



# Payout and FX Terms

United Kingdom

28 November 2022

## PAYOUT AND FX TERMS UNITED KINGDOM

### 1. THESE TERMS

- 1.1 The Airwallex Payout and FX Terms comprises terms and conditions governing the relationship between you (**'Customer'/'you'**) and Airwallex (UK) Limited (**'Airwallex'/'us'/'we'**) that apply to our Services (which we describe in clauses 7, 10 and 11). Please read these terms carefully and contact us if anything is unclear. The Customer and Airwallex will individually be referred to as a **Party**, and collectively, as **Parties**.
- 1.2 Please refer to clause 26 for a list of the definitions used in these terms.
- 1.3 The Application Form, as amended by you, is incorporated into and forms part of these terms.
- 1.4 We will provide you with separate terms and conditions for any services that fall outside the scope of these terms.
- 1.5 You should also download a copy of these terms and keep it for future reference or ask us for a copy at any time. You can always see the most current version of these terms (as well as the documents below) on our website [www.airwallex.com](http://www.airwallex.com).
- 1.6 Please read the following additional documents which also apply to your use of the Airwallex Platform and Services and should be read together with these terms:
- (a) [Acceptable Use Policy](#)
  - (b) [Cookie Policy and Privacy Policy](#)
  - (c) [FAQs](#)
  - (d) API Documentation

For the avoidance of doubt, the above documents do not form part of these terms.

- 1.7 If we need to send you information in a form you can keep at any time, we will either send you an email or provide information on our website or via the Airwallex Platform that you can download. Please keep copies of all communications we send to you.

### 2. WHO AIRWALLEX IS AND HOW TO CONTACT US

- 2.1 **Our company information.** The Services are offered by Airwallex (UK) Limited (Company No. 10103420), which has its registered office at 1 Long Lane, London SE1 4PG, United Kingdom. Airwallex is authorised by the United Kingdom Financial Conduct Authority (**'FCA'**) under the Electronic Money Regulations 2011 (**'EMRs'**) (firm reference number 900876).
- 2.2 **How to contact us.** You can contact us by:
- (a) emailing us at: [support@airwallex.com](mailto:support@airwallex.com)
  - (b) sending mail to us at: 1 Long Lane, London SE1 4PG, United Kingdom
  - (c) sending us a message through the contact links on our website [www.airwallex.com](http://www.airwallex.com).
- 2.3 **How we will contact you.** We will contact you 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 Services you agree to receive electronic communications from us. If we have reasonable concerns about either the security of your Wallet or Global Account, or any suspected or actual fraudulent use of your Wallet or Global Account, we will contact you via telephone, email, or both (unless contacting you would be unlawful or compromise our reasonable security measures).

### 3. ELECTRONIC MONEY REGULATIONS

- 3.1 Airwallex complies with the requirements of the EMRs and related Applicable Law. Funds corresponding to electronic money in your Wallet will be held in one or more segregated bank accounts separately from the other funds of Airwallex. In the event of our insolvency, you will have a right to be paid from these segregated bank accounts in priority to other creditors in accordance with Applicable Law.

### 4. APPLICABILITY OF THESE TERMS

- 4.1 **Corporate opt-out.** If you are a Consumer, Micro-enterprise or a Charity then all of these terms apply to you. If you are not a Consumer, Micro-enterprise or a Charity at the time you enter into these terms, or if you stop being a Consumer, Micro-enterprise or a Charity at any stage during the term of these terms, you agree that none of the following regulations of the Payment Services Regulations 2017 ('PSRs') will apply to these terms:

- (a) Part 6 – regulations 40 to 62 inclusive – of the PSRs (Information Requirements for Payment Services); and
- (b) the following regulations of Part 7 of the PSRs: 66(1) (charges), 67(3) and (4) (withdrawal of consent), 75 (evidence on authentication and execution), 77 (payer or payee's liability for unauthorised transactions), 79 (refunds for direct debits), 80 (requests for direct debit refunds), 83 (revocation of a payment order), 91 (defective execution of payer-initiated transactions), 92 (defective execution of payee-initiated transactions) and 94 (liability for charges and interest).

- 4.2 We have accordingly amended various terms to reflect the position for customers (each a **Corporate Customer**) who are not Consumers, Micro-enterprises or Charities.

### 5. CHANGES TO THESE TERMS

- 5.1 **Subject to clause 5.2, we may change these terms (including the Service Fees) by giving you two (2) months' prior written notice.** We will consider that you have accepted the proposed changes if you do not terminate these terms by giving us written notice during the notice period.

- 5.2 If you are a Corporate Customer, clause 5.1 does not apply and we may change these terms (including the Service Fees) by giving you one (1) month's prior written notice. We will consider that you have accepted the proposed changes if you do not terminate these terms by giving us written notice during the notice period.

- 5.3 We may also make some changes immediately, without prior notice, if those changes:

- (a) are required by Applicable Law or we are requested to do so by a Regulatory Body; or
- (b) relate to the addition of a new service or extra functionality of our Services and do not affect terms relating to the existing Services.

- 5.4 You should stop using our Services if you do not agree to these changes. If you keep using our Services after we have announced such a change, we will treat you as having accepted the change.

- 5.5 **Updates.** We may issue updates for the Airwallex Platform, including the Airwallex APIs, from time to time. We may need to do this to facilitate the continued and proper operation of the Platform, make improvements to the Platform or to comply with Applicable Law. Some updates may require you to take steps to implement them. You agree to implement such updates as soon as reasonably practicable after receipt. In some cases (for example, if there are security risks), you will not be able to use the Airwallex Platform until you have implemented the update. If you have not implemented an update within 6 months of us releasing it, we may stop providing some of the Services to you or terminate these terms, by giving you two months' prior written notice.

## 6. CUSTOMER DUE DILIGENCE

- 6.1 To meet our obligations under Applicable Law, before we provide our Services to you, we will carry out customer due diligence checks on you, your directors, partners, ultimate beneficial owners, and employees (as relevant), Authorised Users and Additional Cardholders together with any parties involved in your transactions. You must provide us with complete, accurate, and up to date information at all times, including any information we require to verify the authenticity of transactions such as supporting invoices. You will promptly provide any additional information 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 our Services until we have received all the information we require. We will not be responsible for any loss arising out of your failure to do so.
- 6.2 You agree that we may make, directly or using a third party, any inquiries we believe are necessary to verify information you provide to us, including checking commercial databases or credit reports.
- 6.3 You agree that our provision of, and your ability to use, the Services is subject to:
- (a) successful completion of the initial, and any subsequent, credit evaluations; and
  - (b) there being no material changes to your credit status during the term of these terms.

