

## SCALE LITE USER TERMS

Last updated: 23 Nov. 2021

### 1 INTRODUCTION

- 1.1 These terms ("**Scale User Terms**") are between you ("**Customer**"/"**you**") and Airwallex ("**us**"/"**we**"/"**Airwallex**") together the "**Parties**".
- 1.2 These Scale User Terms govern our performance of the Scale Activities and your related use of our Services.
- 1.3 These Scale User Terms are supplemental to, form part of, and must be read together with, the Payout & FX Terms, Online Payment Terms and other Airwallex terms that you have agreed to (together with these Scale User Terms, the "**Customer Agreement**").
- 1.4 The Platform has entered into the Scale Platform Agreement with Airwallex (Hong Kong) Limited ("**Airwallex HK**") in relation to the Scale Activities.
- 1.5 You have entered into a separate agreement with the Platform for certain services ("**the Platform Agreement**").
- 1.6 Capitalised terms shall have the same meaning as defined in the Payout & FX Terms, or as otherwise defined in clause 10 below.
- 1.7 To the extent there is a conflict between the Payout & FX Terms and these Scale User Terms, the Scale User Terms will prevail.

### 2 TERM

These Scale User Terms will be in full force from the Commencement Date until they are cancelled or otherwise terminated in accordance with clause 9 below ("**Scale Term**").

### 3 SCALE ACTIVITIES

- 3.1 The Scale Activities consist of us providing you with Services which will:
  - (a) allow the Platform and Airwallex to exchange information about you and your Airwallex accounts in connection with your application for and our provisions of Services;
  - (b) allow Airwallex to accept instructions from the Platform in relation to your Airwallex accounts, including but not limited to deduction of Platform Fees from your Airwallex accounts;
  - (c) allow Airwallex to share account information, including transaction data of your Airwallex accounts, with the Platform; and
  - (d) allow the Platform to operate and control your Airwallex accounts in accordance with your agreement with the Platform.
- 3.2 We shall perform our Scale Activities for the Scale Term. You acknowledge and agree that we shall perform our Scale Activities for all of your Airwallex accounts regardless of when and for what purpose such account is created; provided, however, you may exclude one or more of your Airwallex accounts from our Scale Activities by giving us five business days written notice.
- 3.3 Scale Activities, insofar as they are services provided to you, form part of the Services set out in the Customer Agreement.
- 3.4 By using the Services, you confirm that you accept and agree to these Scale User Terms together with the Payout & FX Terms.

3.5 Except as expressly stated in these Scale User 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 content or data in connection with the Scale Activities, the specific functions of the Scale Activities or their accuracy, reliability, availability or ability to meet your needs. We cannot guarantee that the Scale Activities 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 Scale Activities. In such a case we will restore access as quickly as practicable.

#### 4 CUSTOMER UNDERTAKINGS

4.1 You undertake to promptly provide us with any and 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 (including, without limitation, customer due diligence information). For the avoidance of doubt, you agree and acknowledge that we may cease to provide Scale Activities immediately if you fail to provide us with the information that we request from you under these Scale Merchant Terms.

4.2 The Platform Provider may refer you to us so that you can apply to use the Scale User Services. The Platform Provider may do so by providing you with a link to our website. The Platform Provider may also provide you with a code or unique identifier. You agree to follow any instructions of the Platform Provider in relation to the use of any link, code or unique identifier provided to you by the Platform Provider and if you do not do so, we may not be able to perform the Scale Activities.

4.3 You undertake to immediately inform us of any material breach by you of or inability to comply with Applicable Law, these Scale User Terms or the Customer Agreement.

4.4 Your Platform Agreement may provide the Platform Provider with a right to view information in relation to your Airwallex accounts or do other things concerning your Scale Merchant Services. Where this is provided for in the Platform Agreement, you agree that the Platform Provider will be appointed as an Authorised User pursuant to the Payout & FX Terms with the authority to view information concerning your Airwallex accounts and do such things on your behalf as is set out in the Platform Agreement, for example, deduct Platform Fees from your Airwallex accounts where you have authorized the Platform to do so.

4.5 You agree that one or more Scale User Services may be provided by Airwallex affiliates or their respective sponsors or partners ("**Third-Party Service Providers**"), and may therefore be required to enter into one or more agreements with such parties.

4.6 You covenant and agree that:

- (a) Airwallex shall be entitled to rely on any documents, agreements and instruments executed or delivered by, or any consents given or actions taken by, the Platform Provider, in its capacity as an authorized agent for and on behalf of you, as having been executed and delivered on behalf of, or given or taken on behalf of, you;
- (b) Airwallex, at its discretion, may make any payments owed by Airwallex to you pursuant to the Customer Agreement to the Platform Provider, which shall accept same on behalf of you;
- (c) any such payment or delivery to the Platform Provider pursuant to subsection (b) above shall satisfy Airwallex's obligation to make such payment or delivery to you under the Customer Agreement.

#### 5 REPRESENTATIONS AND WARRANTIES

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

- (d) have the right, power and authority, including under Applicable Law, to enter into these Scale User Terms and to perform all of your obligations under it; and
- (e) will provide us with accurate, up-to-date and complete information at all times.

