

MARKETPLACE SCALE TERMS¹

1. INTRODUCTION

- 1.1 These terms (“**Scale Terms**”) are between you and Airwallex (Hong Kong) Limited (“**us**”/“**we**”), together the “**Parties**”.
- 1.2 These Scale Terms set out the terms governing the relationship between the Parties in relation to our performance of the Scale Activities.
- 1.3 Marketplace Users have entered into a separate agreement with us directly in relation to the performance of Scale Activities. We will perform Scale Activities to facilitate payments, where a payment is made by a buyer on the Marketplace to a Marketplace User, by receiving funds from an Acquirer and crediting such funds to the Global Account of a Marketplace User on the terms of these Scale Terms and our agreements with Marketplace Users.
- 1.4 These Scale Terms are supplemental to, form part of, and must be read together with, the Master Services Agreement and the Payout and FX Terms.
- 1.5 Capitalised terms in these Scale Terms are as defined in the Payout and FX Terms or in these Scale Terms.
- 1.6 You can see the most current version of these Scale Terms and the Payout and FX Terms on our website www.airwallex.com. You can also download a copy of these Scale Terms and keep it for future reference or ask us for a copy at any time.
- 1.7 To the extent there is a conflict between the Payout and FX Terms and these Scale Terms, these Scale Terms will prevail.

2. TERM

These Scale Terms shall be in effect from the Commencement Date until these Scale Terms or the Payout and FX Terms are terminated in accordance with the Payout and FX Terms (“**Term**”).

3. SCALE ACTIVITIES

- 3.1 We shall perform the Scale Activities for the Term. Performance of Scale Activities shall involve:
 - a) receipt of funds by us from Acquirers into the Virtual Account; and
 - b) the crediting of such funds into the Global Account of Marketplace Users and/or you in accordance with the Settlement Data.
- 3.2 Scale Activities insofar as they are services we provide to you, form part of the Services set out in the Payout and FX Terms.

¹ December 2019 version

- 3.3 By using the Services you confirm that you accept and agree to these Scale Terms together with the Payout and FX Terms (and the additional documents referred to in the Payout and FX Terms).
- 3.4 We shall not be obliged to perform Scale Activities in respect of funds received relating to any Merchant which is not a Marketplace User.
- 3.5 Except as expressly stated in these Scale Terms, we will perform the Scale Activities on an “as is” “as available” basis without any 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), which are excluded to the fullest extent permitted by law.

4 UNDERTAKINGS

- 4.1 You agree to undertake the following:
- a) You will take all necessary steps to ensure that Acquirers pay any funds, which we will be required to allocate into the relevant Global Account as part of the Scale Activities, to the Virtual Account. We shall not be liable to provide Scale Activities in respect of funds which we do not receive from Acquirers;
 - b) You will provide us with Settlement Data prior to us receiving any corresponding funds from Acquirers, unless agreed otherwise with you from time to time. We shall not be required to allocate any funds until we receive such Settlement Data;
 - c) You shall only provide us with Settlement Data that is complete and accurate, such that it specifies (in such format and with such content as we may reasonably specify) how all funds that we receive or are to receive from an Acquirer are to be allocated. We will not be required to credit funds to Global Accounts where such requirement is not met;
 - d) You shall provide us with Settlement Data through the Platform via the Webapp or Airwallex APIs or, if agreed with us in writing, manually via a representative of Airwallex;
 - e) You shall not agree anything with Merchants that would conflict with or cause you to be in breach of these Scale Terms or the Payout and FX Terms;
 - f) You will obtain written authorisation from each Marketplace User to instruct us on their behalf in relation to our performance of Scale Activities with respect to the Marketplace User, including in relation to the Marketplace Fees as provided in Clause 7 of these Scale Terms;
 - g) You will promptly notify us if you know or suspect a Marketplace User is in breach of Applicable Law and provide reasonable cooperation with us in this regard;
 - h) You undertake to immediately inform us of any material breach by you of or inability to comply with Applicable Law, these Scale Terms or the Payout and FX Terms.
- 4.2 If you fail to provide us with Settlement Data in accordance with Clause 4.1, you must immediately and in any event no later than 1 Business Day rectify such failure from the date and time of its occurrence and you shall ensure full cooperation with us in this regard.