## 7. ABOUT THE SERVICES

- 7.1 **Wallet.** The '**Wallet**' enables you to electronically hold, send and receive funds in the form of electronic money in the Supported Currencies through the Airwallex 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.
- 7.2 **Global Account.** You may request Airwallex to open more than one Global Account for a particular Supported Currency.
- 7.3 **How balances are represented.** The funds collected through a Global Account will be transferred to your Wallet and be represented as part of the balance in your Wallet for each Supported Currency – there will not be a separate balance shown for a Global Account.
- 7.4 The UK Financial Services Compensation Scheme ('**FSCS**') does not apply to the funds in your Wallet or collected through a Global Account. You acknowledge that the Wallet is an electronic money account, not a bank account, and is therefore not covered by the FSCS.
- 7.5 As a firm regulated under the EMRs, Airwallex holds funds corresponding to electronic money in your Wallet in one or more segregated bank accounts separately from the funds of Airwallex. Whilst the funds are not held on trust for you, in the event of our insolvency, you will be paid from these segregated bank accounts in priority to other creditors in accordance with Applicable Law.
- 7.6 The electronic money in the Wallet:
- (a) will not expire, except when your Wallet is closed – see clause 20 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 11 for more details.
- 7.7 We may place interim or permanent restrictions on your use of the Wallet, a Global Account or any other part of the 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 practical due to urgent or unforeseen circumstances, promptly after the restriction is put in place.
- 7.8 **Airwallex Card.** If we have agreed to issue you or any Additional Cardholder with a Card, the terms set out in the Issuing Terms shall apply to the use of any Cards linked to your Wallet in addition to these terms. The Issuing Terms shall be incorporated and form a part of these terms as if set out in these terms in full.

## 8. GETTING STARTED

- 8.1 **Creating your Airwallex Profile.** In order to use our Services, you must provide the necessary information as prompted through the Airwallex Platform to register and create your Airwallex Profile. If required by Airwallex, you must provide your bank account details to be linked to your Airwallex Profile.
- 8.2 **Creating a Global Account.** Once we have created your Airwallex Profile, you can submit a request to open a Global Account by logging on to the Airwallex Platform and providing the necessary information, including any additional information that we may require from time to time. You may also need to agree to Additional Terms. We will advise you of this requirement, if relevant, when you request to open a Global Account.
- 8.3 **Signing up.** You represent and warrant at the time of accepting these terms and on a continuing basis as follows:
- (a) that these terms are accepted and executed by your duly authorised representative; and
  - (b) that all information supplied to us in applying for your Airwallex Profile and Global Account and subsequently is true, complete and accurate in all material respects and you will not omit or withhold any information which would render the information so supplied false, incomplete or inaccurate in any material respect.
- 8.4 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 your Services, if we reasonably believe you have opened them in order to bypass any restrictions in the Services.
- 8.5 You confirm you are acting on your own account, not on behalf of any other person or legal entity. If you are entering into these terms as 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.
- 8.6 **Setting up Airwallex APIs.** You may access the Airwallex Platform through Airwallex APIs as well as the Webapp. However, in order to use our Services through the Airwallex APIs, you must first be approved by us. If you are approved by us, you will need to comply with our API Documentation and reasonable directions regarding the integration and use of the Airwallex APIs.

## 9. AUTHORISED USER

- 9.1 You may appoint an '**Authorised User**' (for example, any of your directors, officers, employees or professional advisors) to act on your behalf to enter into and confirm FX Conversions and Payments under these terms. 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.
- 9.2 You agree that:
- (a) your Authorised Users have the authority to provide instructions to us for the provision of 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 you provide us with written notice withdrawing or otherwise varying the authority of an Authorised User;
  - (c) we may refuse access to your Authorised User(s) 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 Platform, including the Webapp or Airwallex APIs.

## 10. RECEIVING PAYMENTS & LOADING MONEY INTO THE WALLET

- 10.1 **Funding your Wallet.** You can load funds to your Wallet by logging in to the Airwallex Platform and following the steps as prompted.
- 10.2 **Global Account collection.** If we have opened a Global Account for you, you may also receive funds to your Wallet through a Global Account.
- 10.3 In each case, you will ensure the funds are transferred using the correct bank details and any unique transaction reference number details specified by Airwallex. If you do not provide accurate details, then we may not be able to credit your Wallet. In such cases, we will not be liable for any loss you incur, although we will use reasonable efforts to investigate and credit or return incorrect and inaccurately referenced payments into or from your Wallet.
- 10.4 You may load funds to the Wallet by way of a bank transfer to Airwallex. We may permit additional methods of receiving or loading money into the Wallet from time to time.
- 10.5 **We will credit your Wallet when we receive your funds.** 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 through the Global Account. The transfer of funds from you or other payers to your Wallet is a service provided by third parties, and is not part of our Services. We have no control over the time it may take for the transfer of such funds to clear and settle.
- 10.6 **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) the sender, or any relevant payment services provider, reverses a transaction or is likely to reverse a transaction;
  - (b) the sender made a transfer to you by mistake;
  - (c) you have provided us with incorrect instructions for the transaction;
  - (d) we suspect that a transaction is fraudulent, or is in breach of these terms or Applicable Law;
  - (e) we exercise our rights under clause 20.

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 11.12. If we reverse a transaction, we will do this at the prevailing FX Exchange Rate applicable at the time of the reversal or at the original FX Exchange Rate applicable to the transaction, in our discretion.

- 10.7 Where the funding/original transaction was paid for by Card, reversals will be effected in accordance with the Issuing Terms. For other transactions, 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 which can be held in your Wallet, we will generally choose to convert the amount of the reversal into your Base Currency. Where we are required to perform any currency conversions in connection with the reversal of a transaction, we will do this at the prevailing FX Exchange Rate applicable at the time of the reversal or at the original FX Exchange Rate applicable to the transaction, in our discretion.

