

HIMALAYA PAY TERMS OF USE

Effective Date: 14th June 2021

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THIS IS AN IMPORTANT DOCUMENT

PLEASE READ IT CAREFULLY

These terms of use, which include the Compliance Policies (as defined below) and any other terms and conditions incorporated by reference (together, the "**Terms**") constitute the terms and conditions for the provision and use of the Himalaya Pay application ("**Himalaya Pay**") and the services including mobile applications, websites, software, hardware and other products and services (the "**Services**") whether such Services are offered by us or any of our affiliates.

IMPORTANT NOTICE

DOWNLOADING, ACCESSING OR USING HIMALAYA PAY AND SERVICES MAY BE RESTRICTED BY LAW IN CERTAIN JURISDICTIONS AND USERS ACTIVITIES MAY BE SUBJECT TO LEGAL INVESTMENT LAWS AND REGULATIONS OR REVIEW OR REGULATION BY CERTAIN AUTHORITIES. IN PARTICULAR, NONE OF THE HIMALAYA PAY APPLICATION OR SERVICES MAY BE ACCESSED OR USED WITHIN HONG KONG, CANADA, JAPAN OR WITHIN THE UNITED STATES OR TO OR FOR THE ACCOUNT OR BENEFIT OF ANY U.S. PERSONS AS SUCH TERMS ARE DEFINED IN REGULATION S UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED OR BY ANY U.S. CITIZENS (AS DEFINED IN 8 U.S.C. SUBCHAPTER III) OR ANY U.S. PERSONS (AS DEFINED IN 17 C.F.R S230.902(K)). PRIOR TO DOWNLOADING, ACCESSING OR USING HIMALAYA PAY OR THE SERVICES YOU MUST INFORM YOURSELF OF AND OBSERVE ANY RESTRICTIONS APPLICABLE TO YOU. A FAILURE TO COMPLY WITH APPLICABLE RESTRICTIONS MAY CONSTITUTE A VIOLATION BY YOU OF THE LAWS AND REGULATIONS IN YOUR JURISDICTION.

MARKETING OR SALE OF CRYPTOCURRENCY (OR ANY PRODUCT AKIN TO IT) IS EXPRESSLY PROHIBITED IN THE PEOPLE'S REPUBLIC OF CHINA (EXCLUDING HONG KONG, MACAU AND TAIWAN) ("**PRC**"). THEREFORE, NONE OF THE HIMALAYA COINS, THE HIMALAYA DOLLARS OR ANY CREDITS IN RESPECT OF THEM MAY BE OFFERED, SOLD OR DELIVERED, OR OFFERED OR SOLD OR DELIVERED TO ANY PERSON FOR RE-OFFERING OR RESALE OR REDELIVERY, IN ANY SUCH CASE DIRECTLY OR INDIRECTLY, IN THE PRC IN CONTRAVENTION OF ANY APPLICABLE PRC LAWS. YOU REPRESENT, ACKNOWLEDGE AND AGREE THAT (I) YOU ARE NOT DOMICILED OR LOCATED IN THE PRC WHEN DOWNLOADING, ACCESSING OR USING HIMALAYA PAY OR THE SERVICES; (II) DOWNLOADING, ACCESSING OR USING HIMALAYA PAY OR THE SERVICES MUST NOT BE CONDUCTED WITHIN THE PRC; AND (III) NEITHER THESE TERMS OF USE OR ANY OTHER RELATED MARKETING MATERIALS MAY BE COPIED OR REDISTRIBUTED WITHIN THE PRC FOR ANY OTHER PURPOSE.

PRIOR TO ACCESSING, PURCHASING OR USING THE HIMALAYA PRODUCTS OR SERVICES, PROSPECTIVE USERS OR MEMBERS LOCATED IN THE REPUBLIC OF ITALY ARE REQUIRED TO REVIEW AND ACCEPT THE CONDITIONS CONTAINED IN TERM 23.4 (JURISDICTION CONDITIONS – ITALY) FOR THE PURPOSES OF SECTION 1341 AND SECTION 1342 OF THE ITALIAN CIVIL CODE.

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1. PRELIMINARY PROVISIONS

1.1 Terms

- (a) Himalaya Pay is a mobile application designed to facilitate the purchase of goods and services from Vendors using Himalaya Dollar Credits and Himalaya Coin Credits (as such terms are defined below) and to enable users to make peer-to-peer transfers of Himalaya Dollar Credits and Himalaya Coin Credits to other Himalaya Pay users. Himalaya Pay is operated and provided by either Himalaya International Clearing Limited, a limited liability company incorporated in the British Virgin Islands or, in certain jurisdictions, a Himalaya Pay Affiliate Provider (as defined below). Where Himalaya Pay is operated and provided by a Himalaya Pay Affiliate Provider and not by Himalaya International Clearing Limited, you will be notified of the relevant Himalaya Pay Affiliate Provider on or prior to you activating Himalaya Pay.
- (b) References in these Terms to "we", "us" or "our" are to Himalaya International Clearing Limited or the Himalaya Pay Affiliate Provider who operates and provides Himalaya Pay to you in your jurisdiction.
- (c) References in these Terms to "you" or "your" are to the person with whom we enter into an agreement pursuant to these Terms.
- (d) These Terms constitute a contract between you and us (the "**Agreement**").
- (e) Himalaya Pay and the Services are made available to you on the condition that you read and accept the Terms (as amended from time to time). You must not download, and are not permitted to install, use, display or activate Himalaya Pay if you do not agree to be bound by these Terms. If you do not agree to or accept all of these Terms (as may be amended from time to time), please immediately discontinue access to, and use of, Himalaya Pay and the Services. These Terms apply to all users of Himalaya Pay and the Services. By activating, signing up to use or downloading, installing or otherwise using Himalaya Pay and the Services you agree that you have read, understood, and accept all of these Terms, as well as our Privacy Policy, which can be accessed at the following website: <https://himalaya.exchange>, and Cookie Policy, which can be accessed at the following website: <https://himalaya.exchange>.
- (f) In order to provide the Services, Himalaya Pay is or from the applicable Service Commencement Date (as defined below), will be integrated or linked with the systems, products and services provided by certain other entities affiliated with us ("**Affiliate Providers**" and includes any additional entities which may become Affiliate Providers from time to time). Certain features of Himalaya Pay rely on us sharing, sending, accessing and/or receiving transaction information, instructions and other information from and/or with the Affiliate Providers whose products and services you use. Except for Himalaya International Clearing Limited in its capacity as owner and operator of the Himalaya Exchange and the Himalaya Exchange Application, such Affiliate Providers are entities affiliated with us but are not under our control. The current Affiliate Providers are:
 - (i) **Himalaya Exchange**: Himalaya International Clearing Limited in its capacity as the owner and operator of the Himalaya Exchange, a crypto asset exchange in the British Virgin Islands (the "**Himalaya Exchange**") and of the Himalaya Exchange Application, a mobile application for accessing the Himalaya Exchange (the "**Himalaya Exchange Application**") and is the provider of the products and services related to the Himalaya Exchange and the Himalaya Exchange Application.
 - (ii) **Himalaya Dollar**: Himalaya International Reserves Limited is the issuer of the U.S. dollar stablecoin branded as the "Himalaya Dollar" or "HDO" (the "**Himalaya Dollar**" or "**HDO**").
 - (iii) **Himalaya Coin**: Himalaya International Financial Group Limited is the issuer of the coin branded as the "Himalaya Coin" or "HCN" (the "**Himalaya Coin**" or "**HCN**").

You acknowledge that in order to access or use the products and services of Affiliate Providers in addition to accessing or using certain functionalities of the Himalaya Pay and the Services which are reliant on the products and services of Affiliate Providers, you will first need to review and accept the terms of use in respect of the relevant Affiliate Providers products and services, including any additional rules and regulations governing the use of their products and services (and as subsequently amended from time to time) all of which will be made available on the website of the Himalaya Exchange at <https://himalaya.exchange> on or prior to the applicable Service Commencement Date (as defined below) (the "**Affiliate Terms**"). In addition, you will need to acknowledge that you have read and understood their applicable privacy policy which will also be made available on the website of the Himalaya Exchange at <https://himalaya.exchange> (and as subsequently amended from time to time) and any other third party terms subsequently accepted by you while using the Himalaya Pay and the Services. Any breach by you of the Affiliate Terms which are accepted by you shall, without limiting any other remedy available to the Affiliate Provider, be deemed to be a breach

of this Agreement. We accept no responsibility for any loss suffered by you as a result of the use of any third party application.

- (g) If you are using Himalaya Pay or the Services on behalf of a business, you agree that you are accepting these Terms and have authority to enter into these Terms, on behalf of that business.
- (h) If you are under the age of eighteen (18) or the legal age for entering legally binding contracts under applicable laws, you are not permitted to use Himalaya Pay and the Services. By continuing to access or use Himalaya Pay and the Services, you indicate that you are 18 years of age or older or have the legal capacity to enter legally binding contracts under applicable laws. Misrepresentation of your age to gain access to any of Himalaya Pay and the Services is a breach of these Terms.

1.2 Definitions

- (a) **"Affiliate"** means a person or entity that directly or indirectly controls, is controlled by, or is under common control with another person or entity.
- (b) **"Affiliate Provider"** has the meaning given to it in paragraph 1.1(f) above and shall include each Himalaya Pay Affiliate Provider where Himalaya International Clearing Limited is the operator and provider of Himalaya Pay and Himalaya International Clearing Limited where a Himalaya Pay Affiliate Provider is the operator and provider of Himalaya Pay unless the context requires otherwise.
- (c) **"Business Day"** means a day (other than a Saturday or Sunday) or a public holiday in the British Virgin Islands and England and a reference to any time on a Business Day is, unless otherwise specified, a reference to Atlantic Standard Time.
- (d) **"Compliance Policies"** means our compliance policies consisting of the Anti-Money Laundering/Know Your Customer Policy, which can be accessed at the following website: <https://himalaya.exchange>, and any other policies and procedures designated as such by us from time to time and made available to you.
- (e) **"Contractual Documentation"** means each of the agreements and documents which govern, in conjunction with these Terms, the use of Himalaya Pay, the Services and the products and services provided by Affiliate Providers and the Compliance Policies.
- (f) **"Credit"** means a credit administered in your Himalaya Pay Account corresponding to either Himalaya Dollars or Himalaya Coins.
- (g) **"crypto asset"** means a digital asset that may depend on cryptography and exists on a distributed ledger.
- (h) **"Eligible Himalaya Pay Account"** means the Himalaya Pay Account of a Himalaya Pay user that is approved by us as eligible to engage in peer-to-peer transfers of Himalaya Dollar Credits and/or Himalaya Coin Credits with other Eligible Himalaya Pay Account users subject to and in accordance with these Terms.
- (i) **"Fee Schedule"** means the schedule of fees applicable to use of Himalaya Pay and Services as may be amended from time to time and which can be accessed at the following website: <https://himalaya.exchange>.
- (j) **"Himalaya Exchange"** has the meaning given to it in paragraph 1.1(e)(i) above.
- (k) **"Himalaya Exchange Account"** means your account with the Himalaya Exchange.
- (l) **"Himalaya Exchange Application"** has the meaning given to it in paragraph 1.1(e)(i) above.
- (m) **"Himalaya Exchange Application Service Commencement Date"** means the date on which the Himalaya Exchange Application is made available for use.
- (n) **"Himalaya Pay Account"** means your account held with Himalaya Pay.
- (o) **"Himalaya Pay Affiliate Provider"** means the entity that operates and provides Himalaya Pay to users in certain jurisdictions as notified to such users.
- (p) **"Himalaya Pay"** means the mobile application to facilitate peer-to-peer transfers between Himalaya Pay users and to facilitate payments to Vendors using Himalaya Dollar Credits and Himalaya Coin Credits.
- (q) **"Himalaya Pay Service Commencement Date"** means the date on which Himalaya Pay is made available for use which date may be different for users in different jurisdictions.

- (r) "**Jurisdiction Conditions**" means the conditions referred to in the section entitled "Jurisdiction Conditions" of these Terms as amended or updated from time to time and which contain additional conditions and/or disclosures or which amend certain terms contained in these Terms with respect to the provision and use of Himalaya Pay and Services in a specified jurisdiction.
- (s) "**Market Data**" means any market value data compiled and published or made available through Himalaya Pay or the Services or those of any Affiliate Provider.
- (t) "**Materials**" means, collectively, the images and content accessed on or through Himalaya Pay, including, but not limited to, text, software, images, graphics, data, messages, market data or any other information, and any other website content owned, operated, licensed or controlled by us or any Affiliate Provider.
- (u) "**Party**" means each of us and you.
- (v) "**Securities Act**" means the United States Securities Act of 1933, as amended.
- (w) "**Service Commencement Date**" means the date on which a product or service of an Affiliate Provider are made available for purchase or use.
- (x) "**Services**" means services and other actions which are provided to you through Himalaya Pay.
- (y) "**Supported Vendor**" means any vendor designated by us as a Supported Vendor from time to time.
- (z) "**Vendor**" means a Supported Vendor or a Vendor Member.
- (aa) "**Vendor Member**" means any vendor designated by us as a Vendor Member from time to time.

