

TERMS OF USE

1. Introduction

- 1.1. These terms and conditions constitute an agreement between you and Amber Labs Pty Ltd ABN 69 623 875 052 (**Amber, we, us and our**) and contains the terms that govern your access to and use of our website and mobile application (**Platform**).
- 1.2. A reference to Amber, we, us or our in these terms and conditions (**Terms**) includes a reference to our associated entities, directors, officers, affiliates, employees, service providers, members, representatives and agents.
- 1.3. By signing up and using the Platform, you expressly agree that you will comply with and be bound by these Terms, as well as any additional terms and conditions displayed on our Platform (including but not limited to Amber's Privacy Policy and Anti-Money Laundering and Counter Terrorism Financing (**AML-CTF**) Policy).
- 1.4. We may amend, modify, add or delete any terms and conditions (including the Terms) at our own discretion and those amendments, modifications, additions or deletions apply to your use of our Platform as soon as they are displayed on the Platform (whether or not you are aware of those amendments, modifications, additions or deletions). All subsequent transactions will be subject to the amended and most current Terms.

2. Your Account

- 2.1. To access and use the Amber Platform, you must register and open an account through our application or website (**Account**).
- 2.2. Your eligibility to access the Amber Platform as an accountholder is dependent upon your country of residence. The Amber Platform is provided to persons resident in the following jurisdiction(s):
 - 2.2.1. Australia.

If you are a resident of any jurisdiction not listed above, you must not register with Amber and are not entitled to use the Platform. By registering with the Platform, you warrant to Amber that you are a resident of the jurisdictions listed in this clause 2.2.
- 2.3. You must meet the following criteria to continue to have an active Account on the Platform:
 - 2.3.1. If you are an individual, you must hold an Australian bank account in your own name;
 - 2.3.2. If you are trading through a company, trust or partnership, your entity must duly constituted by law; and
 - 2.3.3. You must have a valid email address and phone number.
- 2.4. You must provide all the information requested by Amber to verify your identity and your ongoing eligibility to hold an active Account.
- 2.5. We may decline to open an Account for you if:
 - 2.5.1. You do not pass our identity verification requirements;
 - 2.5.2. You do not fulfil the other criteria for an active Account; or
 - 2.5.3. We reasonably believe it necessary, in order to limit any money laundering or terrorism financing risks, fraud, criminal activity or any other breach of law.
- 2.6. You are responsible for maintaining and protecting the confidentiality of your log in details, including your password. It is imperative that you use appropriate security measures at all times when accessing and using the Platform. Amber does not take any responsibility for unauthorised access to your Account which is caused by a failure to secure your log in details (including passwords).

3. The Platform

- 3.1. The Platform provided and operated by Amber allow buyers and sellers to convert, buy, sell and trade digital currency. Amber acts as a broker in order to source and purchase crypto currencies on your behalf. As part of our Platform, you can make micro-investments by:
 - 3.1.1. Connecting your bank account with the Platform and a service provider with a direct debit functionality (**Service Provider**); and
 - 3.1.2. Making purchases with your connected bank account (**Bank Account**).
- 3.2. You will be prompted to connect with the Platform's Service Provider when you undertake the account creation process. You are required to read and consent to their Terms of Use and any other documents they require prior to creating an account with them and providing them with your Bank Account details.
- 3.3. By using the Platform, you warrant that you have read, understood and agreed with any documents required by the Service Provider.
- 3.4. To facilitate your micro-investments, the Platform will:
 - 3.4.1. Track purchases in your Bank Account and round each purchase up to the nearest dollar (and add additional amounts, should you choose to allow that functionality within the Platform);
 - 3.4.2. Interface with the Service Provider periodically to debit the accumulated rounding amount from your Bank Account; and
 - 3.4.3. Credit your Account with an amount of cryptocurrency, based on your chosen percentage split within the Platform.
- 3.5. We grant you a non-exclusive, revocable, non-transferable licence to use the software on a server controlled by us for the sole purpose of accessing and obtaining the material on the Platform.
- 3.6. The Platform is:
 - 3.6.1. hosted and maintained by Amber using infrastructure provided by Amazon Web Services (AWS);
 - 3.6.2. accessible using the internet or other connection to Amber servers;
 - 3.6.3. not available "locally" from a user's system;
 - 3.6.4. Managed and supported exclusively by Amber and no administrative, backend or server-level access to the Platform is available to you unless expressly agreed by Amber in writing.
- 3.7. As a hosted and managed service, Amber reserves the right to upgrade, maintain, tune, backup, amend, add or remove features; redesign, improve or otherwise alter the Platform. Where practicable, you will be notified of any major changes that will impact your access to Amber beforehand.
- 3.8. Amber will not exercise its right under clause 3.7 in a manner that would intentionally cause the user to lose access to user content or fundamentally decrease the utility of the Platform to you, other than in accordance with these Terms of Use.
- 3.9. **No warranties.** We do not warrant that the Platform will meet your requirements or that it will be suitable for any particular purpose. To avoid doubt, all implied conditions or warranties are excluded in so far as is permitted by law, including (without limitation) warranties of merchantability, fitness for purpose, title and non-infringement.