## 11. MAKING PAYMENTS AND FX CONVERSIONS

- 11.1 **Your instructions.** You may instruct us to make a FX Conversion or Payment at any time by providing the necessary details as prompted in the Airwallex Platform.
- 11.2 **Confirmation.** You must have sufficient funds in your Wallet in the relevant source currency to cover the full amount of any FX Conversion or Payment (including Service Fees) 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 20. When we are satisfied with your instructions we will issue you with a Confirmation.

- 11.3 When you instruct us to make an FX Conversion or Payment, the amount of the FX Conversion or Payment confirmed in the Confirmation becomes due and payable to us on the date indicated in the Confirmation. On this date your funds will cease to be deemed electronic money and your balance will be deducted accordingly. You will be issued with electronic money again in respect of an FX Conversion in the purchase currency on the Settlement Date.
- 11.4 **FX Exchange Rate.** You may access the indicative FX Exchange Rate for an FX Conversion through the Airwallex Platform. The indicative FX Exchange Rate will be quoted to you when you instruct us through the Airwallex Platform and the final FX Exchange Rate will be confirmed when we issue a Confirmation. We will ensure, as far as reasonably practicable, that the confirmed FX Exchange Rate reflects the rate quoted to you. The rate may be different as the rate may have changed between the time of your instruction and the time we issue the Confirmation. You agree that changes to exchange rates come into effect immediately without notice. Changes to the FX Exchange Rate depend on fluctuations in the financial markets outside our control.
- 11.5 **Forward Contracts.** If you are approved to enter into Forward Contracts, you agree to enter into Forward Contracts only for the purpose of facilitating payment for identifiable goods or services. If we reasonably believe that you intend to enter into the Forward Contract for other purposes, we:
- (a) may decline to accept your instruction in respect of a Forward Contract; or
  - (b) if we have already accepted your instruction, we may cancel the Forward Contract.
- 11.6 **Settlement requirements.** The issuance of a Confirmation means that the FX Conversion or Payment has been authorised and can no longer be cancelled. We will deduct the amount of your FX Conversion or Payment from your Wallet immediately at the time we issue a Confirmation. However, if you are approved to post-fund you must:
- (a) for an FX Conversion (or Payment, if the Payment is linked to a FX Conversion): deposit any amount specified in the Confirmation in cleared funds by Settlement Cut-Off; and
  - (b) for a Payment: ensure there are sufficient cleared funds in the Payment currency available to Airwallex by the Payment Date.
- 11.7 **Date.** We will deduct the amount of your FX Conversion or Payment from your Wallet when we issue a Confirmation or, if you are approved to post-fund the FX Conversion or Payment, at the same time that we receive the relevant funds from you. If that date is not a Business Day, or if we receive your instructions after 5pm on a Business Day, then the date may be adjusted by us to the next day that is a Business Day.
- 11.8 **Execution time.** If you are making a Payment and/or FX Conversion, we will remit the Payment and/or effect the FX Conversion as soon as possible. Generally, we will remit funds to a payee's payment service provider within 24 hours after we accept your instructions. 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 our 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 5 Business Days, unless a longer period is required by Applicable Law.
- 11.9 **Failed FX Conversions and Payments.** We may in our sole discretion, acting reasonably, decide to cancel the FX Conversion or Payment, or delay the FX Conversion or 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 conversion in the sell currency by the Customer to Airwallex on any FX Conversion; or
  - (b) failure of Payment in the Payment currency by the Customer to Airwallex on any Payment.
- 11.10 **Transaction limits.** We may apply limits to the amount of any one or a series of Payments, and we will tell you if we do so. For example, we may apply limits if you ask us to or if we reasonably think it would help manage the risk of fraud in a proportionate way.

- 11.11 **Right of rejection.** We reserve the right to withhold, reject, or delay any transaction in order to comply with Applicable Law. We may not accept your instructions for a Payment or FX Conversion if:
- (a) no valid exchange rates are available from our correspondent banking partners, liquidity providers, or other financial institutions;
  - (b) any relevant anti-money laundering or counter financing of terrorism conversion limits are exceeded; or
  - (c) you have not complied with your obligations under these terms including the Acceptable Use Policy.
- 11.12 **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 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.
- 11.13 **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 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).

## 12. SAFETY AND SECURITY

- 12.1 **Keep your Wallet safe.** In order to use the Airwallex Platform, you (or your Authorised User) must log in using the unique password and any multiple-factor authentication: for example, we may require your Authorised User to authenticate that they are the Authorised User when logging in to the Airwallex Platform, or for certain transactions made using the Airwallex Platform. You must store all log-in information and passwords to access the Airwallex Platform safely and securely at all times and only allow Authorised Users to access the Services.
- 12.2 **Contact us if you suspect your Wallet may be compromised.** You must contact us immediately by email to [support@airwallex.com](mailto:support@airwallex.com) and change your password if you suspect:
- (a) your Wallet, Global Account, or access to the Airwallex Platform or other security credentials are stolen, lost, used without your authorisation or otherwise compromised; or
  - (b) someone else finds out your log-in information and password for your Wallet.

Any undue delay in notifying us may affect the security of your Wallet, Global Account, or access to the Airwallex Platform and result in you being responsible for financial losses.

- 12.3 **Check the transactions in your Wallet regularly.** All of your activity is displayed in the Airwallex Platform. You must contact us immediately by email to [support@airwallex.com](mailto:support@airwallex.com) to report any (i) suspected or actual unauthorised transaction, (ii) incorrectly initiated or executed transactions such as those having not been executed or having been executed late, (iii) certain charges and interest you are liable to pay as a result of such transactions, or (iv) other security concerns regarding the Airwallex Platform. We may be able to refund money you have lost if the transaction is due to our mistake, fraud, or errors with your transaction (see clauses 12.4, 12.7, 12.9 and 12.10). If you do not notify us of any unauthorised or incorrectly initiated or executed transactions or transactions which have not been executed or were executed late or of certain charges and interest you are liable to pay as a result of such transactions, without undue delay, and at the latest within 13 months (or within 3 months if you are a Corporate Customer) of the debit date of the transaction, on becoming aware of any unauthorised or incorrectly executed payment transaction, you may lose the right to have the matter corrected or money refunded. You also may not be able to claim a refund if:
- (a) you have breached these terms;

- (b) you gave us incorrect instructions for the transaction (we may reasonably assist you to recover the funds, where possible, but do not guarantee that this would be successful); or
- (c) you are a Corporate Customer and any losses are not the direct result of our act or omission.