1.3 Agreement to Terms

- (a) By downloading, installing, accessing, using or activating Himalaya Pay, you agree to be bound by these Terms. You are required to click a checkbox adjacent to and associated with the words "I agree" or some similar language to accept these Terms. If you click any link, button or other device provided to you in any part of Himalaya Pay, then you have legally agreed to all of these Terms. Additionally, by using any part of Himalaya Pay or the Services in any manner, you understand and agree that such use constitutes your affirmation of your complete and unconditional acceptance to all of the Terms.
- (b) For the avoidance of doubt, once you activate a Himalaya Pay Account, you will be deemed to have agreed to the Affiliate Terms which will take effect on the applicable Service Commencement Date in respect of the products and services of the Affiliate Providers.
- (c) Even if you fail to indicate your agreement to these Terms, you understand and agree that you are still bound by the Terms by virtue of your downloading, accessing, installing, activating or using Himalaya Pay or the Services.

1.4 Third-party Terms

The ways in which you can use Himalaya Pay may also be governed by the terms imposed by the app store from which you downloaded it. You are responsible for ensuring your compliance with app store terms in addition to these Terms.

1.5 Jurisdictional Restrictions

By your use of any of Himalaya Pay or the Services, you represent and warrant that such use is legal for you, including by virtue of the laws in your local jurisdiction, and you agree that you will not use Himalaya Pay or the Services if such use is prohibited or otherwise violates the laws of the country, state, province, or other jurisdiction in which you reside or of which you are a citizen. In particular, you agree that you are not resident in Australia, Canada, Japan or Hong Kong or a "U.S. person" as such term is defined in Regulation S under the Securities Act, a U.S. Citizen (as defined in 8 U.S.C Subchapter III), a U.S. Person (as defined in 17 C.F.R s230.902(K)) or otherwise located in the United States or any territory subject to the jurisdiction of the United States and are not using or accessing Himalaya Pay or the Services on behalf of or for the account or benefit of such persons.

You acknowledge that in respect of users who are residents or citizens of a specified state or jurisdiction, certain provisions of these Terms may apply differently than in respect of users in other jurisdictions as set out in Term entitled "Jurisdiction Conditions" below (the "**Jurisdiction Conditions**"). In addition, you acknowledge that not all functions will be available to users in all jurisdictions and restrictions may apply to certain types of user.

1.6 Conflicts

In the case of a conflict between these Terms and the Affiliate Terms, these Terms will prevail. In the case of a conflict between these Terms and any provision contained in the Jurisdiction Conditions, the Jurisdiction Conditions shall prevail.

1.7 **Effective Date**

These Terms will take effect and apply from the Himalaya Pay Service Commencement Date. The Service Commencement Date in respect of a product or service of an Affiliate Provider will be notified to users through the Himalaya Exchange website or in such other manner as is permitted by the Affiliate Terms. To the extent that any of these Terms relate to or are dependent for their operation on a user's ability to access and use any product or service of an Affiliate Provider, such Term shall apply from the applicable Service Commencement Date and these Terms shall be read and construed accordingly. Notwithstanding the occurrence of the Himalaya Pay Service Commencement Date or the Service Commencement Date in respect of any product or service of an Affiliate Provider, we, in respect of Himalaya Pay and the Services or any Affiliate Provider in respect of any of their products or services, may delay the Himalaya Pay Service Commencement Date or the Service Commencement Date, as the case may be, in respect of any part (including any functionality) of Himalaya Pay or a product or service of an Affiliate Provider and the Himalaya Pay Service Commencement Date or Service Commencement Date, as the case may be, in respect of such part shall be the date it is made available for use.

1.8 **Revisions to these Terms**

- (a) From time to time, we may need to revise these Terms for valid reasons such as improving the existing functions or features of Himalaya Pay or adding new functions or features, making reasonable technical adjustments to Himalaya Pay or the Service and for legal and regulatory reasons. Subject to any applicable Jurisdiction Conditions, we reserve the right to do so, in our sole and absolute discretion, and you agree that, to the fullest extent permitted by law, we have this unilateral right. Your continued use of Himalaya Pay or the Services shall, subject to any applicable Jurisdiction Condition, be deemed acceptance of the then prevailing Terms. You agree that, where lawful, all modifications or changes to these Terms shall take effect and be enforceable immediately upon posting unless otherwise indicated and, subject to applicable laws, any updated or edited version supersedes any prior versions immediately upon posting, and the prior version is of no continuing legal effect unless the revised version specifically refers to the prior version and explicitly states that the prior version (or portions thereof) will remain in effect.
- (b) When we make material changes to the Terms, we will provide you with notice as appropriate under the circumstances such as by displaying a prominent notice or seeking your agreement within Himalaya Pay or by sending you an email or other communication. In some cases, we will notify you in advance and your continued use of Himalaya Pay and the Services will constitute your acceptance of the changes. Please therefore make sure you read any such notice carefully.
- (c) In the event that you do not agree with any such modification, your sole and exclusive remedy is to terminate your use of Himalaya Pay and the Services and close your Himalaya Pay Account. If you do not terminate your use of the Services and close your Himalaya Pay Account and continue to use the Services you will be deemed to have accepted the changes. You agree that we shall not be liable to you or any third party as a result of any losses suffered by any modification or amendment of these Terms. If you avail yourself of this remedy, at your request, your Himalaya Pay Account may be closed pursuant to the version of the Terms in place at the time that you last used Himalaya Pay or the Services. It is your responsibility to review the Terms on a regular basis.

1.9 **Amending Services and Delaying Transactions**

We reserve the right to change, suspend, or discontinue any aspect of the Services at any time, including hours of operation or availability of any feature, without notice and without liability. We may decline to process any transaction without prior notice and may limit or suspend your use of any part of the Service at any time, in our sole discretion. Suspension of your use of any part of the Service will not affect your rights and obligations pursuant to these Terms or applicable law. We may, in our sole discretion, delay transactions if: (i) so far as relevant, you don't have sufficient Credits to your Himalaya Pay Account to make them; (ii) we believe the transaction is suspicious, (iii) the transaction may involve fraud or misconduct, (iv) it violates applicable laws, or (v) it violates these Terms or the Affiliate Terms. Where permitted by applicable law, we will endeavour by the end of the Business Day to notify you if we've stopped a transfer and, if possible, provide our reasons for doing so, and anything you can do to correct any errors leading to the stoppage.

1.10 **Incorporation by Reference**

Although these Terms represent the primary terms and conditions with respect to Himalaya Pay and the Services, certain additional guidelines and rules are hereby incorporated by reference as follows: (i) Anti-Money Laundering/Know Your Customer Disclosure, which can be accessed at the following website: <https://himalaya.exchange>, and (ii) the rest of the Contractual Documentation, as applicable, which can be accessed

at the following website: <https://himalaya.exchange>, and are specifically incorporated by reference and form an integral part of these Terms.

1.11 **Delegation**

We may whenever we think fit, and without notice to you, delegate by power of attorney or otherwise to any person or persons or fluctuating body of persons all or any activity or function relating or ancillary to Himalaya Pay or the provision of the Services including, for the avoidance of doubt, any powers, authorities and discretions under these Terms. Such delegation may be made upon such terms (including power to sub-delegate) and subject to such conditions and regulations as we, in our sole discretion, think fit. We shall not be under any obligation to supervise the proceedings or acts of any such delegate or sub-delegate or be, to the fullest extent permitted by applicable law, in any way responsible for any liability incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate.

1.12 **Rate of Conversion**

Where we are required, by any provision of these Terms or otherwise, to determine the value of Credits including, without limitation, the value in any currency or as against any other Credits, that determination shall be made by us in our sole and absolute discretion.

2. **USE OF HIMALAYA PAY AND THE SERVICES**

2.1 **Access**

(a) In return for your agreeing to comply with these Terms you may:

- (i) download a copy of Himalaya Pay onto your device and view, use and display Himalaya Pay and the Services on the device for your personal purposes only.
- (ii) receive and use any free supplementary software code or update of Himalaya Pay incorporating "**patches**" and corrections of errors as we may provide to you.

2.2 **Compatible Devices and Third-Party Carriers**

Himalaya Pay requires a device with internet access, minimum memory and operating systems. You should check that Himalaya Pay is compatible with your device before installing it. You must ensure that your device contains adequate anti-virus protection and any appropriate firewall protections to prevent unauthorised access and use. When accessing Himalaya Pay and using the Services through a mobile device, your wireless service carrier's standard charges, data rates, and other fees may apply. In addition, downloading, installing, or using certain mobile applications may be prohibited or restricted by your carrier, and not all Services may work with all carriers or devices. Subject to the Term entitled "Communications" below, by using mobile Services, you agree that we may communicate with you by SMS, MMS, text message, push notification, and/or other electronic means via your mobile device and that certain information about your usage of the Services may be communicated to us in accordance with our Privacy Policy. In the event that you change or deactivate your mobile telephone number, you agree to promptly update your account information to ensure that your messages are not sent to any person who might acquire your old number.

2.3 **Transfers**

We are giving you personally the right to use Himalaya Pay and the Services as set out in these Terms. You may not otherwise give access to or transfer Himalaya Pay or the Services to someone else, whether for money, for anything else or for free. If you sell, lend or otherwise dispose of any device on which Himalaya Pay is installed, you must remove Himalaya Pay from it.

2.4 **Updates**

From time to time we may automatically update Himalaya Pay and change the Services to improve performance, enhance functionality, reflect changes to the operating system or address security issues. Alternatively we may ask you to update Himalaya Pay for these reasons. This may require you to update, at your own cost, the functionality of other compatible software in order to ensure compatibility with Himalaya Pay. If you choose not to install such updates or if you opt out of automatic updates you may not be able to continue using Himalaya Pay and the Services.

2.5 **Third-Party Device**

If you use Himalaya Pay on any device you don't own, you must have the owner's permission to do so. You will be responsible for complying with these Terms, whether or not you own the phone or other device.

2.6 **Fees**

You agree that you will be liable to us for the payment of fees (if any) relating to your use of Himalaya Pay and the Services from time to time as set out in the Fee Schedule, which can be accessed at the following website: <https://himalaya.exchange>. Subject to any applicable Jurisdiction Conditions, we reserve the right to change or modify our fee structure or increase any of our fees at any time and from time to time. Any such changes, modifications or increases will be effective upon notifying you of such changes, modifications or increases in a manner permitted by these Terms. Your first use of your Himalaya Pay Account following notification of such changes will constitute your acceptance of such changes. If you do not agree to the changes, you may transfer any Credits to your Himalaya Exchange Account and close your Himalaya Pay Account.

2.7 Disclaimer and Risk Factors

Himalaya Pay is designed to facilitate transactions with Vendors using Himalaya Dollar Credits and Himalaya Coin Credits and to facilitate peer-to-peer transfers of Himalaya Dollar Credits and Himalaya Coin Credits. The purchase and use of crypto assets through the use of Credits or otherwise, involves significant risks, and losses can be substantial and may occur over a short period of time. Prior to using Himalaya Pay or the Services, please read the Risk Factor Disclosure contained in Schedule 7 of the Himalaya General Conditions which can be accessed at the following website: <https://himalaya.exchange>, and which provides details of certain potential risks associated with the use of Himalaya Pay and the Services in addition to certain potential risks related to the associated use of the products and services provided by the Affiliate Providers. You should be aware that the risks discussed provide summaries only of certain key risks which have been identified by us and the Affiliate Providers, are not exhaustive and do not represent all potential risks associated with Himalaya Pay or the Services or the products or services of Affiliate Providers.

You should also review the Himalaya Dollar Whitepaper and the Himalaya Coin Whitepaper, in addition to the Affiliate Terms for a further description of the products and services of the Affiliate Providers each of which can be accessed at the website of the Himalaya Exchange: <https://himalaya.exchange> from the applicable Service Commencement Date.

You acknowledge and agree that you are solely responsible for determining the nature and suitability of Himalaya Pay and the Services in light of your circumstances and financial resources. Transactions will be executed at your request but without you being provided with any advice or personal recommendations. We are not required to and we will not assess the suitability or appropriateness of transactions including whether (a) any type of Credit meets your investment objectives; (b) you would be able to financially bear the risk of any loss associated with any Credit; (c) you have the necessary knowledge and experience to understand the risks involved; (d) you are aware of the tax consequences of any transaction. All transaction instructions from you will be carried out in accordance with these Terms and such other policies and procedures as are notified to you from time to time. We are not responsible for any loss or damage incurred by you as a result of your use of Himalaya Pay or the products or services provided by any Affiliate Provider or for your failure to understand the nature of Credits, crypto assets or the market for such assets. We are not giving tax advice, legal advice or other professional advice by allowing you to use Himalaya Pay or the Services. No Material available through Himalaya Pay or the Services shall be considered tax advice, legal advice or investment advice.

The products and services of the Affiliate Providers are being made available on a phased basis and you will not have access to an applicable product or service until the applicable Service Commencement Date. The value and utility of Himalaya Pay may be materially restricted until after the Service Commencement Date in respect of all products and services of the Affiliate Providers.

While we aim to establish and develop a network of Vendors, there is no guarantee that we will be successful. A failure by us to establish and develop a network of Vendors may materially and adversely impact the value and utility of Himalaya Pay and Credits.