3.10. Defects. You acknowledge that software is never wholly free from defects, errors and bugs, and we give no warranty or representation that the software used for the Platform will be.

4. Risks Associated with Digital Assets

- 4.1. The trading or holding of digital currency involves significant risks, the losses can be substantial and such loss and liability is not insurable. You should carefully consider and assess whether trading or holding of digital currency is suitable for you depending upon your financial circumstances, resources and tolerance to risk.
- 4.2. Digital currency such as [Bitcoin](#) and [Ether](#) are unlike traditional currencies, goods or commodities in the market and are subject to exceptional volatility. Unlike other traditional forms of currency, digital currency is decentralized and is not backed by a central bank, government or legal entities and largely remains unregulated. As such, the value of digital currencies may swing depending upon the market, confidence of investors, competing currencies, regulatory announcements or changes, technical problems and/or many other factors.
- 4.3. Due to the significant risks of trading digital and crypto currencies as well as the impact of technology and the international market, Amber cannot warrant or guarantee that specific cryptocurrencies will be available on our Platform. Amber reserves the right to stop offering trades in relation to a cryptocurrency or cryptocurrencies on our Platform.
- 4.4. We will use our reasonable endeavours to notify you by email and/or by notifications on our Platform if we cease to support trading a particular cryptocurrency. If this is the case, you will not be able to convert the cryptocurrency into AUD or any other currency, however you will be given the option to move your cryptocurrency to another account, platform or third-party website.
- 4.5. Amber may support alternative blockchain constructs like non-fungible tokens and other smart-contract assets. It may also provide support for mechanisms such as forks, side-chains and extended networks (like the Bitcoin Lightning Network). Amber shall not be obligated to provide support for alternate blockchain constructs, assets, mechanisms or forks.
- 4.6. If Amber will not be supporting a cryptocurrency fork, the user will be notified prior to that event and given the opportunity to withdraw the effected cryptocurrency. If Amber will be supporting a fork, any resulting 'split' coins will be credited to the user's Account.
- 4.7. Amber is not responsible or liable for your cryptocurrency once you transfer any amount from our Platform to another site, device, wallet, platform or user. It is important for you to take precautions when transferring and storing your coins whether on our Platform or through other sites, wallets or devices.
- 4.8. Amber takes no responsibility for misappropriation of theft or your coins. Should you wish to have direct custody of your cryptocurrency, we advise that you familiarise yourself with and implement a personal wallet service or other device for storing your coins (and implement other security measures such as two-factor authentication).
- 4.9. We recommend **at the very least** the following 'best practice' steps when transferring your cryptocurrency outside of the Platform:
 - 4.9.1. Always double check the external address you are sending your cryptocurrency to;
 - 4.9.2. Where possible, use an external wallet which allows you to generate a QR code receiving address and scan that with your app;
 - 4.9.3. If you cannot scan a QR code, copy & paste instead of manually writing the addresses; and
 - 4.9.4. Never store your private keys for external accounts somewhere easily accessible; and
 - 4.9.5. If you are storing your private keys digitally, make sure they're encrypted and not stored in plain text.

4.10. Additionally, we recommend following advice listed [here](#) when transferring your cryptocurrency from the Platform.

5. Fees

5.1. In providing the Platform functionality, Amber may at their discretion charge you fees which may include (but are not limited to):

- 5.1.1. a small transaction fee (usually on a percentage basis) for the purchase of cryptocurrency on your behalf;
- 5.1.2. an amount equal to the fee charged by the Service Provider for the direct debit of your account (where the Service Provider charges us directly and does not debit the fee from your Bank Account);
- 5.1.3. a fee for any 'top-ups,' 'boosts' or any other discretionary payment plans elected by you within your Account; and
- 5.1.4. any other fees which are reasonably necessary for the ongoing commercial operation of the Platform.