12.4 **Unauthorised transactions.** We will refund you as soon as practicable, and, except as permitted under PSRs, in any event no later than the end of the business day following the day on which we become aware of the unauthorised transaction, for an unauthorised transaction and restore you to the position you would have been in had the unauthorised transaction not taken place, subject to the following:

- (a) if you are a Consumer, Micro-enterprise or Charity, where the Services, your Wallet, Global Account, or any log-in information and passwords are used without your authorisation you will be liable for the first GBP £35 of any unauthorised transaction if we believe you should have been aware of the unauthorised use. We will not hold you liable for the first GBP £35 if the unauthorised transaction was caused either by our act or omission, or those of a third party expressly carrying out activities on our behalf. Your liability for the first GBP £35 also does not apply to any unauthorised transactions made after you have notified us that your Wallet or Global Account may have been compromised (using the details given by us);
- (b) if you are a Corporate Customer, where the Services, your Wallet, Global Account, or any log-in information and passwords are used without your authorisation you will be liable for any losses arising out of that unauthorised transaction if we believe you should have been aware of the unauthorised use;
- (c) if you do not promptly notify us of security issues:
  - (i) in line with the timeframes of clause 12.3, you will be liable for any losses you incur up to the time that you notify us; and
  - (ii) within 13 months from the date of the Payment (or within 3 months if you are a Corporate Customer), we will have no liability for the unauthorised transaction;
- (d) if we find that you or your Authorised Users, or anyone else acting on your behalf, has acted fraudulently (or, if you are a Corporate Customer, recklessly) we will not refund you in any circumstances;
- (e) you will be solely liable for all losses if you have (i) acted fraudulently, (ii) with intent or gross negligence compromised the security of your Wallet or the Airwallex Platform or (iii) if you are a Corporate Customer, failed to, or if you are a Consumer, Micro-enterprise or Charity, with intent or gross negligence failed to, comply with your obligations to use them in accordance with these terms, and to take all reasonable steps to keep all log-in information and passwords confidential and secure;
- (f) provided we are able to provide a refund in accordance with Applicable Law; and
- (g) if you gave us incorrect instructions for the Payment, we may reasonably assist you to recover the funds, where possible, but do not guarantee that this would be successful.

12.5 Where we refund you for an unauthorised transaction we will credit value date your balance no later than the date on which the amount of the unauthorised payment transaction was debited.

12.6 Where we refund you for an unauthorised transaction but subsequently find that you did not comply with your obligations under this clause 12, you must reimburse us for the value of the unauthorised transaction.

12.7 **Non-execution or defective execution of transactions.** Unless we can prove that the payment service provider of the recipient has received the amount of your Payment ~~on time~~, we will be liable to you and will – without undue delay – refund your Wallet (the credit value date being no later than the date on which the amount was debited) with the amount of the non-executed or defective Payment. Where applicable, we will then restore you to the position you would have been in had the defective Payment not taken place. Upon request, we will immediately – without charge – make efforts to trace any non-executed or defectively executed Payment and will notify you of the outcome.

12.8 **Late execution of transactions.** Unless we can prove that the payment service provider of the recipient has received the amount of your Payment on time we will be liable to you. Where a

Payment is executed late, and this is our fault or if you ask us to, we will request the payment service provider of the recipient of your Payment to ensure that the credit value date for the recipient's account is no later than the date the amount would have been value dated if the transaction has been executed correctly.

- 12.9 We will refund you any charges for which you are responsible and any interest which you have had to pay as a consequence of the non-execution or defective or late execution of a Payment.
- 12.10 Where the payment service provider of the recipient is located outside the EEA, clauses 12.7, 12.8 and 12.9 above will not apply to you.
- 12.11 You acknowledge that:
- (a) subject to these terms and provided you are not a Consumer, Airwallex will not be responsible for or otherwise guarantee the performance of any transaction you enter into via the Airwallex 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 Airwallex Platform;
  - (c) certain software and equipment you use may not be capable of supporting certain features of the Airwallex Platform;
  - (d) it is your responsibility to configure and update your information technology, software and equipment in order to access the Services or the Airwallex Platform;
  - (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 these terms.
- 12.12 If you are a Consumer, clause 12.11(e) does not apply. However, you may be liable for our reasonable costs in the circumstances set out in clause 12.11(e) (i) to (iii).

### **13. SERVICE FEES**

- 13.1 You will pay us the Service Fees for the Services, which are set out in the fees table available on [www.airwallex.com](http://www.airwallex.com) (which forms part of these terms) or as otherwise agreed in writing with us.
- 13.2 **Tax.** All amounts payable to us under these terms:
- (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.

## 14. INTELLECTUAL PROPERTY RIGHTS

- 14.1 **Licence.** We grant you a personal, revocable, non-transferable, non-sublicensable and non-exclusive licence to access and use the Airwallex Platform via any supported web browser for the management of our Services provided you comply with these terms.
- 14.2 **Ownership.** We own all Intellectual Property Rights in and to the Airwallex 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. These terms do not transfer from Airwallex to the Customer any ownership rights in the Airwallex Platform, and its proprietary technology.
- 14.3 **Restriction on use.** You do not have any right to our Services, including the Airwallex Platform, other than the right to use them in accordance with the licence granted in clause 14.1. Except as allowed by law or by Airwallex, 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 Airwallex Platform, Services, or included software. You will not allow any unauthorised person to access or use the Airwallex Platform, or trade on the Airwallex Platform for speculative purposes. You also cannot reverse engineer, decompile, disassemble or attempt to extract the source code of the Airwallex Platform or software.
- 14.4 **Customer Data.** You grant Airwallex a royalty-free, non-exclusive, irrevocable, transferable and sub-licensable to any Group Company, third party supplier and outsourcer, licence to use your proprietary business and customer data, as well as details of your transactions transmitted via the Airwallex Platform (**'Customer Data'**), for the purposes of operating the Airwallex Platform, providing the Services, and fulfilling Airwallex's rights and discharging its obligations under these terms. You are solely responsible for the quality, accuracy, and completeness of any Customer Data transmitted via the Airwallex Platform.
- 14.5 **Other people's rights.** You cannot use our Services, including the Airwallex 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 Airwallex Platform may display content that we do not own and we are not responsible for. You may not use content from any of our Services, including the Airwallex Platform, unless you get permission beforehand from us or the owner of the content, or you are permitted by law.
- 14.6 **Airwallex compensation.** If a third party alleges that authorised use of the Airwallex Platform as permitted by these terms infringes any UK 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 18.4 to 18.5 will apply accordingly; and
  - (b) if the quiet enjoyment of the Airwallex Platform is prevented as soon as reasonably practicable secure the right for you to continue using the Airwallex Platform or replace or modify the Airwallex Platform to make it non-infringing (without degrading its performance or quality).
- 14.7 Clause 14.6 will not apply where the Claim is attributable to:
- (a) any Customer Data;
  - (b) any modification of the Airwallex Platform, other than by or on behalf of Airwallex;
  - (c) your possession or use of the Airwallex Platform (or any part of it):
    - (i) other than in accordance with these terms; or
    - (ii) in combination with any other products, services, or materials if the Airwallex Platform would not be infringing without such combination;

