will include any successors, permitted assignees or transferees where permitted by this Agreement. The word 'person' will be deemed to include a body corporate, partnership or unincorporated association. References to any Party indemnifying any person against any costs, claims or liabilities include indemnifying against any and all liabilities, losses and expenses, as well as (to the fullest extent, but only if permitted by Applicable Law) any civil or criminal fines imposed by any relevant Regulatory Body and any reasonably incurred legal fees, costs and expenses.