5.2. The purchase of cryptocurrency on your behalf will be at the exchange rate set by Amber. Due to the volatility of cryptocurrency and the variation in price from various merchants, the exchange rate may be more or less than another exchange which also provides cryptocurrency for purchase. You agree to the exchange of your Australian Dollars to cryptocurrency within the Platform being made at the rate determined by Amber from time to time.

6. Your Obligations

6.1. You warrant to us that you are a bona fide user of Amber's Platform for the purposes of purchasing, trading and investing in crypto currency.

6.2. In your use of the Platform, you are expressly prohibited from the following:

- 6.2.1. Using Amber's Platform or any other of our services for any unlawful purpose or in breach of any applicable laws;
- 6.2.2. Engaging in any restricted or criminal activities, including but not limited to:
 - 6.2.2.1. Terrorist financing;
 - 6.2.2.2. Illegal gambling
 - 6.2.2.3. Money laundering;
 - 6.2.2.4. Distributing or funding drugs and/or drug paraphernalia;
 - 6.2.2.5. Malicious hacking;
- 6.2.3. Knowingly or recklessly providing Amber with false, inaccurate or incomplete information through the Platform;
- 6.2.4. Using Amber's Platform for the purpose of obtaining, processing, distributing, viewing, assessing, analysing, copying or replicating any information, methods or processes related to the Platform (including without limitation by way of data scraping, the use of collection or accumulation tools and robotic or scripted responses);
- 6.2.5. Reverse engineering, disassembling or otherwise attempting to construct, copy or replicate the Platform's source code, formulas or processes;
- 6.2.6. Using the Amber Platform for any purpose that is unlawful or prohibited in a way that infringes the intellectual property rights or other rights of any person (including Amber);
- 6.2.7. Interfering with the security of the Platform or the secure and safe use of the Platform for any other Amber user (including but not limited to by way of distributing viruses, corrupted files or other similar software or programs that may damage the operation of any computer hardware or software or which are otherwise directed at the Platform or an Amber user);
- 6.2.8. Using this Platform for any purpose which is unlawful or prohibited or in a way that infringes the intellectual property rights or other rights of any person, including us;
- 6.2.9. Knowingly or recklessly taking advantage and/or use a technical or technological error, glitch or loophole on Amber's Platform;

- 6.2.10. Using the Platform or the information provided on it for commercial purposes which are competitive to our business or Platform, or which would otherwise be detrimental or prejudicial to Amber's interests in any way;
 - 6.2.11. Publishing, posting, disseminating or distributing any 'spam material' or engaging in any communication that is offensive, damaging to reputation, false, unlawful, defamatory, derogatory, unfair or inappropriate in any way to others, which would reasonably be considered 'spam' or which is misleading or deceptive (or likely to mislead or deceive), whether made on the Platform or through any other form of communication;
 - 6.2.12. Using systematic, repetitive or other related methods which are designed to generate or obtain repetitive and repeated amounts of data or other information from or to the Platform or which may otherwise place an unreasonable load on the infrastructure of our Platform;
 - 6.2.13. Collecting or storing personal data about other uses of the Platform; or
 - 6.2.14. Doing anything else which may interfere with or negatively affect the operation of the Platform or other users.
- 6.3. Amber may at its complete discretion add to, subtract or alter the above clause 6.2 as it sees fit. Should alterations occur, you shall be notified within the Platform that the Terms of Use have been updated and required to re-affirm your agreement.
- 6.4. **Defamation.** You must not publish, or cause to be published, any information about Amber which is defamatory, untrue, false or otherwise inaccurate. You expressly indemnify Amber for any damages, including intangible damages such as damage to reputation, in relation to same.
- 6.5. **Trademark.** You must not publish, disseminate or otherwise cause to be accessible any content which uses the trademark of Amber, including the Amber image, text or image and text, in a form which has not been approved by Amber in writing.

7. Data

- 7.1. The user acknowledges that their any data in relation to their Account may be physically hosting in a managed data centre, on a physical hard drive which may or may not include other Third-Party data.
- 7.2. They further acknowledge that, while Amber will take reasonable measures to ensure the security of Account data, Amber is not responsible for the security of the data centre itself.
- 7.3. We may collect, use and disclose Platform statistics, transactional and performance information for business purposes (including software use optimization, product marketing and data insights for Third Parties) provided that such use does not reveal your identity, any of your confidential information or any personally identifiable information that belongs to you. You grant us the right to use your Account data in this manner.
- 7.4. This clause 7 shall survive termination of this Agreement.