- (d) use of a non-current release of the Airwallex Platform; or
- (e) compliance with your specifications or instructions.

14.8 **Promotion.** 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 our Services and on our website. You may at any time and upon reasonable notice request in writing that we stop using your company name, logos, trade name, trademarks and general business information for these purposes.

## 15. CONFIDENTIAL INFORMATION

15.1 Each Party will provide to the other Party on request such information regarding its financial and business affairs and/or identity, as such Party may reasonably require (including without limitation any information required for a Party to be able to comply with its obligations under Applicable Law).

15.2 Each Party acknowledges that it will have access to Confidential Information belonging to the other Party. Confidential Information will include all information that is marked or designated as confidential or that, under the circumstances of its disclosure, should be considered confidential. For Airwallex, Confidential Information includes information about the Airwallex Platform and its proprietary technology. For the Customer, Confidential Information includes Customer Data.

15.3 Each Party agrees that it:

- (a) will not use Confidential Information in any way, for its own account or the account of any third party, except as expressly permitted by, or as required to perform its obligations under, these terms;
- (b) will not disclose any of the other Party's Confidential Information to any third party except as required: by law or any authority of competent jurisdiction; to that Party's attorneys, accountants and other advisors as reasonably necessary; or for the purposes of defending itself in relation to actual or threatened proceedings;
- (c) will, in each of the cases set out in clause 15.3(b), give the disclosing party reasonable formal written notice (provided that this is not in contravention of Applicable Law) prior to such disclosure to allow the disclosing party a reasonable opportunity to seek a protective order; and use reasonable endeavours to obtain prior to the disclosure written assurance from the applicable entity that it will keep the Confidential Information confidential; and
- (d) will take reasonable precautions to protect the confidentiality of such information, at least as stringent as those taken to protect its own Confidential Information.

15.4 In addition, each Party may reveal the other Party's Confidential Information only to its agents, representatives and employees who have a 'need to know' such information in connection with these terms, 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 15. Each Party will remain liable for any disclosure of Confidential Information by its agents, representatives and employees as if it had made such disclosure.

15.5 Each Party agrees that this clause 15 will survive any expiration or termination of these terms.

## 16. PERSONAL DATA

16.1 The Parties acknowledge and agree that they each act as data controllers in relation to the personal data they process in the performance of these terms. Each Party agrees to comply with its respective obligations under applicable Data Protection Legislation.

16.2 The Customer 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.

16.3 The Customer warrants that it has the legal right to disclose all personal data that it does in fact disclose to Airwallex under or in connection with these terms. The Customer acknowledges and agrees that in the event Airwallex processes any personal data on its behalf, the Customer, if

required by applicable Data Protection Legislation, will inform the applicable third parties of any such processing and serving of personal data by Airwallex and will ensure that such third parties have given any required consents.

- 16.4 The Customer shares personal data with Airwallex and authorises Airwallex to collect, use, store or otherwise process such personal data for the following '**Agreed Purposes**', to enable Airwallex to:
- (a) provide the Services and manage Airwallex's relationship with the Customer;
  - (b) comply with all Applicable Law, including conducting anti-money laundering, financial crime and other screening checks; and
  - (c) comply with these terms and the Privacy Policy.
- 16.5 The categories of data subjects may include the following where they are a natural person: the Customer, the directors and ultimate beneficial owner(s) of the Customer, the Customer's customers, employees and contractors, payers and payees. The Customer may share with Airwallex some of 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 clause 6;
  - (h) any other data that is necessary or relevant to carry out the Agreed Purposes.
- 16.6 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.
- 16.7 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 (and in any event within 24 hours) 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 (and in any event within 24 hours) if it becomes aware of a personal data breach that is directly relevant to the other Party.
- 16.8 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 a controller 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 Regulatory Bodies.

16.9 On termination of these terms, or once 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 in conjunction with all relevant retention periods under Applicable Law.

## 17. LIMITATION OF LIABILITY

17.1 This clause applies to you only if you are a Corporate Customer.

17.2 Nothing in these terms excludes or limits either Party's liability where it would be unlawful to do so or contrary to any other provision in these terms. This includes a Party's liability for:

- (a) death or personal injury resulting from its negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) all sums properly due and payable under these terms.

17.3 Direct Losses will be recoverable under these terms. However, save as otherwise stated in these terms, neither Party will be liable for any Indirect or Consequential Losses.

17.4 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 Services;
- (b) the non-execution, or defective execution, of a payment if any information you provide in your instructions is incorrect;
- (c) errors, mistakes, or non-performance arising from the payee/beneficiary bank if the payee/beneficiary bank fails to process the payment correctly.

In the case of (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.

17.5 Save as set out in clause 17.6, Airwallex's total aggregate liability to you for all Actions arising under these terms 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.

17.6 Airwallex's maximum liability for an FX Conversion, whether arising in contract, tort or otherwise, will in no circumstances exceed an amount equal to the currency sold by Airwallex under that FX Conversion.

17.7 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.

17.8 Each Party agrees to use reasonable endeavours to mitigate any loss in respect of which it is indemnified under these terms.