- 4.3 You must refer all Merchants selling through your Marketplace to enter into a master services agreement with us incorporating the Payout and FX Terms and the Merchant Scale Terms. We shall not be liable to perform Scale Activities in respect of any funds that we receive that relate to a Merchant that is not a Marketplace User. We shall not be obliged to enter into a master services agreement with any given Merchant, if to do so would be inconsistent with our policies, processes or Applicable Law. We shall inform you where we do not agree to enter into a master services agreement with a particular Merchant, unless prohibited from telling you under Applicable Law.
- 4.4 You shall promptly provide us with all information that we may reasonably require from you from time to time so that we can perform Scale Activities and comply with our obligations under Applicable Law as they relate to the Scale Activities.

5 REPRESENTATIONS AND WARRANTIES

In addition to the representations and warranties in the Payout and FX Terms, you represent and warrant to us that you:

- a) have the right, power and authority, including under Applicable Law, to enter into these Scale Terms and to perform all of your obligations under it; and
- b) will provide us with accurate, up-to-date and complete information at all times, particularly in relation to any Settlement Data.

6 SHARING OF DATA

- 6.1 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 Scale Terms. Each Party agrees to comply with its respective obligations under applicable Data Protection Legislation.
- 6.2 You acknowledge and agree that any sharing between you and us of Customer Data, including personal data, both of yourself and of Marketplace Users will be undertaken in accordance with the Payout and FX Terms and our privacy policy.
- 6.3 You warrant that you have the legal right to disclose all personal data that you do in fact disclose to us under or in connection with these Scale Terms. You acknowledge and agree that in the event we process any personal data on your behalf, you, if required by applicable Data Protection Legislation, will inform the applicable third parties of any such processing and serving of personal data by us and will ensure that such third parties have given any required consents.
- 6.4 For the purposes of these Scale Terms, the 'Agreed Purposes' for us to collect, use, store or otherwise process such personal data are for us to:
- a) provide Services to you and Marketplace Users and manage our relationship with you and Marketplace Users;
 - b) to enable us to comply with all Applicable Law, including conducting anti-money laundering, financial crime and other screening checks; and

- c) to enable us to comply with these Scale Terms, the Payout and FX Terms, the Merchant MSA and our Privacy Policy.

6.5 You must provide clear and prominent information about:

- a) the Marketplace Services and any Marketplace Fees in your Marketplace Agreement, and include a prominent link to your privacy policy; and
- b) which personal data of the Marketplace User you will have access to, and how you will use, display or transfer such personal data, in your privacy policy.

6.6 Your Marketplace Agreement must also give you clear authorisation from each Marketplace User to:

- a) perform the Marketplace Services; and
- b) provide Settlement Data for the allocation by us of funds received from Acquirers to the Global Accounts of Marketplace Users in accordance with such Settlement Data.

6.7 You must promptly notify us in writing if your authorisation set out in Clause 6.6 is withdrawn or amended.

6.8 You will not attempt to provide us with Settlement Data in respect of a Marketplace User that has not expressly authorised you to do so, or after such authorisation has been withdrawn. We will cease to perform Scale Activities in respect of a Marketplace User which has withdrawn your authorisation.

7 SCALE FEES AND MARKETPLACE FEES

7.1 Subject to the provisions of this Clause 7, where you provide us with an instruction to make Payment for amounts owed by a Marketplace User (including Marketplace Fees), we shall follow your instructions and transfer the funds to your Global Account.

7.2 **Marketplace Fees.** You are responsible for clearly communicating the Marketplace Fees to Marketplace Users before they use the Marketplace Services. We are not responsible for and have no control over any Marketplace Fees that you may charge the Marketplace User for the Marketplace Services.

7.3 **Authorisation to make Payment instructions for Marketplace Fees etc.** You warrant and undertake that:

- a) you have and throughout the Term shall have the authority of the Marketplace User to (on their behalf) instruct us to make Payment for any amounts owed by the Marketplace User from time to time (including Marketplace Fees and other amounts) to your Global Account; and
- b) you shall only instruct us to make such Payments if you have the Marketplace User's authority to do so.

- 7.4 If the Marketplace User has not transferred sufficient funds to the Intermediary Account for Payment or does not have enough funds in their Global Account to set-off such amount, we will not be able to make the deduction until we have received additional sufficient funds from the Marketplace User in the Intermediary Account (or received additional sufficient funds in the Marketplace User's Global Account).