8. Intellectual Property

- 8.1. Amber is the owner of all Intellectual Property, material, processes, methods and content on or produced by the Platform . By using the Platform and participating in micro-investments, you gain no rights to any Intellectual Property in the Platform.
- 8.2. **Content.** All content remains the Intellectual Property of Amber, including (without limitation) any source code, analytics, insights, ideas, exercises, enhancements, feature requests, suggestions or other information provided by you with respect to Amber and/or the Platform.

9. Termination

- 9.1. Amber may suspend, limit, restrict, deactivate or terminate your access to the Platform, including your Account, if:

- 9.1.1. You commit any of the activities listed in the above clause 6.2 ;
 - 9.1.2. You gain or attempt to gain unauthorised access to the Platform or another person's account;
 - 9.1.3. There is a technical or operational difficulty;
 - 9.1.4. You use the Platform in order to perform illegal or criminal activities;
 - 9.1.5. Your use of the Platform is subject to any pending investigation, litigation or government proceeding;
 - 9.1.6. You fail to pay or fraudulently pay for any transactions;
 - 9.1.7. We are unable to support your use;
 - 9.1.8. You breach any terms of this Terms of Use Agreement or Privacy Policy; or
 - 9.1.9. We receive a request from a trustee in bankruptcy or other official that we are required to comply with or from a law enforcement or government agency to do so.
- 9.2. Amber may also Terminate this Agreement and your use of the Platform at any time and at our complete discretion, provided that we transfer, or assist you in transferring, all cryptocurrency held by you within the Platform to another account which may be managed by an independent wallet, in which you hold control of the private keys.
- 9.3. You may cancel your Account at any time, following the settlement of any pending transactions or trades. You will not be charged any fees for cancelling your Account, however you must pay any outstanding amounts owed to us.

10. Indemnity

- 10.1. You agree that you use the Platform at your own risk.
- 10.2. To the maximum extent permitted by law, you agree to indemnify, defend and hold harmless Amber from and against all claims, demands, actions, suits, proceedings, liabilities, losses, damages, penalties, fines, expenses and costs (including reasonable legal costs and expenses awarded by a court) which result from or relate to:
- 10.2.1. Your conduct and use of the Platform;
 - 10.2.2. Your external use of cryptocurrency, including any transfer to or from the Platform;
 - 10.2.3. Your breach of these Terms;
 - 10.2.4. Your breach of any law, regulation or rule;
 - 10.2.5. Your violation or breach of Amber's copyright, intellectual property, trade secrets, patents, trademarks, service marks, breach of privacy, defamation or any other proprietary right under law;
 - 10.2.6. Our reliance to our detriment on the information provided to us by you; or
 - 10.2.7. Any damage that you cause to the Platform, to any Amber user or any other person or entity.

11. Force Majeure

- 11.1. Amber may be prevented in whole or in part from carrying out its obligations under this Agreement as a result of Force Majeure.
- 11.2. While the Force Majeure continues, the obligations which cannot be performed because of the Force Majeure will be suspended.
- 11.3. Amber must remedy the Force Majeure to the extent reasonably practicable and resume performance of its obligations as soon as reasonably possible.
- 11.4. Amber shall not be liable to you for any detriment as a result of a Force Majeure event.

12. Limitation of Liability

- 12.1. To the maximum extent permitted by law, Amber and its bodies corporate does not guarantee the quality, performance or fitness for purpose of the Platform and Services or the completeness, accuracy or currency of statements, representations and information of others (including without limitation data, reports and analyses) provided via the Platform

and Services and Amber will not be liable to any person or entity for any direct, indirect, consequential or other loss, damage, liability, claim or expense (however caused, including due to negligence or breach of contract) which may arise out of, or in connection with, the use of the Platform and Services, or the use of or reliance on information contained on or linked to the Platform.

- 12.2. If you are not satisfied with the Platform, your sole and exclusive remedy is to terminate these Terms of Use in accordance with this Agreement.
- 12.3. To the maximum extent permitted by law, the total aggregate financial liability of Amber to you, whether in contract, tort or statutory liability or otherwise, is limited to the amount of cryptocurrency held by you on the Platform when the cause of action arose.
- 12.4. To the maximum extent permitted by law, Amber and its bodies corporate shall not have any liability for fines, penalties, taxes (except GST) and any exemplary, aggravated or punitive damages, liquidated damages or any indirect or consequential loss (including but not limited to loss of business, loss of revenue, loss of contract, loss of production, lost opportunity costs), legal costs, expenses and any loss arising from the use of third party service providers including third party exchanges or platforms.
- 12.5. You should independently satisfy yourself as to the information provided through Amber's Platform and Services. You agree to use Amber's Platform and Services at your sole risk and at an "as is" basis.