## 18. INDEMNITY

18.1 This clause applies to you only if you are a Corporate Customer.

18.2 **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 these terms, failure to comply with Applicable Law, or your use or misuse of our Services;
- (b) a third party alleging that our use of the Customer Data as permitted by these terms infringes any Intellectual Property Rights;

- (c) any of your Payments or FX Conversions, including us acting on any of your instructions which we reasonably believe to have been made by you or your Authorised User; or
- (d) the closure or cancellation of all or any part of an FX Conversion or Payment before its Settlement Date or Payment Date, including if we have to do so due to you failing to provide funds for the FX Conversion or Payment.

18.3 This clause 18.3 and clauses 18.4 and 18.5 apply in respect of the obligations in this clause 18, clause 14.6 and clause 23. If a Party becomes aware of any claim or proceeding which might lead to a claim under this clause 18, clause 14.6 or clause 23 (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 18.4, 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.

18.4 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.

18.5 If the other Party does not assume the defence of a Third Party Claim in accordance with clause 18.4 within 14 (fourteen) 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.

## 19. CANCELLATION

19.1 This clause applies to you only if you are a Consumer.

19.2 You may cancel these terms for any reason within 14 days beginning with the day after the day on which these terms are concluded. These terms will terminate at the time you give us notice of cancellation.

19.3 If you cancel these terms in accordance with this clause we will refund any sum paid by or behalf by you under these terms, less any charge for any services we have actually already provided to you prior to your cancellation.

19.4 If you wish to cancel these terms, you can do so by notifying us in writing by:

- (a) emailing us at: [support@airwallex.com](mailto:support@airwallex.com); or
- (b) sending mail to us at: 1 Long Lane, London SE1 4PG, United Kingdom.

## 20. TERMINATION AND SUSPENSION

20.1 **Stopping Services or closing your Wallet.** You can stop using any part of the Services, or close your Wallet and stop using all Services and terminate these terms at any time, by giving us thirty (30) days' prior written notice.

20.2 **Airwallex's rights to suspend or terminate.** We may terminate these terms at any time by giving you two months' prior written notice that we are closing your Wallet and ending the provision of the

Services. In addition, we may without notice immediately suspend or terminate all or any part of these terms or any of the 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 materially broken these terms or gone over any applicable limits or restrictions 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.

20.3 If you are a Corporate Customer, we may also without notice immediately suspend or terminate all or part of these terms or any of the Services, or block any transactions, if:

- (a) you notify us, or we suspect or identify, any suspected or actual unauthorised transactions;
- (b) you have been abusive to anyone at Airwallex;
- (c) we have reasonable concerns about the security, or unauthorised use, of the Airwallex Platform, your Wallet or the Global Account;
- (d) your Wallet has a negative balance and you haven't promptly repaid the amount owing to us;
- (e) one of our banking partners, or other service provider necessary for us to provide the Services, requires us to do so; or
- (f) you do not use your Wallet for 12 months and it becomes inactive. If you have electronic money in your Wallet, we will maintain your account for 6 years from the date your Wallet becomes inactive. You can contact us to withdraw the electronic money during this time. At the end of the 6 year period we will close your Wallet and donate any remaining unclaimed electronic money to a charity of our choice in accordance with Applicable Law.

20.4 If you are not a Corporate Customer, we will wherever possible give you at least two months' notice before we also without notice immediately suspend or terminate all or part of these terms or any of the Services, or block any transactions. Where there are exceptional circumstances, such as where you have given us false information or have otherwise acted dishonestly in your dealings with us or you use the Services illegally or fraudulently, or we are otherwise entitled to our required to do so under Applicable Law, we may immediately suspend or terminate all or part of these terms or any of the Services, or block any transactions.

20.5 We may also block any transaction if your instructions are unclear, incomplete or contain an error.

20.6 **We will give you notice of suspension where possible.** We will give you notice of any suspension and the reasons 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.

20.7 **Immediate termination.** Where you are a Corporate Customer, without affecting any other right or remedy available to it, either Party may terminate these terms 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 these terms, 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 these terms 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 these terms; 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 these terms for a period exceeding one (1) month.

20.8 On termination you will need to repay any money you owe us. In the circumstances set out in clauses 20.2, 20.3 or 20.6 we may charge you for any reasonable costs, expenses and losses we incur (including costs due to FX difference or any action we may take to cover or reduce the exposure).

20.9 **Withdraw your funds.** After you have repaid any money you owe us, if you still have funds in your Wallet at the time these terms or the 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 transfer any remaining funds to the UK bank account you last notified to us. If we are unable to do so, we will maintain your Wallet for 6 years from the date of closure and you can contact us to withdraw the electronic money during this time. At the end of the 6 year period we will donate any remaining electronic money to a charity of our choice in accordance with Applicable Law.

20.10 **Effect of termination.** On termination of these terms:

- (a) you will not be able to use the Airwallex Platform. All rights granted to you under these terms will cease;
- (b) you must immediately return or delete copies of any documentation, notes and other materials comprising or regarding the Airwallex Platform;
- (c) all of your payment obligations under these terms for 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 these terms, 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.

## 21. SERVICE PROVIDERS

21.1 You acknowledge and agree that:

- (a) we may work with third parties (including any other Group Company of Airwallex) to provide the Services;
- (b) if you are not a Consumer, and 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. If you are not a Consumer, you agree that you bear all risk and responsibility if you choose to rely on such information in contravention of this clause;
- (c) if you are a Consumer, and if you receive information from us provided by such third parties, you will not rely on such information and will not make any claims against us in relation to such information, unless we have expressly agreed that we are responsible for the accuracy of such information.

21.2 If we use a third party to provide the Services, you acknowledge that the Services are provided by Airwallex to you and not by the third party, unless any Additional Terms for the use of a Service or feature of a Service specifically provide otherwise in writing.

21.3 If we use a third party to provide the Services, we will ensure that the third party complies with Data Protection Legislation relating to the processing of personal data pursuant to clause 16 of these terms.

## 22. REPRESENTATIONS AND WARRANTIES

22.1 **Airwallex warranties.** We represent and warrant that:

- (a) we have the right, power and authority to enter into these terms and to perform all of our obligations under it;
- (b) the Services and the Airwallex Platform will be provided in accordance with generally accepted industry standards;
- (c) we have used, and will continue to use, reasonable commercial efforts to provide the Services.