8 DISPUTES WITH MARKETPLACE USER OR ACQUIRER AND RELATED LIABILITY

- 8.1 In the event of any complaint or dispute between you and a Merchant, you must settle the dispute directly with the Merchant in accordance with your Marketplace Agreement. Such disputes cannot be dealt with under these Scale Terms.
- 8.2 We are not liable for you, the Marketplace Services, Acquirer or any Merchant. You acknowledge and agree that you are solely responsible for the Marketplace Services. We are not responsible for and do not guarantee the performance of the Marketplace Services. We are not responsible for the acts or omissions of you, Acquirers or Merchants (including, without limitation, any sums owed between any of such parties), and we will not be liable for any loss caused by you, an Acquirer or a Merchant. We are also not responsible for any payment that you may need to make to a Merchant.
- 8.3 We are not liable for any Merchant's goods or services. You acknowledge and agree that all Merchants are solely responsible for, and we have no responsibility or liability for:
- a) any goods or services that a Merchant sells through the Marketplace;
 - b) any obligations that a Merchant owes to you, or your Marketplace's users; or
 - c) your or a Merchant's compliance with Applicable Law.

9 INDEMNITY

In addition to the indemnities set out in the Payout and FX Terms, you will indemnify us and keep us indemnified on demand (and Clause 18 of the Payout and FX Terms will apply) against all losses, damages, costs (including legal fees) and expenses incurred or suffered by us in connection with or as a result of:

- a) you giving us instructions (on behalf of a Marketplace User) to make Payment without their authority;
- b) your breach of these Scale Terms, failure to comply with Applicable Law, or your use or misuse of our Scale Activities;
- c) any loss related to:
 - (i) any chargebacks, refunds, fines, reversals of a transaction, or deduction of fees;
 - (ii) us acting on any Settlement Data;
 - (iii) your breach of your obligations to a Marketplace User, an Acquirer or your customers or users, or the Marketplace Agreement; or
 - (iv) any disputes between you and Marketplace Users.

10 TERMINATION AND SUSPENSION

- 10.1 The Parties can terminate these Scale Terms in accordance with the Payout and FX Terms.
- 10.2 The termination of these Scale Terms will not terminate the Payout and FX Terms. The Payout and FX Terms can only be terminated in accordance with its terms. However, the termination of the Payout and FX Terms will automatically terminate these Scale Terms.
- 10.3 **Termination of Marketplace Services and access to Scale Activities.** If you no longer wish to offer the Marketplace Services to a Marketplace User you must terminate your Marketplace Agreement in accordance with its terms and immediately and in any event within 1 Business Day notify us in writing that you have done so. You acknowledge and agree that we will continue to make Payment for all outstanding Marketplace Fees as instructed by you for the Marketplace User's use of the Marketplace Services up until the date of termination of your agreement with the Marketplace User, including any Marketplace Fees that become due and payable after termination, but relate to the Marketplace User's use of the Marketplace Services before termination.
- 10.4 **Termination of agreement with Marketplace User.** We reserve the right to without notice immediately suspend or terminate all or any part of our agreement with a Marketplace User, or any of the Services, in accordance with the Payout and FX Terms we have in place with the Merchant.

11 DEFINITIONS & INTERPRETATION

- 11.1 In these Scale Terms, the following definitions apply.

Acquirers means payment services providers who provide acquiring services under arrangements with you.

Commencement Date means the date referred to in the Master Services Agreement.

Marketplace means an online marketplace or other e-commerce platform operated by you, through which you enable Merchants to sell their products.

Marketplace Agreement means your separate agreement(s) with a Merchant for the provision of the Marketplace Services.

Marketplace Fees means the fees that are payable by the Marketplace User to you under your Marketplace Agreement.

Marketplace Services means the products and services you provide to the Merchant under the Marketplace Agreement, including to enable the Merchant to receive payment for goods or services they have sold through your Marketplace.

Marketplace User means any Merchant who has an agreement with you to sell products through your Marketplace and who has entered into a master services agreement with us incorporating the Payout and FX Terms and the Merchant Scale Terms, which are in all cases currently in force.

Master Services Agreement means the agreement entitled “Master Service Agreement” entered into between you and us.

Merchant means seller of goods, services, content or other products.

Merchant MSA means the master service agreement incorporating the Payout and FX Terms and Merchant Scale Terms that we have entered into with Marketplace User.

Scale Activities means payment services provided by us as set out in Clause 3.1, in accordance with these Scale Terms.

Settlement Data means a data file which contains all information necessary, including such type of information as we may inform you from time to time, to allow us to allocate any funds that we receive from Acquirers to your Global Account and the Global Accounts of Marketplace Users.

Virtual Account means a bank account in the name of Airwallex (Hong Kong) Limited or an affiliate, which shall be used to receive funds from Acquirers, the details of which we will provide to you from time to time.