YOU ACKNOWLEDGE AND AGREE THAT YOU SHALL ACCESS AND USE HIMALAYA PAY AND THE SERVICES AT YOUR OWN RISK.

We generally do not own or control the underlying software protocols of crypto asset networks that govern the operation of crypto assets. In general, the underlying protocols are open source, and anyone can use, copy, modify, and distribute them. We are not responsible for the operation of the underlying network protocols, and we make no guarantees regarding their security, functionality, or availability or in respect of the relevant crypto assets.

Only Credits corresponding to Himalaya Dollars or Himalaya Coins may be transferred to a Himalaya Pay Account. Users are not able to hold or own crypto assets or fiat currency through Himalaya Pay.

3. YOUR HIMALAYA PAY ACCOUNT

3.1 Activating your Himalaya Pay Account; Registration Data; Compliance Policies

- (a) In order to use Himalaya Pay and the Services, you will be required to install Himalaya Pay on your device, log in using your Himalaya Exchange ID and activate your Himalaya Pay Account. In addition, you may also be asked to provide certain registration details and information that identifies you. To activate your Himalaya

Pay Account, we may ask for your name, date of birth, nationality, residential address, contact details and other information that will allow us to identify you. You may also be asked to provide your passport, national identity card or other identifying documents in accordance with our and the Affiliate Providers' legal and regulatory requirements. For further information about the way in which we or the Affiliate Providers use your personal information please see the applicable privacy policy, which can be accessed at the following website: <https://himalaya.exchange>. You may only access Himalaya Pay and activate your Himalaya Pay Account if you have a Himalaya Exchange Account and are otherwise eligible to do so.

- (b) Following activation of your Himalaya Pay Account and subject to any restrictions or limitations applicable to your Himalaya Pay Account, you may transfer Himalaya Dollar Credits and Himalaya Coin Credits on your Himalaya Exchange Account to your Himalaya Pay Account and vice versa; initiate peer-to-peer transfers of Himalaya Dollar Credits and Himalaya Coin Credits on your Himalaya Pay Account to other Eligible Himalaya Pay Accounts; and offer payments to Vendors in accordance with these Terms.
- (c) In addition, at any time before or after your Himalaya Pay Account has been activated, you may be requested to provide certain other information pursuant to our Compliance Policies and applicable law, including, if necessary, information that will enable us to report your tax information to the relevant authorities where we are required to do so under applicable law. If you fail to reply promptly to any request from us, or if your responses are unsatisfactory, we may close or suspend your Himalaya Pay Account and/or you may be unable to use the Services.
- (d) We may, in our sole discretion, refuse to open a Himalaya Pay Account for you or limit the Services available to you.
- (e) You agree to provide true, accurate, current and complete responses to our information requests, and you further agree to maintain and promptly update the information you have provided us to ensure it remains true, accurate, current and complete at all times while your Himalaya Pay Account remains open. If you provide any information that is untrue, inaccurate, not current or incomplete, or if we have reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, we have the right to suspend or terminate your Himalaya Pay Account and refuse any and all current or future use of Himalaya Pay and related Services by you. To the fullest extent permitted by law, we shall not be liable to make any compensation, monetary or otherwise, following such suspension, termination or inability to use Himalaya Pay and related Services. You agree that you are responsible for any fees that we incur with respect to your Himalaya Pay Account as a result of any of the foregoing.
- (f) You hereby authorize us, or a third-party service provider, to take any measures that we consider necessary to verify and authenticate your identity, confirm the information you submit and to take any action we deem necessary based on the results.

3.2 Security Procedures and Liability for Unauthorized Activity

- (a) You are responsible for any and all activities conducted through your Himalaya Pay Account and validated by us using the Security Procedures, as described below, notwithstanding that such activities were not authorized by you. By using Himalaya Pay and the Services, you agree that the Security Procedures described in these Terms are commercially reasonable for the size, amount and frequency of your transactions. You further agree that the Security Procedures described in these Terms are used to verify the authenticity of your instructions, but not to detect errors in any instruction you transmit. You agree that we may update or amend the Security Procedures from time to time.
- (b) In order to log into your Himalaya Pay Account, you will be required to enter your login ID and password and comply with such other security protocols as we may implement from time to time (the "**Security Procedures**"). In some cases, in our sole discretion, we may require additional verbal or electronic confirmation of a transaction prior to processing such transaction.
- (c) You are responsible for maintaining the security and confidentiality of your login ID and password. You agree to notify us immediately of any unauthorized use of your login ID and password as well as of any other breach of security.
- (d) While we do not have any obligation to monitor, we may implement certain monitoring procedures designed to alert us to fraudulent activity. We are not however responsible for any unauthorized use of your Himalaya Pay Account, and to the fullest extent permitted by applicable law, we will not be liable for any loss that you may incur as a result of someone accessing your Himalaya Pay Account, either with or without your knowledge. To the fullest extent permitted by law, we disclaim any and all liability arising from fraudulent entry and use of your Himalaya Pay Account or the Services. If someone fraudulently obtains access to your Himalaya Pay Account, we will take such action as we determine to be warranted, including without limitation, terminating your access and/or membership immediately, closing your Himalaya Pay Account, and taking all necessary and appropriate actions under applicable international and domestic laws.

- (e) PLEASE NOTE THAT WE WILL NEVER ASK YOU, FOR ANY REASON, WHETHER BY EMAIL, REGULAR MAIL OR TELEPHONE, TO DISCLOSE YOUR HIMALAYA PAY ACCOUNT PASSWORD. PASSWORD INQUIRIES WILL ONLY BE CONDUCTED THROUGH HIMALAYA PAY AND ONLY AFTER YOU HAVE SIGNED INTO YOUR HIMALAYA PAY ACCOUNT THROUGH HIMALAYA PAY. WE WILL NEVER SEND YOU EMBEDDED LINKS IN AN EMAIL REQUESTING THAT YOU SIGN INTO YOUR HIMALAYA PAY ACCOUNT BY CLICKING SUCH A LINK. IF YOU RECEIVE AN EMBEDDED LINK BY EMAIL CLAIMING TO BE FROM US, YOU SHOULD NOT OPEN IT OR CLICK ON THE LINK. THE EMAIL IS NOT FROM US AND IS LIKELY FRAUDULENT. NEVER GIVE YOUR HIMALAYA PAY ACCOUNT PASSWORD TO ANYONE WHOM YOU DO NOT INTEND TO AUTHORIZE TO USE YOUR HIMALAYA PAY ACCOUNT.

3.3 **No Account Transfers; No Grant of Third Party Access**

You may not transfer, lease, assign, give third party access to or sell your Himalaya Pay Account (or any use thereof) to a third party without our consent. In addition, you may not grant any person access to your Himalaya Pay Account except as expressly permitted by us. If, as permitted by us, you grant express permission to a third party to access or connect to your Himalaya Pay Account, you acknowledge that granting permission to a third party to take specific actions on your behalf does not relieve you of any of your responsibilities under these Terms or the Affiliate Terms, which can be accessed at the following website: <https://himalaya.exchange>. You are fully responsible for all acts or omissions of any third party with access to your Himalaya Pay Account and any action of such third party shall be considered to be an action authorised by you. Further, you acknowledge and agree that you will not hold us or any Affiliate Provider responsible for, and will indemnify us and each Affiliate Provider from, any liability arising out of or related to any act or omission of any third party with access to your Himalaya Pay Account.

3.4 **Credits**

- (a) Your Himalaya Pay Account (and any available Credits administered in such Himalaya Pay Account) is not a bank account, a deposit account or a trust or custody account and Credits administered in your Himalaya Pay Account are not deposits. Himalaya Dollar Credits and Himalaya Coin Credits administered in your Himalaya Pay Account can be used by you, subject to these Terms and the terms of any Vendors, to offer to purchase goods and services from Vendors or in any other manner provided for by these Terms.
- (b) Subject to any restrictions or limitations applicable to your Himalaya Pay Account, you may transfer Himalaya Dollar Credits or Himalaya Coin Credits from your Himalaya Pay Account to your Himalaya Exchange Account and from your Himalaya Exchange Account to your Himalaya Pay Account.
- (c) You agree and understand that your sole right in respect of any Credits administered in your Himalaya Pay Account is to those Credits and by transferring Credits to your Himalaya Pay Account, you shall not acquire or have any rights of redemption or any rights to or interest in any of our bank accounts, custody accounts or wallets or any entitlements, claims or rights against such bank accounts, custody accounts or wallets or those of any Affiliate Provider and there is no relationship between you and such bank, custodian or wallet provider.
- (d) You do not have a right to require us or any Affiliate Provider to exchange or otherwise convert any Credits administered in your Himalaya Pay Account for fiat currency, crypto assets or other types of Credits or any other type of asset and we give no representation, warranty or undertaking, express or implied, that we will do so.

3.5 **Statement of Account**

- (a) A statement in respect of your Himalaya Pay Account, including the amount and type of your Credits, may be accessed in electronic format for viewing through Himalaya Pay. We use commercially reasonable efforts to ensure that the information contained in your Himalaya Pay Account statement is accurate and reliable; however, because certain information may be provided real-time, errors may occur. Our ledger is the definitive record of your transactions through Himalaya Pay and any Credits available to you within Himalaya Pay.
- (b) If you believe that your Himalaya Pay Account statement contains any errors, please notify us immediately of such error, along with any additional information concerning the error. If we do not hear from you within fourteen (14) days after the electronic posting to your Himalaya Pay Account of any applicable transaction and/or any fee (if applicable), such transaction and/or fee will be deemed accepted by you and will no longer be subject to challenge.

3.6 **Closing Your Himalaya Pay Account**

- (a) You may close your Himalaya Pay Account by providing written notice to us, and upon receipt of such notice, a hold will be placed on your Himalaya Pay Account to allow any then pending transactions to clear. After notifying us of your desire to close your Himalaya Pay Account, we may terminate your ability to transact through your Himalaya Pay Account and only permit you to request a transfer of the remaining available

Credits administered in your Himalaya Pay Account to your Himalaya Exchange Account. Closing your Himalaya Pay Account will not affect any rights and obligations incurred prior to the date of closure of your Himalaya Pay Account.

- (b) In order to finalize the closure of your Himalaya Pay Account, there must be no Credits remaining on your Himalaya Pay Account.
- (c) If you close your Himalaya Pay Account, the Himalaya Exchange may, in accordance with its conditions of use, close your Himalaya Exchange Account.
- (d) If you close your Himalaya Pay Account under this Term 3.6 or your Himalaya Pay Account is otherwise closed by us pursuant to any other provision of these Terms, you will not be eligible to open a new Himalaya Pay Account for a period of one year from the date your Himalaya Pay Account is closed.

4. **SUSPENSION AND TERMINATION OF YOUR HIMALAYA PAY ACCOUNT**

4.1 **Suspension and Termination**

Without limiting other remedies that may be available to us, we reserve the right, in our sole and absolute discretion, but subject to applicable laws, to block access to or to suspend, close or terminate your Himalaya Pay Account and your use of and access to Himalaya Pay, freeze all Credits to your Himalaya Pay Account and refuse to let you transfer Credits to your Himalaya Exchange Account or to the Himalaya Pay Account of another user or make purchases from Vendors through your Himalaya Pay Account and freeze any pending orders from any Vendor or transfers to other users or take such other remedial action as we deem appropriate at any time, with or without advance notice, if:

- (a) we or an Affiliate Provider believes, in our or their sole and absolute discretion, that you have breached any of these Terms, any Affiliate Terms (which can be accessed at the following website: <https://himalaya.exchange>) or the terms of any documentation incorporated by reference into these Terms or the Affiliate Terms or believes or suspects that you are in breach of our or their Compliance Procedures;
- (b) you provide incorrect, incomplete or misleading information or make a representation or warranty that is incorrect or misleading;
- (c) you breach any payment or delivery obligation or any other provision of these Terms or any Affiliate Terms, or any term of any arrangement you have with any financial institution, or any financial institution has suspended or terminated your use of any financial services;
- (d) you engage in abusive behaviour, as determined in our sole and absolute discretion including, without limitation, actions which impose an unreasonable or disproportionately large load on our infrastructure or that of an Affiliate Provider, or detrimentally interfere with, disable, circumvent, intercept, or expropriate any system, data, or information; transmit or upload any material that contains viruses, trojan horses, worms, or any other harmful or deleterious programs; attempt to gain unauthorised access to Himalaya Pay, other Himalaya Pay Accounts, computer systems or networks connected or linked to or associated with Himalaya Pay, through password mining or any other means; use Himalaya Pay Account information of another person to access or use Himalaya Pay, except in the case of specific Vendors and / or applications which are specifically authorised by a user to access such user's Himalaya Pay Account and information; or transfer your Himalaya Pay Account access or rights to your Himalaya Pay Account to a third party, unless by operation of law or with our express permission;
- (e) we believe, in our sole and absolute discretion, that your actions interfere with another individual's or entity's access to or use of Himalaya Pay or the Services or the related products or services of an Affiliate Provider; defame, abuse, extort, harass, stalk, threaten or otherwise violate or infringe the legal rights (such as, but not limited to, rights of privacy, publicity and intellectual property) of others; incite, threaten, facilitate, promote, or encourage hate, racial intolerance, or violent acts against others; harvest or otherwise collect information from or through Himalaya Pay about others, including without limitation email addresses, without proper consent.
- (f) we are unable to verify or authenticate any information you provide to us;
- (g) we believe, in our sole and absolute discretion, that your actions may cause legal liability for you, our users, us or an Affiliate Provider;
- (h) we believe or suspect that you are directly or indirectly using Himalaya Pay or the Services in a way which would violate, or assist in violation of, any law, statute, ordinance, or regulation or sanctions programs, or which would involve proceeds of any unlawful activity; publish, distribute or disseminate any unlawful material or information in violation of applicable law or regulation, or these Terms;