**22.2 Disclaimer.** Except as expressly stated in these terms, 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 Airwallex Platform, the specific functions of the Airwallex Platform or its accuracy, reliability, availability or ability to meet your needs. We cannot guarantee that the Airwallex 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 Airwallex Platform. In such a case we will restore access as quickly as practicable. Nothing in this agreement excludes our liability for death or personal injury or any other liability that cannot be excluded by law caused by an act or omission by us.

This clause 22.2 does not apply to you if you are a Consumer.

**22.3 Customer warranties.** If you are not a Consumer, you represent and warrant to us that you:

- (a) will comply with these terms and all Applicable Law regarding your use of the Services, the Airwallex Platform and Customer Data;
- (b) have the right, power and authority to enter into these terms and to perform all of your obligations under it;
- (c) have the valid right to grant to us the rights as defined in these terms 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 6 of these terms;
- (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 Services and the Airwallex Platform only for lawful purposes;
- (g) are not a Consumer; and
- (h) if you are an individual, you are 18 years of age or older.

If you are a Consumer, you represent and warrant to us that you:

- (a) will comply with these terms and all Applicable Law regarding your use of the Services and the Airwallex Platform;
- (b) have the right, power and authority to enter into these terms and to perform all of your obligations under it;
- (c) have the valid right to grant to us the rights as defined in these terms without violating any Applicable Law or the proprietary rights of any third party;
- (d) will pay all sums to us free and clear of any claims, encumbrances or any other interest of any third person;
- (e) will use the Services and the Airwallex Platform only for lawful purposes; and
- (f) are 18 years of age or older.

**22.4 Customer conduct.** You are solely responsible for any use of the Wallet, Global Account, and other features of the Airwallex Platform, including the content of any data or transmissions you execute through the Platform yourself, or by any Authorised User you permit to access the Platform. You will use all reasonable endeavours to ensure that no unauthorised person will or could access the Wallet, Global Account or other features of the Airwallex Platform. You will not interfere with, disrupt, or cause any damage to other users of the Airwallex Platform or Services.

**22.5 You must not misuse the Airwallex Platform.** You cannot:

- (a) access the Airwallex Platform using a method other than the Airwallex APIs or Webapp, 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 Platform, such as a denial of service attack; and
- (c) cause viruses or other malicious code to interfere with the use of the Airwallex Platform.

### 23. ANTI-BRIBERY

23.1 Each Party will (and will ensure that any person it uses for the performance of its obligations under or in connection with these terms, 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 and the US Foreign Corrupt Practices Act ('**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.

23.2 If you are not a Consumer, each Party will indemnify the other Party against all liabilities, losses, and expenses which they have suffered as a result of a breach of this clause 23 by the Party.

### 24. MARKET DISRUPTION, ERRORS & FORCE MAJEURE

24.1 **Force majeure.** 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.

24.2 **Market Disruption.** If in our reasonable opinion a Market Disruption occurs after we have provided you with an FX Exchange Rate, in relation to all or certain currency pairs affected by the Market Disruption, until we reasonably determine the period of Market Disruption has ended we may revise any FX Exchange Rate, or any rate or margin component of any FX Exchange Rate, with immediate effect.

24.3 **Error.** If an FX Conversion is executed at an FX Exchange Rate that clearly and materially deviates from the market price, you must not rely on such obvious error. In such cases, we may declare that the FX Conversion is not binding: you will need to return to us any amounts made under the FX Conversion and we will reprocess such FX Conversion at the correct rate.

24.4 This clause 24 does not limit or otherwise affect your obligation to pay any fees or other charges or amounts due under these terms.

25. **GENERAL**

- 25.1 **Entire Agreement.** Unless you are a Consumer, these terms 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 these terms 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 these terms. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these terms.
- 25.2 **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 our 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 Financial Ombudsman Service. The eligibility criteria and the procedures involved are available from the Financial Ombudsman Service, Exchange Tower, London E14 9SR and on their website at: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk). Alternatively, you may be able to submit your complaint via the European Commission's Online Dispute Resolution platform, which can be found at <http://ec.europa.eu/consumers/odr/>.
- 25.3 **Notices.** All notices, demands and other communications provided for or permitted under these terms will be made in writing to the Parties at their registered addresses (or if you are a Consumer at the address you provided to us in accordance with clause 2.3 above) and will be sent by:
- (a) registered or certified first-class mail, return receipt requested;
  - (b) email (delivery receipt requested);
  - (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.
- 25.4 **Relationship.** Nothing in these terms 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.
- 25.5 **Assignment.** You will not assign these terms, in whole or in part, without our prior written consent. Any attempt to do so will be void and constitute a material breach of these terms. We may assign these terms, in whole or in part, or subcontract our obligations under it, without your consent. If you are a Consumer, we will ensure that such assignment does not prejudice your rights under these terms in any way.
- 25.6 **Waiver.** No failure or delay by a Party to exercise any right or remedy provided under these terms 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.
- 25.7 **Severability.** If any provision of these terms 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.
- 25.8 **Non-Solicitation.** Neither Party will (except with the prior written consent of the other Party) during the term of these terms and for a period of one (1) year after termination solicit the services of any staff of the other Party who have been engaged in the performance or management of the other Party's obligations under these terms other than by means of a public recruitment campaign not specifically targeted at any staff of the other Party.

- 25.9 **Third party rights.** These terms are made specifically between and for the benefit of the Parties and are not intended to be for the benefit of, and will not be enforceable by, any person who is not named at the date of these terms as a Party to them under the Contracts (Rights of Third Parties) Act 1999 or otherwise. Neither Party may declare itself a trustee of the rights under it for the benefit of any third party.
- 25.10 **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 these terms. 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 through a Global Account.
- 25.11 **Order of payments.** Unless you are a Consumer, we may determine the order of transactions we process with respect to your account, subject to any requirements at law. For example, if you have given us one or more payment instructions without a sufficient 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.
- 25.12 **Other languages.** These terms are made in the English language. They may be translated into other languages for convenience only and in such cases the English language version will apply.
- 25.13 **Governing law.** These terms will be governed by and construed in accordance with the laws of England and Wales. Unless you are a Consumer, each Party irrevocably submits to the exclusive jurisdiction of the English courts over any dispute, controversy or claim (including non-contractual claims) arising under or in connection with these terms. If you are a Consumer, any dispute about this agreement can be dealt with by an English or Welsh court unless your address is in Scotland (where it may be dealt with by the courts of Scotland) or Northern Ireland (where it may be dealt with by the courts of Northern Ireland).