13. Dispute Resolution

- 13.1. The parties will endeavour to resolve disputes swiftly and by negotiation in good faith via the Platform support portal.

14. General

- 14.1. **Disclaimer.** Each party acknowledges that it has not relied on any representation, warranty or statement made by any other party, other than as set out in this Agreement.
- 14.2. **Relationship.** The relationship of the parties to this Agreement does not form a joint venture or partnership.
- 14.3. **Waiver.** No clause of this Agreement will be deemed waived and no breach excused unless such waiver or consent is provided in writing.
- 14.4. **Further Assurances.** Each party must do anything necessary (including executing agreements and documents) to give full effect to this Agreement and the transaction facilitated by it.
- 14.5. **Governing Law.** This Agreement is governed by the laws of Queensland, Australia. Each of the parties submits to the non-exclusive jurisdiction of Queensland courts.
- 14.6. **Severability.** Any clause of this Agreement, which is invalid or unenforceable, is ineffective to the extent of the invalidity or unenforceability without affecting the remaining clauses of this Agreement.
- 14.7. **No Assignment.** You may not assign or transfer any of your rights under this Agreement to any other person without our prior written consent.
- 14.8. **Survival.** The provisions of clauses of this Agreement that either are expressed to survive its expiry or termination; or from their nature or context it is contemplated that they are to survive such expiry or the termination of this Agreement, will so survive.
- 14.9. **Notices.** Unless otherwise stated within this Agreement, notices to be given to either party shall be in writing and shall be delivered by electronic mail at the email address you supplied to us or to us at our registered office.

14.10. **Electronic Records and Signature.** It is agreed by the parties that, notwithstanding the use of the words “writing,” “execution,” “signed,” “signature,” or other similar words, the parties intend that the use of an Electronic Signature and/or ‘click-wrap’ functionality like checkboxes, ‘accept,’ ‘authorise’ and ‘allow’ buttons and the keeping of records in electronic form be granted the same legal effect, validity or enforceability as a signature made by hand or the use of a paper-based record keeping system (as the case might be) to the extent and as provided for in any applicable law including Electronic Transactions Act 2001 (QLD), or any other similar laws.

15. Definitions

15.1. **Agreement** means these Terms of Use and any applicable document or agreement by which a user has contracted or subscribed for our Services.

15.2. **Business Day** means any weekday (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in the State of Queensland.

15.3. **Confidential Information** means all information (whether or not it is described as confidential) in any form or medium concerning any past, present or future business, operations or affairs of either party, including, without limitation:

15.3.1. All technical or non-technical data, formulae, patterns, programs, devices, methods, techniques, plans, drawings, models and processes, source and object code, software and computer records;

15.3.2. All financial information, asset details and investment outlays;

15.3.3. The party’s policies and procedures; and

15.3.4. All information contained in this document,

But excludes information that the other party can establish:

15.3.5. Is known by or is in the other party’s possession or control other than through a breach of this document and is not subject to any obligation of confidence; or

15.3.6. Is in the public domain other than by a breach of this document or any obligations of confidence.

15.4. **Corporations Act** means the Corporations Act 2001 (Cth).

15.5. **Fees** mean any fees payable by you to use Amber.

15.6. **Financial Information** refers to the non-public information concerning an individual’s assets, liabilities, credit, account numbers and balances, transactional information, passwords, tax file numbers and driver’s licence details.

15.7. **Force Majeure** means an event or cause beyond the reasonable control of the party claiming force majeure. It includes each of the following, to the extent it is beyond the reasonable control of that party:

15.7.1. Act of God, lightning, storm, flood, fire, earthquake or explosion cyclone, tidal wave, landslide, adverse weather conditions;

15.7.2. Act of public enemy, war (declared or undeclared), terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic;

15.7.3. The effect of any change in applicable laws, orders, rules or regulations of any government or other competent authority; and

15.7.4. Embargo, inability to obtain necessary materials, equipment or facilities, or power or water shortage.

15.8. **GST** has the meaning given by the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

15.9. **Individual** means the User.

15.10. **Intellectual Property** means all copyright, patents, inventions, trade secrets, know-how, product formulations, designs, circuit layouts, databases, registered or unregistered

trademarks, brand names, business names, domain names and other forms of intellectual property;

15.11. Privacy Act means the Privacy Act 1989 (Cth).

15.12. Privacy Policy means Amber's privacy policy as updated from time-to-time, which can be found at www.getamber.io/privacy

15.13. Third Party means any person that is not Amber or you.

15.14. Website means the internet site at the domain getamber.io or any other site operated by Amber.

15.15. User means you.