- (i) we are directed to do so by law enforcement, regulatory authority or court order;
- (j) you use Himalaya Pay or Services for any illegal purpose or in violation of any local, state, national, or international law including the misappropriation of Credits belonging to another user, or we are required to do so by applicable law or regulation;
- (k) your ability to access and/or use Himalaya Pay or the Services or our providing or making available Himalaya Pay or the Services to you, in our opinion, violates or may violate any local, state, national, or international law, rule, regulation or any pronouncement by any governmental, regulatory or other body having jurisdiction, whether now in existence or which become applicable at a later date or is, in our opinion and based on such factors as we deem relevant, including government or regulatory consultations or proposals for legal reform, likely to become applicable;
- (l) your Himalaya Pay Account is subject to pending litigation, investigation or governmental proceeding;
- (m) you become insolvent or any of your assets are subject to insolvency proceedings;
- (n) you disaffirm, disclaim, repudiate or reject, in whole or in part, these Terms or any transaction undertaken by you through Himalaya Pay or the Services;
- (o) we believe that someone is attempting to gain unauthorized access to your Himalaya Pay Account and/or your Credits;
- (p) you are convicted of a tax or other crime in any jurisdiction;
- (q) we believe there is unusual activity in your Himalaya Pay Account or that your Himalaya Pay Account is being operated or used by you in an irregular or improper manner;
- (r) any of your Credits are subject to enforcement of a judgment, sequestration or are expropriated, compulsorily acquired or resumed on any basis;
- (s) your Himalaya Pay Account has no Credits and has not been accessed for more than three years;
- (t) anything occurs which, in our opinion, is likely to have a material adverse effect on your ability or willingness to comply with your obligations under these Terms or any Affiliate Terms;
- (u) you attempt to do any of the acts described in this section or assist or permit any person in engaging in any of the acts described in this section; or
- (v) subject to applicable law, for any other reason in our sole and absolute discretion.

In addition, we may discontinue Himalaya Pay or any Services or part thereof at any time.

For the avoidance of doubt, our rights under this provision do not affect any other right under these Terms and are subject to the giving of any notice, demand or lapse of time which is required by applicable law and cannot be excluded.

4.2 **Loss of Value on Suspension or Closure**

We are not responsible for any loss of value of Credits administered in your Himalaya Pay Account resulting from the suspension or closing of your Himalaya Pay Account for any of the reasons listed above, including your violation of these Terms or from any government seizure or forfeiture. To the fullest extent permitted by applicable laws, you agree that neither we nor any third party acting on our behalf or any Affiliate Provider shall be liable to you for any termination of your access to any part of Himalaya Pay or the Services in accordance with these Terms.

4.3 **Your Obligations on Suspension or Closure**

- (a) You agree that if your access is terminated by us, you will delete Himalaya Pay from any device onto which you installed it and you will not attempt to regain access to Himalaya Pay or the Services using the same or different username or other attempted identification without our prior written consent.
- (b) If we terminate your Himalaya Pay Account, you will be deemed to have requested a transfer of all Credits administered in your Himalaya Pay Account to your Himalaya Exchange Account, less the value of any amounts to which we are entitled pursuant to these Terms and the Fee Schedule, subject to applicable law and you authorize and instruct us to make such transfer on your behalf (less amounts to which we are entitled).

- (c) Notwithstanding paragraph (b) above, we reserve the right not to make any transfer of Credits upon termination of your Himalaya Pay Account where we believe or suspect that there has been a violation of applicable law or regulation and in such circumstances, we may take such other action as we determine in our sole discretion is necessary or desirable.
- (d) You agree that neither we or any Affiliate Provider will be liable to you for any losses that you may incur as a result of our taking the actions outlined in this provision.

5. PURCHASES USING HIMALAYA PAY

5.1 Subject to these Terms and any restrictions or limitations applicable to your Himalaya Pay Account, you may use Himalaya Pay to make offers to purchase goods or services from Supported Vendors or Vendor Members using Himalaya Dollar Credits or Himalaya Coin Credits.

(a) Ordering from Supported Vendors

- (i) Orders for goods or services available through Supported Vendors may be made using Himalaya Dollar Credits or Himalaya Coin Credits through Himalaya Pay. To order goods or services available through a Supported Vendor, you should ensure you have sufficient Credits to your Himalaya Pay Account. You should place your order to purchase such goods or services through the website of the Supported Vendor. To complete the order, you should select the option "Pay by Himalaya Pay" or similar option and then select the type of Credit you wish to use for the order by selecting either (i) "Himalaya Dollar" or similar option where you wish to fund the order using Himalaya Dollar Credits; or (ii) "Himalaya Coin" or similar option where you wish to fund the order using Himalaya Coin Credits (a "**Purchase Order**"). Where you place a Purchase Order and such Purchase Order is accepted by the Supported Vendor, an order confirmation will be sent by the Supporting Vendor to us or our Affiliate (the "**Order Confirmation**").
- (ii) Following the placement of a Purchase Order under paragraph (a) above and receipt by us of an Order Confirmation from the Supported Vendor, we will verify that you have sufficient Credits to fund the Purchase Order (including any taxes, duties, postage, fees or other costs) (the "**Purchase Price**") administered in your Himalaya Pay Account and if so, an amount of Credits equal to the Purchase Price will immediately be debited from your Himalaya Pay Account. We or an Affiliate will purchase from the Supported Vendor in our own name and for our own account, the goods or services subject to the Purchase Order. Following the completion of such purchase by us or our Affiliate, we or our Affiliate will sell to you the goods or services subject to the Purchase Order in exchange for the Purchase Price.
- (iii) Your submission of a Purchase Order in accordance with paragraph (a) above constitutes an irrevocable agreement by you to purchase the goods or services subject to the Purchase Order from us or our Affiliate if and to the extent we or our Affiliate purchase such goods or services. For the avoidance of doubt, your agreement to purchase such goods or services is between you and us or our Affiliate and not the Supported Vendor.
- (iv) While we will always seek to purchase goods or services subject to a Purchase Order, our ability to do so may be affected by a range of factors. The submission of a Purchase Order by you does not create any legal or contractual obligation on us or our Affiliates to purchase the relevant goods or services and we make no representation or warranty, express or implied that we will do so. To the extent we do not make such a purchase, we will notify you within a period of 21 days from the date of your Purchase Order and we will add the Credits deducted from your Himalaya Pay Account back to your Himalaya Pay Account. We accept no liability for any loss to you, including by virtue of a reduction in the value of the relevant Credits, as a result of us or our Affiliates not purchasing such goods or services.
- (v) The number of Himalaya Dollar Credits or Himalaya Coin Credits which will be deducted from your Himalaya Pay Account in respect of the Purchase Price will, in respect of Himalaya Dollar Credits be based on the price of each Himalaya Dollar Credit being equal to 1 U.S. Dollar and, in respect of Himalaya Coin Credits, will be based on the spot price of the Himalaya Coin Credit/Himalaya Dollar Credit pair on the Himalaya Exchange at or around the time you place the Purchase Order. You acknowledge that the value of Himalaya Dollar Credits and Himalaya Coin Credits on the Himalaya Exchange may be subject to volatility and that if the value declines between the time you place your Purchase Order and the date we or our Affiliate purchases the goods or services, the Himalaya Dollar Credits or Himalaya Coin Credits deducted from your Himalaya Pay Account may not be sufficient to cover the Purchase Price. If, as a result of such decline in value, the relevant Himalaya Dollar Credits or Himalaya Coin Credits are insufficient to cover the Purchase Price, we will notify you and you may elect to cancel the order in which case the relevant Himalaya Dollar Credits or Himalaya Coin Credits will be credited back to your Himalaya Pay Account or you may authorize us

to debit a further amount of Himalaya Dollar Credits or Himalaya Coin Credits from your Himalaya Pay Account to complete the Purchase Order. Neither we or any of our Affiliates accept any liability for such change in value of Himalaya Dollar Credits or Himalaya Coin Credits.

(b) **Payments to Vendor Members**

Payments for goods or services available through Vendor Members may be made using Himalaya Dollar Credits or Himalaya Coin Credits. To purchase goods or services available from a Vendor Member using Himalaya Dollar Credits or Himalaya Coin Credits, you should ensure there are sufficient Credits to your Himalaya Pay Account. You may use Himalaya Dollar Credits or Himalaya Coin Credits to offer to purchase goods or services through the website of the Vendor Member or in-person using a QR Code. To place an order to purchase goods or services through the website of the Vendor Member using Himalaya Dollar Credits or Himalaya Coin Credits, you should select the option "Pay by Himalaya Pay" or similar option and then select the coin you wish to use to fund the order by selecting either (i) "Himalaya Dollar" or similar option where you wish to fund the order using Himalaya Dollar Credits; or (ii) "Himalaya Coin" or similar option where you wish to fund the order using Himalaya Coin Credits. Following completion of the order and acceptance by the Vendor Member, the relevant number of Himalaya Dollar Credits or Himalaya Coin Credits will be debited from your Himalaya Pay Account and credited to Himalaya Pay Account of the Vendor Member. To place an order to purchase goods or services using Himalaya Dollar Credits or Himalaya Coin Credits in person, within the Himalaya Pay App select either (i) "Pay with Himalaya Dollar" where you wish to fund the purchase using Himalaya Dollar Credits; or (ii) "Pay with Himalaya Coin" where you wish to fund the order using Himalaya Coin Credits and scan the QR Code generated by your mobile device. The relevant number of Himalaya Dollar Credits or Himalaya Coin Credits will be debited from your Himalaya Pay Account and credited to the Himalaya Pay Account of the Vendor Member.

(c) **Return of goods or reimbursement of amounts in respect of services**

- (i) **Supported Vendors:** Where you have purchased goods or services available from a Supported Vendor in accordance with paragraph 5.1(a) above and, in accordance with the Supported Vendors returns policy or applicable law, you return the goods or agree with the Supported Vendor a return of any amounts paid in respect of services, you are responsible for dealing with the Supported Vendor directly in relation to such matters. You acknowledge that any refunds or reimbursements to you by a Supported Vendor will be in the relevant fiat currency and not in Credits, must be arranged between you and the Supported Vendor and will not be done through us, Himalaya Pay or any of our Affiliates. Neither we nor any Affiliate is responsible for or shall have any liability in respect of any matters resulting from a return of goods or request for reimbursement in respect of services or for ensuring any payment by a Supported Vendor in accordance with this paragraph is made.
- (ii) **Vendor Members:** Where you have purchased goods or services from a Vendor Member in accordance with paragraph 5.1(b) above and, in accordance with the Vendor Members returns policy or applicable law, you return the goods or agree with the Vendor Member a return of any amounts paid in respect of services then, the Vendor Member is required to instruct us to debit the relevant Himalaya Dollar Credits or Himalaya Coin Credits from the Himalaya Pay Account of the Vendor Member and credit such Credits to your Himalaya Pay Account. Neither we nor any Affiliate is responsible for ensuring any Vendor Member gives any instruction to us for the transfer of any such Credits and will have no liability in respect of a failure by a Vendor Member to give such instruction. The contract created through the purchase of goods or services by you is a contract between you and the Vendor Member only.

(d) **Vendor Goods and Services**

We do not act as your agent or trustee or that of any Vendor in respect of any Services including, without limitation, your transactions with Vendors. We do not have control of, or liability for, any products or services that are purchased or sold by Vendors using the Services. We do not guarantee that any Vendor will complete a transaction. We are not liable for any losses or issues that may arise from purchase transactions between you and any Vendor, including, but not limited to, legality, quality, delivery, or satisfaction with any products or services purchased. If you are not satisfied with any goods or services purchased from a Vendor using the Service, you must handle those issues directly with the Vendor.

(e) **Peer-to Peer-Transfers**

- (i) Himalaya Pay may allow you to initiate peer-to-peer transfers of Himalaya Dollar Credits and/or Himalaya Coin Credits from your Himalaya Pay Account to the Himalaya Pay Account of another user. The peer-to-peer functionality is only available to users with an Eligible Himalaya Pay Account and may not be available to all users or may be available to certain users in a limited form. Peer-to-peer transfers may be initiated from within your Himalaya Pay Account by selecting "Transfer" and

inputting the details of the relevant transferee as provided by the transferee and the amount of Himalaya Dollar Credits or Himalaya Coin Credits you wish to transfer.