## 26. DEFINITIONS & INTERPRETATION

- 26.1 In these terms, the following definitions apply:

**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 Cardholder** has the meaning given in the Issuing Terms.

**Additional Terms** means any additional terms of use applicable to the use of our Services found on our website [www.airwallex.com](http://www.airwallex.com) including, but not limited to, any specific terms applicable to the use of a Service in a particular region.

**Airwallex API** means the technical interface setting out the protocols and specifications required to effect an integration of the Customer's technical systems with the Airwallex Platform for Authorised Users to use the Services.

**Airwallex Platform** or **Platform** means the proprietary technology and associated products (including but not limited to those found on the Webapp and through an Airwallex API) devised by Airwallex to provide customers with Services including access to the Wallet and Global Account.

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

**API Documentation** means the documentation and guidelines applicable to the Airwallex APIs found on our website [www.airwallex.com](http://www.airwallex.com).

**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 these terms, as interpreted by taking into account any code of practice or guidance issued by any Regulatory Body with which reputable financial institutions in the United Kingdom are required or accustomed to comply.

**Base Currency** means Pounds sterling.

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

**Card** means the 'Visa Commercial Card' or similarly named payment instrument issued by Airwallex to you or any of your Additional Cardholders which can be used as a means of making Payment using the balance of your Wallet on the terms set out in these terms and the Card Supplement. The Card may be issued as a physical card or virtual card.

**Charity** means a body whose annual income is less than £1 million and is: (i) in England and Wales, a charity as defined by section 1(1) of the Charities Act 2011 (meaning of "charity"); (ii) in Scotland, a charity as defined by section 106 of the Charities and Trustee Investment (Scotland) Act 2005 (general interpretation); (iii) in Northern Ireland, a charity as defined by section 1(1) of the Charities Act (Northern Ireland) 2008 (meaning of "charity") or as defined in the PSRs from time to time.

**Collection Services** means the services provided by Airwallex to you under these terms relating to the collection of funds in a Supported Currency via a Global Account.

**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 these terms. 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 these terms by the disclosing party; (d) available in the public domain other than by breach of these terms; or (e) independently developed without access to any Confidential Information disclosed by the disclosing party.

**Confirmation** means Airwallex's response and confirmation to your instructions to us for an FX Conversion, a Payment, or both.

**Consumer** means an individual who, in contracts for payment services to which the PSRs apply, is acting for purposes other than a trade, business or profession.

**Customer Margin** means the amount specified as such in the Airwallex Platform that applies to you, or any other percentage or amount that we may notify you in writing from time to time.

**Data Protection Legislation** means applicable privacy and data protection laws including the General Data Protection Regulation (EU) 2016/679) and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of personal data and the privacy of electronic communications, as amended, replaced or updated from time to time, including the Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426). The terms personal data, data subject, controller, processor, process and processing will have the meaning set out in the Data Protection Legislation.

**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 these terms; or (ii) at the time of the breach, were reasonably probable to result from the breach. For the avoidance of doubt, the following will not be Direct Losses: loss of goodwill, business, profit, operation time, reputation or 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.

**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.

**Forward Contract** means any one or more FX Conversions performed in connection with a Payment, which is physically settled.

**FX Base Rate** means the currency exchange base rate we have specified for an FX Conversion and Settlement Date having regard to the Customer Margin, costs provided by our foreign exchange rate service providers, the interbank exchange rates and relevant market conditions.

**FX Conversion** refers to an Agreement between the Parties in which one currency is sold or bought against another currency at an agreed exchange rate through the Airwallex Platform.

**FX Conversion Services** means the services provided by Airwallex under these terms relating to FX Conversion.

**FX Exchange Rate** means the FX Base Rate plus any other margin that may be applicable to you, including the Customer Margin.

**Global Account** means the collection account created by Airwallex for your use to receive funds in the Supported Currency for the location in which the Global Account is created.

**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 a 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 trademarks 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.

**Issuing Terms** means the terms and conditions for Airwallex's Service relating to issuance of Cards.

**Market Disruption** means any action, event or circumstance which, as determined by Airwallex in its sole and absolute discretion: (i) has the direct or indirect effect of hindering, limiting or restricting the ability of Airwallex or its Group Companies to obtain a firm quote of an offer price, convert any currency into any other currency, or to transfer any sum to any other country or within the same country; (ii) results in any purchase currency not being available in the interbank foreign exchange market in accordance with normal commercial practice; or (iii) constitutes unusual price volatility in the foreign exchange markets.

**Micro-enterprise** means an enterprise (i.e. any person engaged in an economic activity, irrespective of legal form) which employs fewer than 10 persons (full time or equivalent) and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million or the sterling equivalent or as defined in the PSRs from time to time.

**Payment** means a payment to be made by the Customer to a payee through the Airwallex 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).

**Payment Services** means the services provided by Airwallex to you under these terms relating to the payment of funds in a Supported Currency to a payee via the Wallet.

**PSRs** means the Payment Services Regulations 2017, as amended from time to time.

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

**Services** means the services offered by Airwallex to the Customer under these terms, including Collection Services, FX Conversion Services and Payment Services provided through the Airwallex Platform.

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

**Settlement Cut-Off** means the time and date where payment of any monies in cleared funds under these terms is due to Airwallex.

**Settlement Date** means the date that bought funds in an FX Conversion or Payment are available to the Customer in cleared funds. Settlement Date for any currency pair the Parties elect to transact in must be a Business Day in both countries (i.e. the countries where the Parties are located to transact business).

**Supported Currency** means, in respect of each feature of a Service, each currency approved by Airwallex from time to time that can be collected, exchanged and/or paid out using that feature through the Airwallex Platform.

**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 Airwallex Platform on your behalf.

**Webapp** means the user interface that the Customer and its Authorised Users may use to access the Airwallex Platform and the Services.

26.2 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.

26.3 References to the Parties will include any successors, permitted assignees or transferees where permitted by these terms. 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.