## **6 SHARING OF DATA**

- 6.1 You acknowledge and agree that Airwallex and the Platform Provider may share your Customer Data, including your personal information and transaction data, between and among themselves, and with applicable Third-Party Service Providers pursuant to the Scale Platform Agreement or other relevant agreements. When we receive any of your Customer Data from the Platform Provider we will use it in accordance with the Payout & FX Terms, the Customer Agreement and our privacy policy.
- 6.2 For the purposes of these Scale User Terms, the 'Agreed Purposes' for us to collect, hold, use or disclose such personal information under these Scale User Terms are to:
  - (a) provide Scale Activities to you and manage our relationship with you;
  - (b) enable us to comply with all Applicable Law, including conducting anti-money laundering, financial crime and other screening checks;
  - (c) enable us to share your Customer Data with Airwallex Group Companies, applicable Third-Party Service Providers, and the Platform as necessary for us to provide the Scale Activities; and
  - (d) enable us to comply with these Scale User Terms, the Customer Agreement and our Privacy Policy.

## **7 DISPUTES WITH PLATFORM PROVIDER AND PAYMENT PROCESSOR AND RELATED LIABILITY**

- 7.1 You acknowledge that we have no control over or responsibility for the actions or failures of the Payment Processor and Platform Provider. This means, for example, that we are not liable if the Platform Provider fails to direct us to transfer funds to you in accordance with the Platform Agreement or fails to do so on time.
- 7.2 In the event of any complaint or dispute between you and the Platform Provider, you must settle the dispute directly with the Platform Provider in accordance with your Platform Agreement. Such disputes cannot be dealt with under these Scale User Terms.
- 7.3 We are not liable for the Platform Services or any services provided by related Payment Processors. The Platform Provider is solely responsible for the Platform Services. We are not responsible for and do not guarantee the performance of the Platform Services or any transaction you enter into with your customers. We are not responsible for the acts or omissions of the Platform Provider or Payment Processors and we will not be liable for any loss caused by a Platform Provider or Payment Processor. We are also not responsible for any payment that may be due to you for the sale of your goods or services through the Platform Provider.
- 7.4 We are not liable for your goods or services. You are solely responsible for, and we have no responsibility or liability for:
  - (a) any goods or services that you sell through the Platform Provider;
  - (b) any obligations that you owe to the Platform Provider, or your customers or users; or
  - (c) your compliance with Applicable Law.

## **8 INDEMNITY**

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

- (a) any transaction you enter into with your customers;
- (b) us acting on any of your instructions which we reasonably believe to have been given by you or by the Platform Provider acting with your authority;
- (c) your breach of your obligations to the Platform Provider, or your customers or users; or
- (d) your breach of Applicable Law;
- (e) your breach of these Scale User Terms;
- (f) your use or misuse of our Scale Activities;
- (g) any chargebacks, refunds, fines, reversals of a transaction, or deduction of fees; or
- (h) any disputes between you and Platform Provider.

## 9 TERMINATION AND SUSPENSION

- 9.1 **Termination by Either Party.** The Parties can terminate these Scale User Terms in accordance with the Payout & FX Terms. The termination of these Scale User Terms will not terminate the Payout & FX Terms. The Payout & FX Terms can only be terminated in accordance with their respective terms. However, the termination of the Payout & FX Terms will automatically terminate these Scale User Terms.
- 9.2 **Termination of Scale Platform Agreement.** We reserve the right to without notice immediately suspend or terminate these Scale User Terms immediately in the event the Scale Platform Agreement is terminated or suspended.
- 9.3 **Termination of Platform Agreement.** We acknowledge that a Platform Agreement may be terminated by you or the Platform Provider pursuant to its terms. In the event you issue or receive a notice to terminate the Platform Agreement, you must immediately notify us in writing of the effective date of that termination. You agree that we have no liability or responsibility for deductions made pursuant to clause 3 of these Scale User Terms that may occur after the termination of the Platform Agreement, but before you've informed us of that termination.
- 9.4 You agree and consent to us informing the Platform Provider in the event that we issue or receive a notice of termination under clause 9.1 or 9.2.
- 9.5 The termination of these Scale User Terms will not terminate or impact the Customer Agreement, or any other Services provided by us to you. However, the termination of the Payout and FX Terms will automatically terminate these Scale User Terms.
- 9.6 Upon termination of the Scale User Terms under clause 9.1, 9.2 or 9.3, we confirm that:
- (a) we will cease to provide access to or share your Customer Data with the Platform Provider; and
  - (b) any authorisation provided by you for deductions pursuant to clause 3 shall be deemed to have been revoked and we will cease to accept instructions for such deductions from the Platform Provider.

## 10 DEFINITIONS & INTERPRETATION

In these Scale User Terms, the following definitions apply.

**Commencement Date** means the date that we notify you we will commence providing the Scale Activities to you.

**Payment Processors** means any payment services providers who provide acquiring services under arrangements with the Platform Provider.

**Platform** means an online marketplace or other platform through which you are able to sell your goods, services, content or other products.

**Platform Agreement** means the separate agreement(s) you have entered into with the Platform Provider for the provision of the Platform Services.

**Platform Fees** means the fees that are payable by you to the Platform Provider under the Platform Agreement.

**Platform Provider** means the person that operates the Platform.

**Platform Services** means the products and services the Platform Provider provides to you, including to enable you to receive payment for goods or services you sell through the Platform.

**Scale Activities** means services provided by us to allow you to connect with a Platform in accordance with these Scale User Terms.

**Scale Platform Agreement** means our agreement with the Platform Provider pursuant to which we have agreed to perform the Scale Activities in relation to you and the Platform Provider.

**Scale User Services** mean the services we provide to you in accordance with the Payout & FX Terms and Customer Agreement.