- (ii) Peer-to-peer transfers may only be completed between Eligible Himalaya Pay Accounts. If you initiate a transfer to a Himalaya Pay Account which is not an Eligible Himalaya Pay Account, the transfer will not be completed. Eligible Himalaya Pay Accounts in respect of which you may initiate transfers to, or receive transfers from, will be determined by us in our sole and absolute discretion, based on a range of factors which may include your country of residence and/or citizenship. Eligible Himalaya Pay Accounts with which you may conduct peer-to-peer transfers may be changed by us at any time and we accept no liability for any loss arising from such change.
- (iii) Not all functions will be available to all users of Himalaya Pay and restrictions may apply based on a range of factors which may include your country of residence and/or citizenship. In particular, peer-to-peer transfers may not be available to certain users or transaction limits may be applicable to peer-to-peer transfers for certain users. In addition, certain users may be restricted from conducting peer-to-peer transfers in respect of either Himalaya Dollar Credits or Himalaya Coin Credits with such functionality being limited to one type of Credit only.
- (iv) We may impose transaction limits on peer-to-peer transfers in our sole discretion. Fraudulent transactions or incorrect transfer instructions may result in the loss of Credits with no recourse. It is your responsibility to provide accurate instructions for any peer-to-peer transfers, and we are not responsible for any peer-to-peer transfers facilitated based on inaccurate or incomplete instructions.

6. UNCLAIMED CREDITS

If there are Credits administered in your Himalaya Pay Account and there has been no activity in your Himalaya Pay Account for a period of more than three years or as otherwise prescribed by applicable law, we may be required to report this as unclaimed property in accordance with abandoned property and escheat laws. If this occurs, we will use reasonable efforts to provide written notice to you. If you fail to respond to any such notice within seven (7) Business Days of receipt, or as otherwise required by law, we may be required to take actions in respect of such Credits on your behalf including a sale and delivery of any funds or assets to the applicable jurisdiction as unclaimed property. We reserve the right to deduct a dormancy fee or other administrative charges from such deliverable funds or assets (in addition to any fees charged as set forth herein, in the Fee Schedule or otherwise in the Contractual Documentation), as permitted by applicable law.

7. SERVICE INTERRUPTION

From time to time due to technological factors, scheduled software updates and the performance of other maintenance, as well as factors beyond or within our control, Himalaya Pay or the Services may be temporarily interrupted (“Downtime”). Where possible, information on scheduled maintenance windows will be notified to you through Himalaya Pay or in another manner permitted by these Terms. Purchase Orders or instructions to transfer will be held during Downtime and processed normally following Downtime. Following any Downtime, market conditions and prices may differ significantly from conditions and prices prior to such Downtime.

8. COLLECTION OF TECHNICAL DATA AND LOCATION DATA

8.1 Collection of Technical Data

We may collect technical and statistical information about the devices you use to access Himalaya Pay or any of the Services, and related software, hardware and peripherals to maintain and develop our products and to provide any Services to you.

8.2 Location Data

Certain Services use location data sent from your devices. You can turn off this functionality at any time by turning off the location services settings for Himalaya Pay on the device. If you turn off the location data it may impact some of the functionality of Himalaya Pay.

9. RESTRICTIONS ON USE OF HIMALAYA PAY AND SERVICES

9.1 User Type

If you register with us as an individual user, you agree that you will use Himalaya Pay and the Services for your personal use only. If you register with us as an institutional user on behalf of an institution, you (a) represent that you are an authorized representative of such institution and that this Agreement is binding on such institution, and (b) agree that you will use Himalaya Pay and the Services for commercial purposes only. In addition, you agree that any

use of Himalaya Pay and the Services shall be for the purposes expressly permitted and contemplated by these Terms. You may not use Himalaya Pay and the Services for any other purposes without our express prior written consent.

9.2 Restrictions on Use

Subject to these Terms and your acceptance thereof, we grant you a limited, non-exclusive, non-sublicensable, and non-transferable license to access and use Himalaya Pay and the Services solely for approved purposes as determined by us. Any other use of Himalaya Pay or the Services is expressly prohibited. We and our licensors reserve all rights in Himalaya Pay and the Services and you agree that these Terms do not grant you any rights in or licenses to Himalaya Pay or the Services except for the limited license set forth above. Except as expressly authorized by us, you agree that you will not (a) duplicate or reproduce any part of Himalaya Pay, the Services or the Materials (except as expressly provided elsewhere in these Terms); (b) create any derivative works based on or using Himalaya Pay, the Services or the Materials, and you agree and stipulate that any and all derivative works are NOT "fair use"; (c) use Himalaya Pay, the Services or the Materials for any public display, public performance, sale or rental, and you hereby agree and stipulate that any and all such uses are NOT "fair use"; (d) use any Market Data to develop, create, register, list, trade, clear, or settle any investment product or financial product of any kind; (e) knowingly or recklessly use and/or take advantage of a technical or technological error, loophole or glitch in Himalaya Pay or Services; (f) re-distribute Himalaya Pay, the Services or the Materials, and you hereby agree and stipulate that any and all such uses is NOT "fair use"; (g) remove any copyright or other proprietary notices from Himalaya Pay, the Services or the Materials or, falsify or delete any author attributions, legal or other proper notices or labels of the origin or source material that is uploaded or otherwise provided by you; (h) frame or utilize any framing techniques in connection with Himalaya Pay, the Services or the Materials; (i) translate, reverse-engineer, decompile or disassemble Himalaya Pay, the Services or the Materials; (j) use any meta-tags, pay-per-click advertising, or any other "hidden text" using our name or marks, and you hereby stipulate that any such use is an infringement upon our trademark rights, and you agree to indemnify us for any loss and damage that will be suffered by us as a result of such infringement, plus you agree to pay any and all fees incurred in the recovery of this amount, including legal fees and all associated costs; (k) "Deep-link" or hard-link to any part of Himalaya Pay or related Services, or avoid accepting acknowledgement of these Terms; (l) circumvent any encryption or other security tools used anywhere on Himalaya Pay or in conjunction with the Services (including the theft of usernames, passwords or API keys or using another person's username, password or API key); (m) use any data mining, bots, scrapers or similar data gathering and extraction tools through Himalaya Pay or the Services or the Materials; (n) sell, rent, lease, license, sublicense, transfer, distribute, re-transmit, time-share, use as a service bureau or otherwise assign to any third party the Materials (including Market Data) or the Services or any of your rights to access and use the Materials or Services as granted specifically by these Terms; (o) use Himalaya Pay or the Services to impersonate any other person; (p) use any Materials (including the Market Data) or information obtained through Himalaya Pay or included in our Services in any manner that infringes any copyright, trademark, patent, trade secret, publicity or other proprietary right of any party; (q) use or duplicate the computer code underlying Himalaya Pay or the Services, contrary to the license contained in the relevant code repository; (r) upload or attempt to upload files that contain viruses, trojan horses, worms, time bombs, cancelbots, corrupted files, or any other similar software or programs that may damage the operation of ours or another's property; (s) upload, post, email or otherwise transmit to us any submission that you do not have a right to transmit under contractual, fiduciary or other relationships (such as inside information, trade secrets, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements); (t) upload, post, email or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation, except in those areas that we may designate for such purpose; (u) restrict or inhibit any other person from using and enjoying Himalaya Pay or the Services; (v) harvest or otherwise collect information about other users of Himalaya Pay or the Services, including email addresses or other personally-identifiable information; (w) violate any applicable laws, regulations or these Terms; (x) use Himalaya Pay or the Services to pay for, support, receive proceeds from or otherwise engage in any illegal gambling activities; (y) upload, post, email or otherwise transmit any material that is illegal, immoral, obscene or defamatory of any person; (z) use any automatic device or manual process to monitor or reproduce the Services or the Materials, and will not use any device, software, computer code, or virus to interfere or attempt to disrupt or damage the Services; (aa) do anything that may adversely affect proper operation of Himalaya Pay, the Services and the reputation and goodwill of us or any Affiliate Provider; or (bb) attempt to do any of the acts described in this section or assist or permit any person in engaging in any of the acts described in this section.

10. DISCLAIMER OF WARRANTY

10.1 Express Disclaimers

By using Himalaya Pay, the Materials or the Services, you expressly acknowledge and agree that:

- (a) Such use of Himalaya Pay, the Materials and the Services is at your own and sole risk;
- (b) Any material and/or data downloaded or otherwise obtained through the use of Himalaya Pay, the Services or any of the Materials is done at your own discretion and risk, and you are solely responsible for any damage to your mobile device, computer system or loss of data that results from the download of such material and/or data;

- (c) Himalaya Pay, the Services and the Materials and all materials contained therein are, to the fullest extent permitted by applicable law, provided “as is” without warranty of any kind, either express or implied;
- (d) We make no representations or warranties that Himalaya Pay, the Materials and Services, or any materials contained therein, will be uninterrupted, timely, secure, or error-free; nor do we make any representations or warranties as to the quality, suitability, truth, usefulness, accuracy, or completeness of Himalaya Pay, the Materials, and the Services or any of the materials contained therein;
- (e) We cannot and do not guarantee or warrant that files available for downloading from the internet will be free of viruses, worms, Trojan horses, or other code that may manifest contaminating or destructive properties; and, we do not assume any responsibility or risk for your use of the internet in connection with Himalaya Pay, the Materials, the Services and any materials contained therein;
- (f) We make no warranty, express or implied, regarding any transaction entered into through Himalaya Pay or the Services;
- (g) We make no representations or warranties concerning the value of any crypto asset or Credit;
- (h) To the fullest extent permitted by law, we make no warranty, express or implied, regarding the availability or security of Himalaya Pay or the Services, and shall have no liability for any loss or damage arising from Downtime;
- (i) The value of crypto assets and Credits, can be volatile and we are in no way responsible or liable for any losses you may incur by maintaining Credits on your Himalaya Pay Account, even if Himalaya Pay or the Services or those of any Affiliate Provider are delayed, suspended, or interrupted for any reason;
- (j) You do not have a right to require us to exchange any Credits for fiat currency or any crypto asset, Credit or other asset of any type and no representation, warranty or undertaking, express or implied, is given that we will do so; and
- (k) In certain jurisdictions crypto assets are unregulated products and services related to crypto assets are unregulated services. This means that, when you invest in crypto assets or use related services in these jurisdictions, losses incurred in respect of crypto assets, through the use of Credits or otherwise, will not be eligible for government compensation which might be applicable to regulated investment products or services. Himalaya Dollars, Himalaya Coins and corresponding Credits are not currently and are not intended to constitute regulated products and the Services are not intended to constitute regulated services in the jurisdictions in which they are offered or otherwise made available.

10.2 **No Implied Warranties**

The warranties and representations expressly set forth in these Terms are the only warranties and representations made by us with respect to Himalaya Pay, the Materials and the Services and, to the fullest extent permitted by applicable law, all other warranties, written or oral, express or implied, that may arise either by agreement between us or by operation of law or otherwise, are excluded to the fullest extent permitted by applicable laws.

11. **INDEMNIFICATION AND RELEASE**

11.1 **Indemnification**

To the maximum extent permitted by applicable law, you agree to defend, indemnify and hold harmless us, our parent company, Affiliates (including Affiliate Providers) and subsidiaries and each of their respective officers, directors, shareholders, members, partners, legal counsel, employees, independent contractors, telecommunication providers, and agents (collectively, the “**Indemnified Parties**”), from and against any and all claims (including third-party claims), actions, loss, liabilities, expenses, costs, or demands, including, without limitation, legal and accounting fees (collectively, “**Losses**”), directly or indirectly, resulting from or by reason of (i) your (or you under another person’s authority) use, misuse, or inability to use Himalaya Pay, the Services or the Materials; (ii) any regulatory inquiry, legal action, litigation, dispute or investigation related to your Himalaya Pay Account and to your use of your Himalaya Pay Account or the Services; (iii) your breach of these Terms or any Affiliate Terms; and (iv) any liability arising from a purchase made by us or an Affiliate in respect of a Purchase Order including as a consequence of a breach of export controls or other laws or regulations in any jurisdiction.

We shall notify you by electronic mail, mail, or other appropriate means, of any such claim or suit, and reasonably cooperate (at your expense) in the defence of such claim or suit. We reserve the right to participate in the defence of such claim or choose our own legal counsel but are not obligated to do so.

11.2 **Release**

To the maximum extent permitted by applicable law, you hereby discharge, acquit, and otherwise release the Indemnified Parties, from any and all allegations, counts, charges, debts, causes of action, claims and Losses, relating in any way to the use of Himalaya Pay, the Service or the Materials.

12. **LIMITATION OF LIABILITY**

12.1 **Limitation of Liability**

Except to the extent prohibited by applicable laws, in no event shall we (or our licensors, agents, suppliers, resellers, service providers, or any other subscribers or suppliers) or any other Indemnified Party be liable to you, or any other third party, for any direct, special, indirect, incidental, consequential, exemplary, or punitive damages, including without limitation, damages for loss of profits, loss of information, business interruption, loss of revenue, or loss of goodwill, which may arise from any person's use, misuse, or inability to use Himalaya Pay, the Services, the Materials or any of the materials contained therein, including any loss caused in whole or in part by any inaccuracies, incompleteness or delays in Market Data, interruptions in the Services even if we have been advised of the probability of such damages and regardless of whether such liability is asserted on the basis of contract, tort or otherwise.

We will not be liable for any damage or interruptions caused by any computer viruses, spyware, Trojan horses, worms or other malware that may affect your mobile device, computer or other equipment, or any phishing, spoofing or other attack. You are responsible for maintaining the security of your environment, including regular use of malware screening and prevention software. You should also be aware that email and other communication services are vulnerable to spoofing and phishing attacks and should use care in reviewing messages purporting to originate from us. Always log into your Himalaya Pay Account through Himalaya Pay or contact us if you have any uncertainty regarding the authenticity of any communication or notice.

12.2 **Force Majeure**

Neither we (nor any Affiliate Provider or other Affiliates or third-party service providers) will be liable for our failure to perform any obligations under these Terms or any Affiliate Terms due to events beyond our control, whether foreseeable or unforeseeable, and the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. Events beyond our control include, but are not limited to, acts of God, war, riot, arson, embargoes, civil commotion, strikes, labour disputes, equipment failures, bank failures, crypto-asset market collapse or fluctuations, fiat currency conversion rate fluctuations, strikes, fire, flood, earthquake, hurricanes, tropical storms or other natural disaster or casualty, shortages of labour or material, shortage of transportation, facilities, fuel, energy, pandemic, government regulation or restriction, acts of civil or military authority or terrorism, fibre cuts, weather conditions, breaches or failures to perform by third parties, technical problems, including hardware and software crashes and other malfunctions, blockchain network disruptions and failures, failure of the telecommunications or information services infrastructure, hacking, SPAM or failure of any computer, server or software disruptions on account of or caused by vandalism, theft, phone service outages, power outage, Internet disruptions, viruses, and mechanical, power or communications failures.

Without prejudice to any other right under this Agreement, if any law, regulation, rule or decision of any self-regulatory organization, or ordinance, whether domestic or international, becomes effective which substantially alters our ability to offer Himalaya Pay or the Services hereunder, we shall have the right to cancel this Agreement, with notice, if reasonably possible, effective upon the earlier of (i) the date upon which we are unable to provide our Services hereunder; or (ii) thirty (30) days following notice.

12.3 **Maximum Liability**

Subject to clause 12.1, our total aggregate liability to you for any individual claim or series of connected claims for losses, costs, liabilities or expenses which you may suffer arising out of, or in connection with, any breach by us of these Terms shall be limited to a maximum aggregate value of the Credits administered in your Himalaya Pay Account at the time of the relevant claim. Because some jurisdictions prohibit the exclusion or limitation of liability for consequential or incidental damages, the above limitation may not apply to you (in whole or in part).

12.4 **Right of Set Off**

To the extent permitted by applicable law, we and each Affiliate Provider reserve the right to set-off any damages or amounts owed to us by you for your breach of these Terms or the Affiliate Terms, your indemnification obligations, or for your other obligations under these Terms or the Affiliate Terms and Conditions against Credits to your Himalaya Pay Account and your Himalaya Exchange Account (including, without limitation, transaction fees, funds transfer fees and dormancy fees) and you expressly authorize us or the relevant Affiliate Provider to debit any Credits to your Himalaya Pay Account or Himalaya Exchange Account from time to time to account for such liabilities to us.

12.5 **Statutory or other Rights**

Nothing in this clause shall affect any statutory rights or other rights which cannot be excluded under applicable law and for the avoidance of doubt, is subject to any applicable provisions of the Jurisdiction Conditions.

13. **CONFIDENTIALITY AND COMPLIANCE WITH LEGAL PROCESS**

13.1 **Permitted Disclosure**

We will only use your personal data in the ways set out in our Privacy Policy, which can be accessed at the following website: <https://himalaya.exchange>, or as otherwise authorised by you. We may share your personal data and information relating to your Himalaya Pay Account with other third parties where we have a lawful basis to do so, including:

- (a) our banks and other financial institutions or wallet providers that we use or may use to process funds or assets in order to provide you with the Services;
- (b) law enforcement, regulatory authorities, tax authorities and officials, or other third parties when we are compelled to do so by a subpoena, court order, or similar legal procedure, or when we believe in good faith that the disclosure of your information is necessary and in our or other third parties' legitimate interest to prevent damage or financial loss, to report suspected illegal activity or to investigate violations of these Terms or any other applicable policies;
- (c) Affiliate Providers, Vendors, agents, contractors and our advisors (e.g., legal, financial, business or other advisors), in order to administer our Services, including to verify your identity and conduct screening and due diligence checks;
- (d) in connection with a merger, acquisition or otherwise; or
- (e) as permitted or required by applicable law.

You should carefully read our Privacy Policy, which can be accessed at the following website: <https://himalaya.exchange>, and Cookie Policy, which can be accessed at the following website: <https://himalaya.exchange>, as they provide details on how your personal information is collected, stored, protected, and used and provide you with further information about your rights in connection with your personal information.

While we take a range of steps to ensure the security of the information we hold, please be aware that internet transmissions are never completely private or secure and that any message or information you send using Himalaya Pay or any related Service may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.

When you download Himalaya Pay, for example from Apple iTunes or Google Play Store, the relevant app store may also collect personal information about you. They do this independently of us. We encourage you to read the privacy policy of the app store from where you download Himalaya Pay to understand how these third parties may collect, use and disclose your personal information.

13.2 **Affiliated Applications**

In order to provide the Services, Himalaya Pay is or will be integrated or linked with the systems of the Affiliate Providers including the Himalaya Exchange and the Himalaya Exchange Application. Certain features of Himalaya Pay rely on us sharing, accessing and/or receiving transaction information, instructions and other information from the Affiliate Providers whose products and services you use, including information on the Credits administered in your account with the Himalaya Exchange. To use the applicable Services, you will first be required to accept the Affiliate Terms and Conditions, which can be accessed at the following website: <https://himalaya.exchange>. Affiliate Providers are entities affiliated with us but are not under our control. Each Affiliate Provider will use your personal data for its own purposes as notified to you in the applicable privacy policy. We encourage you to read the applicable privacy policy, which can be accessed at the following website: <https://himalaya.exchange> prior to the Service Commencement Date in respect of the relevant product or service, to ensure that you understand how your personal data will be used in connection with the applicable products or services.

13.3 **Legal Process**

You agree and understand that we may comply with any writ of attachment, execution, garnishment, tax levy, restraining order, subpoena, warrant or other legal process, that we in good faith believe to be valid. We may, but are not required to, notify you of such process. We may charge you for associated costs, including legal fees. You agree that we may honour any legal process, regardless of the method or location of service.

14. **LINKS AND LINKING**

14.1 **Third Party Links**

Some websites that are linked to or from Himalaya Pay may be owned and operated by third parties. Because we have no control over such websites and resources, you understand, acknowledge and agree that we are not responsible or liable for the availability of such external websites or resources, and do not screen or endorse such websites or the content, products, advertising or other materials presented therein, and are not responsible or liable for any such content, advertising, services, products, or other materials on or available from such websites or resources.

Use of any website controlled, owned or operated by third parties is governed by the terms and conditions of use (including privacy policies) for those websites, and not by these Terms or our Privacy Policy.

We reserve the right to terminate any link or linking program at any time.

14.2 **No Liability; Indemnification**

You further understand, acknowledge and agree that we shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by, or in connection with use of or reliance on, any such third-party content, goods or services available on or through any such website or resource. If you decide to access any such third-party website, you do so entirely at your own risk and subject to any terms and conditions and privacy policies posted therein.

You hereby agree to defend and hold harmless each of the Indemnified Parties from and against any and all Losses that may result from your use of links that may appear in Himalaya Pay or via the Services.

15. **INTELLECTUAL PROPERTY**

15.1 **General**

You agree that Himalaya Pay and the Services, including but not limited to content, graphics, editorial content and the scripts and software used to implement the Services, contain proprietary information and material that is owned by us.

15.2 **Trademarks**

None of the marks, logos, domains, and trademarks that you find on Himalaya Pay or through the use of the Services or in the Materials may be used publicly except with our express written permission and may not be used in any manner that is likely to cause confusion among consumers, or in any manner that disparages or discredits us or the Affiliate Providers.

15.3 **Other Marks**

Other manufacturers' product and service names referenced within Himalaya Pay, the Services and the Materials may be trademarks and service marks of their respective companies and are the exclusive property of such respective owners and may not be used publicly without the express written consent of the owners and/or holders of such trademarks and service marks. You acknowledge and agree that we either own or have been authorized by relevant third-party intellectual property owners to use the trademarks, copyright, patents, design and intellectual property of any nature and form found in Himalaya Pay and the Services.

15.4 **Copyright**

The Himalaya Pay source code and/or Materials accessible through Himalaya Pay and the Services, and any other website owned, operated, licensed, or controlled by us are our proprietary information and valuable intellectual property and we retain all right, title, and interest in such Himalaya Pay source code and/or Materials. No rights, title or interest in Himalaya Pay's source code and/or any such Materials are transferred to you by reason of the access to Himalaya Pay or the Services. All Materials, such as text, graphics, photographs, video and audio clips, music, soundtracks, button icons, streaming data, animation, images, downloadable materials, data compilations and software are the property of us, the Affiliate Providers or its content suppliers and are protected by copyright laws. The compilation of all source code and/or Materials on Himalaya Pay and the Services is the exclusive property of us, the Affiliate Providers or its content suppliers and protected copyright laws, as well as other laws and regulations.

All Market Data available through Himalaya Pay or the Service is valuable to us and the Affiliate Providers, and to the extent that you receive access to such data, you hereby understand, acknowledge and agree that the Market Data contains proprietary and confidential information that is protected by applicable intellectual property and other laws, and is our sole property or that of the Affiliate Providers. The restrictions on use contained in these Terms shall apply with equal force and scope to the Market Data as to Himalaya Pay, any of the other Services and the Materials. Any

distribution, publication, or transmission of Market Data without our consent is a material breach of these Terms and a violation of our property rights for which we may seek appropriate legal recourse.

16. EXPORT CONTROL

You understand, acknowledge, and agree that the software elements of Himalaya Pay and the Services may be subject to export controls and other financial laws and regulations, which prohibit export or diversion of software to certain countries and third parties. Diversion of such materials contrary to applicable law is prohibited. You will not assist or participate in any such diversion or other violation of applicable laws and regulations. You agree that none of Himalaya Pay, the Services, the Materials or any virtual currencies or assets are being or will be used, acquired for, shipped, transferred, or re-exported, directly or indirectly, to proscribed or embargoed countries or their nationals or be used for proscribed activities.

17. RESTRICTED PERSONS

Each user of Himalaya Pay and the services acknowledges the restrictions set out in this section and represents, warrants and undertakes to comply with and otherwise not take any actions which may result in a violation of any of the restrictions in this section.

17.1 DOWNLOADING, ACCESSING OR USING HIMALAYA PAY AND SERVICES OR OWNING OR USING CREDITS MAY BE RESTRICTED BY LAW IN CERTAIN JURISDICTIONS AND USERS ACTIVITIES MAY BE SUBJECT TO LEGAL INVESTMENT LAWS AND REGULATIONS OR REVIEW OR REGULATION BY CERTAIN AUTHORITIES. IN PARTICULAR, NONE OF THE HIMALAYA PAY APPLICATION OR SERVICES MAY BE ACCESSED OR USED WITHIN AUSTRALIA, CANADA, JAPAN, HONG KONG OR WITHIN THE UNITED STATES OR TO OR FOR THE ACCOUNT OR BENEFIT OF ANY US PERSONS AS SUCH TERMS ARE DEFINED IN REGULATION S UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED OR BY ANY U.S. CITIZENS (AS DEFINED IN 8 U.S.C. SUBCHAPTER III) OR ANY U.S. PERSONS (AS DEFINED IN 17 C.F.R S230.902(K). PRIOR TO DOWNLOADING, ACCESSING OR USING HIMALAYA PAY OR THE SERVICES YOU MUST INFORM YOURSELF OF AND OBSERVE ANY RESTRICTIONS APPLICABLE TO YOU. A FAILURE TO COMPLY WITH APPLICABLE RESTRICTIONS MAY CONSTITUTE A VIOLATION BY YOU OF THE LAWS AND REGULATIONS IN YOU JURISDICTION.

17.2 Himalaya Pay and the Services are not directed at any person or entity that resides or is located in a jurisdiction where downloading, accessing or using Himalaya Pay or the Services would be contrary to applicable law or regulation or which would otherwise subject us or any associated or affiliated entity or Affiliate Provider or any officer, director, employee or contractor of such entities or any other Indemnified Party to any registration, licensing or other similar requirements which as at the applicable date, we or they do not have.

17.3 NONE OF THE HIMALAYA PAY APPLICATION OR SERVICES NOR ANY PRODUCTS OR SERVICES AVAILABLE FROM OR THROUGH AN AFFILIATE PROVIDER MAY BE ACCESSED OR USED BY OR OTHERWISE OFFERED, SOLD, ASSIGNED, PLEDGED, DELIVERED OR TRANSFERRED TO OR WITHIN AN COUNTRY SUBJECT TO ANY SANCTIONS ADMINISTERED BT THE OFFICE OF FOREIGN ASSET CONTROL OF THE U.S. DEPARTMENT OF THE TREASURY, OR ANY ANALOGOUS SANCTIONS OR MEASURES IMPOSED BY THE US DEPARTMENT OF STATE, THE AUSTRALIAN DEPARTMENT OF FOREIGN AFFAIRS AND TRADE, THE EUROPEAN UNION, THE UNITED NATIONS SECURITY COUNCIL OR HER MAJESTY'S TREASURY.

17.4 No action has been taken in any country or jurisdiction by us, any Affiliate Provider or any other person which would permit an offer, sale, transfer or exchange of securities or other financial instrument however so defined under the securities or equivalent laws of any jurisdiction ("**Securities**"), or possession or distribution of any offering material in relation thereto, in any country or jurisdiction where action for that purpose is required (a "**Restricted Jurisdiction**"). No products which are offered or sold by us or any Affiliate Provider including, without limitation, Himalaya Dollars, Himalaya Coins or any Credits, constitute or are intended to constitute Securities. Nothing in these Terms or any other document, alert, notification, whitepaper or communication distributed or made available by any form or means constitutes an offer to sell, transfer or exchange or a solicitation of any offer to buy, transfer or exchange any Securities in a Restricted Jurisdiction. To the extent that any products, including Credits, which are offered or sold by us or any Affiliate Provider may be deemed to be a Security in a Restricted Jurisdiction, these Terms or any other document, alert, notification, whitepaper or communication could, by virtue of the laws of a Restricted Jurisdiction, be deemed to constitute an offer or sale of Securities in that Restricted Jurisdiction, then such products or documentation is not intended for distribution, transfer, exchange or sale in the Restricted Jurisdiction and must not be distributed to or accessed by any person in that Restricted Jurisdiction and no user or any other person will or is permitted to engage in any offer, sale, pledge, transfer, exchange or assignment of the products to any person within that Restricted Jurisdiction or distribute, send or otherwise make available by any form or means any materials related thereto to any person or entity in that Restricted Jurisdiction whether through Himalaya Pay or otherwise. **Each user of Himalaya Pay and the Services acknowledges and agrees that the content of any aforementioned communication has not been approved or disapproved by any securities commission or regulatory authority in any jurisdiction unless otherwise explicitly stated.**

17.5 **PRC:** Marketing or sale of cryptocurrency (or any product akin to it) is expressly prohibited in the People's Republic of China (excluding Hong Kong, Macau and Taiwan) ("**PRC**"). Therefore, none of the HDO's, the HCN's or any Credits may be offered, sold or delivered, or offered or sold or delivered to any person for reoffering or resale or redelivery, in any such case directly or indirectly, in the PRC in contravention of any applicable PRC laws. You represent, acknowledge and agree that (i) you are not domiciled or located in the PRC when downloading, accessing or using Himalaya Pay or the Services; (ii) downloading, accessing or using Himalaya Pay or the Services must not be conducted within the PRC; and (iii) neither this document or any other related marketing materials may be copied or redistributed within the PRC for any other purpose.

17.6 **Hong Kong:** The contents of this document have not been reviewed or approved by the Hong Kong Securities and Futures Commission nor have they been reviewed or approved by any other regulatory authority in Hong Kong. You are advised to exercise caution and, if you are in any doubt about any of the contents of this document, you should obtain independent professional advice.

17.7 **United Arab Emirates:** No offering of Himalaya Pay or the Services has been approved or licensed by the United Arab Emirates Central Bank, the UAE Securities and Commodities Authority ("**SCA**") or any other relevant licensing authorities in the United Arab Emirates ("**UAE**"), and accordingly does not constitute a public offer of financial products and services including securities in the UAE in accordance with the commercial companies law, Federal Law No. 2 of 2015 Concerning Commercial Companies (as amended) and SCA Resolution No. 3 R.M. of 2017 Concerning the Organization of Promotion and Introduction or otherwise. Accordingly, the international financial products and services may not be offered to the public in the UAE. Any offering of Himalaya Pay or the Services is strictly private and confidential and is being issued to a limited number of customers : (a) upon their request and confirmation that they understand that the international financial products and services have not been approved or licensed by or registered with the UAE Central Bank, the SCA or any other relevant licensing authorities or governmental agencies in the UAE; and (b) must not be provided to any person other than the original recipient, and may not be reproduced or used for any other purpose.

18. **COMMUNICATIONS**

18.1 **Electronic Communications**

In accordance with the terms of our Privacy Policy and subject to applicable (a) laws, (b) regulatory requirements, or (c) mandatory standards or codes of practice of any competent authority (collectively, "**Applicable Law**") which require an alternative or specific method of communication, you acknowledge and agree that we may electronically provide or make available to you (as relevant) any Communication (as defined below), by (i) posting it on our website or the website of the Himalaya Exchange, (ii) pushing notifications through the Services, (iii) emailing it to the email address listed in your Himalaya Pay Account, (iv) sending you a text message to the primary mobile phone number you have listed in your Himalaya Pay Account, (v) uploading it to your Himalaya Pay Account or (vi) making the Communications otherwise accessible via other applications. In such circumstances, a Communication has the same meaning and effect as if we had provided you with paper copies.

18.2 **Opting-out of receiving Communications**

You may at any time opt-out of receiving electronic Communications relating to marketing by selecting the option to unsubscribe or by contacting our customer services. We will act on your opt-out request as soon as possible after receiving it. If you opt-out of receiving such Communications we may contact you in connection with other Communications relating to the services.

18.3 **Contact Details**

It is your responsibility to provide us with a true, accurate and complete e-mail address and contact information, and keep such information up to date. You may update your information through your Account in Himalaya Pay.

18.4 **Form of Communication**

A "Communication" includes but is not limited to any: (a) disclosure, (b) notice, (c) agreement or policy such as additional Terms or amendments to these Terms, (d) authorisation or transaction receipt or confirmation, (e) Himalaya Pay Account statement or history or (f) relevant tax statement or document or any other written information relating to your Himalaya Pay Account or your use of the Services.

18.5 **When Communication is Effective**

Communications shall be deemed effective upon delivery. Communications delivered by mail shall be deemed delivered on the Business Day following mailing. Communications by email and facsimile transmission, with confirmation from the transmitting machine that the transmission was completed, are acceptable under this Agreement provided that they are deemed delivered one (1) hour after transmission if sent during the recipient's business hours, or otherwise at 9:00 a.m. (recipient's time) the next Business Day. Communications delivered by posting on our

website or the website of the Himalaya Exchange, pushing notifications through the Services, sending you a text message to the primary mobile phone number you have listed in your Himalaya Pay Account, uploading it to your Himalaya Pay Account or making the Communications otherwise accessible via other applications shall be deemed delivered upon posting. Communications delivered by any other method shall be deemed given upon receipt.

18.6 **Refused, Unclaimed, or Undeliverable Communications**

Any correctly addressed Communication that is refused, unclaimed or undeliverable shall be deemed effective as of the first date that said Communication was refused or deemed undeliverable by the postal authorities, messenger, facsimile machine, email server or service provider, or overnight delivery service.

18.7 **Notices from you**

Notices from you to us shall be given by contacting our customer services via our website or by sending such notice by registered mail to Commerce House, 1 Wickhams Cay , P.O Box 3140 , Road Town , Tortola, British Virgin Islands , VG1110 or to such other address as we may notify to you for such purposes from time to time, unless otherwise specified in the Agreement.

19. **GOVERNING LAW AND ARBITRATION**

19.1 **Governing Law**

These Terms (including 19.2 (*Arbitration*)) and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with them or their subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

19.2 **Arbitration**

If a dispute arises between the parties arising out of or otherwise relating to these Terms, the parties shall negotiate in good faith to attempt to resolve the dispute. If the parties are unable to resolve the dispute through direct negotiations, then, except as otherwise provided herein and subject to any applicable Jurisdiction Conditions, any such dispute arising out of or in connection with these Terms, including any question regarding the existence, validity or termination of these Terms, (a "**Dispute**") shall be referred to and finally resolved by arbitration under the Arbitration Rules of the London Court of International Arbitration ("**LCIA**"), which are deemed to be incorporated by reference into these Terms. The tribunal shall consist of a sole arbitrator, unless the LCIA determines that, in view of all the circumstances of the case, a three-member tribunal is appropriate. The place and seat of the arbitration shall be London, England. The language to be used in the arbitration proceedings will be English. The decision of the arbitrator(s) will be final, binding and enforceable against you and us, and a judgment upon any award rendered by the arbitrators may be entered in any court having jurisdiction. In no event will the arbitrators have the authority to make any award that provides for punitive or exemplary damages. Each party shall bear its own costs in relation to such arbitration.

The parties agree to keep confidential all matters relating to the arbitration, including related court proceedings, to the greatest extent practicable. For purposes of this arbitration provision, references to the parties also include Affiliate Providers, respective subsidiaries, affiliates, agents, contractors, employees, predecessors, successors and assigns as well as authorised users or beneficiaries of Himalaya Pay and the Services.

Nothing in this clause shall be construed as preventing either party from seeking conservatory or similar interim relief in any court of competent jurisdiction.

19.3 **No Waiver of Right to Arbitration**

There shall be no waiver of the right to arbitration unless such waiver is provided affirmatively and in writing by the waiving party to the other party. There shall be no implied waiver of this right to arbitration. No acts, including the filing of litigation, shall be construed as a waiver or a repudiation of the right to arbitrate.

19.4 **Providers Option**

At any time before the appointment of an arbitrator to resolve any Dispute(s), we, at our sole option, may elect, by notice in writing to the other party, that such Dispute(s) shall instead be heard by the courts of England or by any other court of competent jurisdiction. Following such election, no arbitral tribunal shall have any jurisdiction in respect of such dispute(s) and the parties irrevocably submit to the jurisdiction of the courts for such purposes. Nothing in this clause shall (or shall be construed so as to) limit our right to bring proceedings ("**Proceedings**") for the determination of any Dispute(s) in any other court of competent jurisdiction, nor shall the bringing of such Proceedings in any one or more jurisdictions preclude the bringing of Proceedings by us in any other jurisdiction (whether or not concurrently or not) if and to the extent permitted by law.

20. **RIGHT TO INJUNCTIVE RELIEF**

You agree that due to the nature of our business, monetary damages for a breach of your obligations under these Terms would be inadequate to compensate us. Accordingly, you agree and understand that any violation or threatened violation by you of your obligations under these Terms will cause irreparable injury to us and that, in addition to any other remedies that may be available, in law, in equity or otherwise, we will be entitled to obtain injunctive relief against any threatened breach of these Terms or the continuation of such breach without the necessity of proving actual damages.

21. **COMPLAINTS**

If you would like to contact us with a complaint, please contact our customer services via our website.

22. **MISCELLANEOUS PROVISIONS**

22.1 **Assignment**

Neither this Agreement, nor any of your rights and obligations hereunder, may be assigned, transferred and/or novated by you, but may be assigned, transferred and/or novated by us. We will inform you 14 days in advance if we do this. We will treat you continuing to use Himalaya Pay and the Services as you agreeing to the assignment and/or novation, but you can cancel your Himalaya Pay Account at any time. Subject to the foregoing, this Agreement shall be binding and inure to the benefit of the parties hereto, our successors, and permitted assigns.

In the event that we are acquired by or merged with a third-party entity, we reserve the right, in any of these circumstances, to transfer or assign the information we have collected from you as part of such merger, acquisition, sale, or other change of control. See also our Privacy Policy for additional information.

22.2 **Severability**

If for any reason a court of competent jurisdiction or an arbitrator finds any provision these Terms, or any portion thereof, to be invalid, unenforceable or illegal, such invalidity, unenforceability or illegality shall not affect the remainder of these Terms, which will continue to be in full force and effect, and any prior, effective provision of these Terms that was superseded by such invalid, unenforceable or illegal provision shall be deemed valid and enforceable to the fullest extent.

22.3 **No Waiver**

No waiver or action made by us shall be deemed a waiver of any subsequent default of the same provision of these Terms. No failure or delay in exercising or enforcing any privilege, right, remedy, or power hereunder shall be deemed a waiver of such provision by us. All waivers must be in writing.

22.4 **No Rights for Third Parties**

Except in respect of Affiliate Providers and Indemnified Parties, these Terms do not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999.

22.5 **Delay of Enforcement**

Even if we delay in enforcing any Term, we can still enforce it later. If we do not insist immediately that you do anything you are required to do under these Terms, or if we delay in taking steps against you in respect of your breaking these Terms, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.

22.6 **Headings**

All headings are solely for the convenience of reference and shall not affect the meaning, construction or effect these Terms.

22.7 **Complete Agreement**

These Terms, together with the Affiliate Terms and any documents incorporated by reference into these Terms constitutes the entire agreement between the parties with respect to your access to and use of Himalaya Pay, the Services, the Materials and the materials contained therein. These Terms, including our Compliance Policies and together with our Privacy Policy, supersedes and replaces all prior understandings or agreements, written or oral, regarding such subject matter.

22.8 **Other Jurisdictions**

We make no representation that Himalaya Pay, the Services, the Materials or any of the materials contained therein are appropriate or available for use in other locations, and access to them from territories where their content or function may be illegal or is otherwise prohibited. Those who choose to access Himalaya Pay, the Services and the Materials from such locations do so on their own initiative and are solely responsible for determining compliance with all applicable local laws.

22.9 Survival

All provisions of these Terms which by their nature extend beyond the expiration or termination of this Agreement, including without limitation, sections pertaining to suspension or termination, debts owed, general use of the Services, disputes with us, and general provisions, shall survive the termination or expiration of this Agreement.

22.10 No Agency Relationship

Nothing in this Agreement shall be deemed to constitute, create, imply, give effect to, or otherwise recognize a partnership, employment, joint venture, or formal business entity of any kind; and the rights and obligations of the Parties shall be limited to those expressly set forth herein. We are not your agent or other representative. Except for the indemnity and exculpation provisions herein and subject to clause 22.1, nothing expressed in or implied from this Agreement is intended or shall be construed to give any person other than the Parties hereto any legal or equitable right, remedy, or claim under or in respect of this Agreement to enforce any of its terms which might otherwise be interpreted to confer such rights to such persons. This Agreement and all representations, warranties, covenants, conditions and provisions hereof are intended to be and are for the exclusive benefit of you and us.

22.11 Prevailing Language

This Agreement is made in the English language. Should any conflict arise between the English language version of this Agreement and any translation hereof, the English language version shall be controlling.

22.12 Notice Regarding Apple

This clause 22.12 only applies to the extent you are using our mobile application on an iOS device. You acknowledge that these Terms are between you and us only, not with Apple Inc. ("**Apple**"), and Apple is not responsible for Himalaya Pay or the Services or the content thereof. Apple has no obligation to furnish any maintenance and support services with respect to Himalaya Pay or the Services. If Himalaya Pay or the Services fail to conform to any applicable warranty, you may notify Apple and Apple will refund any applicable purchase price for the mobile application to you; and, to the maximum extent permitted by applicable law, Apple has no other warranty obligation with respect to Himalaya Pay or the Services. Apple is not responsible for addressing any claims by you or any third party relating to Himalaya Pay or the Services or your possession and/or use of Himalaya Pay or the Services, including: (a) product liability claims; (b) any claim that Himalaya Pay or the Services fail to conform to any applicable legal or regulatory requirement; or (c) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement and discharge of any third party claim that Himalaya Pay or the Services and/or your possession and use of Himalaya Pay or the Services infringe a third party's intellectual property rights. You agree to comply with any applicable third party terms when using Himalaya Pay or the Service. Apple and Apple's subsidiaries are third party beneficiaries of these Terms, and upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary of these Terms. You hereby represent and warrant that: (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.]

22.13 Tax Gross-up

If you are liable to pay an amount under this Agreement to us and you are required by an applicable law to deduct an amount of tax from such payment (such as a withholding tax) or the payment is chargeable with goods and services tax, value added tax or a similar tax (whether as consideration for a taxable supply or otherwise), then you must gross-up the payment by the amount necessary to ensure that the net amount received by us after deduction or imposition of that amount of tax equals the amount we would have received had that amount of tax not been deducted or imposed.

23. JURISDICTION CONDITIONS

This section contains Jurisdiction Conditions and disclosures that apply only to users of Himalaya Pay and the Services located in the specified jurisdictions.

23.1 United Kingdom

Limitation of Liability

Nothing in the Terms or the Contractual Documentation shall limit or exclude in any way our liability to you where it would be unlawful to do so. This includes liability under the Consumer Protection from Unfair Trading Regulations 2008, the Consumer Rights Act 2015 and all applicable consumer protection legislation. Nothing in the Terms or the Contractual Documentation shall limit or exclude our or an Affiliate Provider's liability for: (a) death or personal injury resulting from the negligence of any us or an Affiliate Provider, including its employees, agents and subcontractors; or (b) fraud or fraudulent misrepresentation; or (c) breach of your legal rights in relation to Himalaya Pay and Services; or (d) the deliberate default of us or any Affiliate Provider, including its employees, agents and subcontractors; or (e) the willful misconduct of us or any Affiliate Provider, including its employees, agents and subcontractors; and the Terms and Contractual Documentation shall be read and construed accordingly.

23.2 **Australia**

None of Himalaya Pay or any related Services will be sold and marketed to any person or entity in Australia and the Terms shall be read and construed accordingly.

23.3 **Switzerland**

None of Himalaya International Clearing Limited or any Himalaya Pay Affiliate Provider is a supervised or regulated entity under Swiss law. None of Himalaya International Clearing Limited or any Himalaya Pay Affiliate Provider is regulated as a bank, a private bank, an exchange, a securities firm, a financial market infrastructure, a payment system, a fund, a collective scheme investment manager or distributor, a financial intermediary, a portfolio manager or otherwise a financial institution and is neither authorized to act as such nor monitored by the Swiss Financial Market Supervisory Authority ("**FINMA**").

Neither this document nor any other information or material relating to Himalaya Pay or the Services or to Himalaya Coins, Himalaya Dollars or Credits, shall be deemed as a prospectus, an investment memorandum or be considered to have been or will be filed with or approved by FINMA.

Neither Himalaya Dollars, Himalaya Coins or corresponding Credits qualify as security / asset tokens under the FINMA Guidelines for enquiries regarding the regulatory framework for initial coin offerings (ICOs) published on February 16, 2018 and under the FINMA Supplement to the guidelines for enquiries regarding the regulatory framework for initial coin offerings (ICOs) published on September 11, 2019.

The purchase of Himalaya Dollars, Himalaya Coins or corresponding Credits is not meant to be a collective investment scheme. None of Himalaya International Clearing Limited or any Himalaya Pay Affiliate Provider or the Affiliate Providers will manage your Himalaya Dollars, Himalaya Coins or corresponding Credits on your behalf and you will at all times be able to request for a settlement of your Himalaya Dollar Credits or Himalaya Coin Credits.

The Himalaya Dollar may qualify as a stable coin under the FINMA Supplement to the guidelines for enquiries regarding the regulatory framework for initial coin offerings (ICOs) published on September 11, 2019 and Himalaya Coin may qualify as a payment token under the FINMA Guidelines for enquiries regarding the regulatory framework for initial coin offerings (ICOs) published on February 16, 2018. However, neither the contents of this document nor any other information or material relating to Himalaya Pay, the Services, the Himalaya Coins, the Himalaya Dollars or the Credits has been reviewed or approved by FINMA nor have they been reviewed or approved by any other regulatory authority in Switzerland. You are advised to exercise caution and, if you are in any doubt about any of the contents of this document, you should obtain independent professional advice.

None of Himalaya International Clearing Limited or any Himalaya Pay Affiliate Provider clears and settles payment obligations on behalf of Supported Vendors. Payments using Himalaya Pay are settled directly between User and Supported Vendors on the blockchain. Furthermore, Himalaya Pay is limited to certain Vendors located outside Switzerland and is therefore of limited significance for the Swiss market and does not request a protection of market participants in Switzerland.

If you are resident in Switzerland ("**Swiss User**"), you are solely entitled to use your Credits through Himalaya Pay to pay Vendors listed on Himalaya Pay for purchasing goods and services, subject to strict compliance with the requirements of the Federal Act on Combating Money Laundering and Terrorist Financing (RS 955.0) and its Ordinance (RS. 955.01). Swiss Users will be onboarded in compliance with the Federal Act on Combating Money Laundering and Terrorist Financing (RS 955.0) and its Ordinance (RS. 955.01) and, if and where applicable, the Federal Act on Financial Services (RS 950.1) and its Ordinance (950.11). In no event will Swiss Users have a claim on the issuer of Himalaya Dollar and/or a right to, directly or indirectly, redeem any Himalaya Credits.

The following clauses are amended as follows in respect of Swiss Users:

- (a) Clauses 1.8 (Revisions to these Terms): in the event of modification or amendment of the terms, you will be notified (either on your account or my email) about such modifications or amendments. You will have to accept them the next time you login on Himalaya Pay. Your continued use of Himalaya Pay or the Services shall be deemed acceptance of the then prevailing Terms.

- (b) Clause 3.1 (Opening your Himalaya Pay Account; Registration Data; Compliance Policies): by opening a Himalaya Pay Account, you acknowledge that we (i) disclosed clearly and completely the identity and email of the entity responsible for Himalaya Pay ;(ii) indicated clearly the different steps to enter into an agreement with us; (iii) provided you with appropriate technical tools to allow you detect and correct typos before send your order; (iv) confirm without any delay your order by email.
- (c) Clause 6 (Unclaimed Credits): If there are Credits to your Himalaya Pay Account and there has been no activity in your Himalaya Pay Account for a period of more than five years or as otherwise prescribed by applicable law, we may be required to report this as unclaimed property in accordance with abandoned property and escheat laws.
- (d) Clause 10 (Disclaimer of Warranty): By using Himalaya Pay, using the Materials or the Credits to purchase goods and services or benefiting from the Services, you expressly acknowledge and agree that you are acting at your sole risk, on an execution-only basis, and that your order will be placed on Himalaya Pay after having provided you with all relevant information to allow you to take the decision to place such orders.
- (e) Clause 12.1 (Limitation of Liability): Nothing in these Terms or the Contractual Documentation shall limit or exclude in any way our liability to you where it would be unlawful to do so and the Terms and Contractual Documentation shall be read and construed accordingly. Any invalidity or restriction of the limitation of liability clause contained in the in these Terms or the Contractual Documentation decided by a Court of competent jurisdiction shall in no event affect the validity of the rest of the Terms or the Contractual Documentation. A limitation of liability shall not be applicable to Swiss Users in the event that they can demonstrate that the damages incurred have been caused and is the direct result of a our willful act (fraud) or gross negligence.

23.4 **Italy**

Vexatious Provisions

For the purposes of Section 1341 and Section 1342 of the Italian Civil Code (i.e., royal decree 16 March 1942, n. 262), the following provisions are specifically approved and accepted:

Terms: clauses 1.8 (Revisions to these Terms), 3.3 (No Account Transfers; No Grant of Third Party Access), 4.1 (Suspension and Termination), 10.1(h) (Express Disclaimers), 11.1 (Indemnification), 11.2 (Release), 12.1 (Limitation of Liability), 12.3 (Maximum liability), 14.2 (No Liability; Indemnification), 19.2 (Arbitration), 19.3 (No Waiver of Right to Arbitration), 20 (Right to Injunctive Relief), and 22.1 (Assignment).

23.5 **People's Republic of China**

Marketing or sale of cryptocurrency (or any product akin to it) is expressly prohibited in the People's Republic of China (excluding Hong Kong, Macau and Taiwan) ("**PRC**"). Therefore, none of the HDO's, the HCN's or any Credits may be offered, sold or delivered, or offered or sold or delivered to any person for reoffering or resale or redelivery, in any such case directly or indirectly, in the PRC in contravention of any applicable PRC laws. You represent, acknowledge and agree that (i) you are not domiciled or located in the PRC when downloading, accessing or using Himalaya Pay or the Services; (ii) downloading, accessing or using Himalaya Pay or the Services must not be conducted within the PRC; and (iii) neither this document or any other related marketing materials may be copied or redistributed within the PRC for any other purpose.

23.6 **UAE**

The offering of Himalaya Pay and the Services has not been approved or licensed by the United Arab Emirates Central Bank, the UAE Securities and Commodities Authority ("**SCA**") or any other relevant licensing authorities in the United Arab Emirates ("**UAE**"), and accordingly does not constitute a public offer of financial products and services including securities in the UAE in accordance with the commercial companies law, Federal Law No. 2 of 2015 Concerning Commercial Companies (as amended) and SCA Resolution No. 3 R.M. of 2017 Concerning the Organization of Promotion and Introduction or otherwise. Accordingly, the international financial products and services may not be offered to the public in the UAE.

An offering of Himalaya Pay and the Services is strictly private and confidential and is being issued to a limited number of customers : (a) upon their request and confirmation that they understand that the international financial products and services have not been approved or licensed by or registered with the UAE Central Bank, the SCA or any other relevant licensing authorities or governmental agencies in the UAE; and (b) must not be provided to any person other than the original recipient, and may not be reproduced or used for any other purpose.

Prospective users of Himalaya Pay or the Services should note the following:

- (a) the provision of Himalaya Pay and the Services by Himalaya International Clearing Limited or a Himalaya Pay Affiliate Provider, as the case may be, is in the jurisdiction of the relevant provider and not of the user;
- (b) crypto assets, including, without limitation, the Himalaya Dollar and the Himalaya Coin are not considered securities under the laws applicable in the UAE and are not afforded any protections under such laws;
- (c) in the event that SCA does not approve the listing of a crypto asset, including, without limitation, the Himalaya Dollar and the Himalaya Coin on a crypto asset exchange in the UAE, the crypto assets are not available on any exchange in the UAE and, as a result, the crypto assets are not tradable and/or subject to restrictions on their resale in the UAE;
- (d) prospective purchasers of crypto assets, including, without limitation, the Himalaya Dollar and the Himalaya Coin and Credits should conduct their own due diligence before investing and consult a certified financial adviser if any terms of the offer of promotion documentation are not fully understood;
- (e) the nature of crypto assets may lead to an increased risk of fraud or cybercrimes;
- (f) transactions related to crypto assets may be irreversible, and, accordingly, losses resulting from fraudulent or accidental transactions may not be recoverable;
- (g) the volatility and unpredictability of the price of the crypto asset and consequently, corresponding Credits, may result in significant loss over a short period; and
- (h) investors must be willing to lose the entirety of their invested capital and accept that they may have no recourse in the event that purported rights or benefits of any crypto assets are not received, any relevant project does not proceed, or other investors in the market become unwilling to exchange fiat currency for such crypto asset. Such events may have a corresponding negative impact on Credits.