Swift

General Terms and Conditions

The *Swift General Terms and Conditions* constitute the main set of Swift standard terms and conditions for the provision and the use of Swift services and products. They apply to each electronic form or contract executed by the customer to subscribe to Swift services and products, unless expressly stipulated otherwise in the Swift contractual documentation. This document is for customers that need information about the contractual framework for the provision and the use of Swift services and products. Effective as of 1 August 2024, this new version of the *Swift General Terms and Conditions* terminates and replaces the previous version of the *Swift General Terms and Conditions* dated 1 December 2020.

1 August 2024

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Preface

Purpose of this document

The *Swift General Terms and Conditions* constitute the main set of Swift standard terms and conditions for the provision and the use of Swift services and products. They apply to each electronic form or contract executed by the customer to subscribe to Swift services and products, unless expressly stipulated otherwise in the Swift contractual documentation.

In particular, the *Swift General Terms and Conditions* contain the conditions of use of the Swift services and products, the rights and obligations of the parties, including the duration and the conditions to terminate, their liability, the claim process, and applicable law and jurisdiction.

Intended audience

This document is for the following audience:

- customers that need information about the contractual framework for the provision and the use of Swift services and products.

Related documentation

- *BIC Policy*
- *Pricing and Invoicing – Price List for Swift Messaging and Solutions*
- *Pricing and Invoicing - Ordering, Invoicing, and Payment*
- *Shared Infrastructure Policy*
- *Shared Infrastructure Programme Terms and Conditions*
- *Swift By-laws*
- *Corporate Rules*
- *Swift Customer Testing Policy*
- *Swift Data Retrieval Policy*
- *Swift Glossary*
- *Swift Essentials*
- *Swift Enabler Programme Terms and Conditions*
- *Swift Partner Programme Terms and Conditions*
- *Swift Personal Data Protection Policy*
- *Swift Privacy Statement*
- *SwiftNet and Alliance Release Policy*
- *Swift Compatible Interface Programme Overview*
- *Swift Service Descriptions*
- *Customer Security Programme – Terms and Conditions*
- *Swift Customer Security Controls Framework (CSCF)*
- *Swift Customer Security Controls Policy*
- *Alliance Lite2 for Business Applications Terms and Conditions*
- *Policy for End Users Lite2 for Business Applications*
- *Swift Trademark Guidelines*

For any other Swift products and services, other specific terms and conditions may apply that shall be consulted by customer on swift.com

Significant changes

This new version of the *Swift General Terms and Conditions* addresses amongst other things requirements of new laws, regulations or guidelines. It also includes various changes designed for enhanced readability of the *Swift General Terms and Conditions*.

What's new?

More specifically, changes include:

- The Related documentation and common contractual framework section have been updated (generally the references and hyperlinks have been updated in this new version)
- Clause 1 Interpretation has clarified the order of precedence among Swift contractual documentation.
- Clause 9 liability has been updated to clarify the scope of indemnification of Swift for the use of Swift products and services, notably the application of sub-limitation caps, the links between the different applicable Swift liability regime, and the insertion of an independent audit firm competent for confirming the cap limitation amounts.
- Clause 9.4 has clarified one criteria of the force majeure.
- Clause 12 Confidentiality has simplified how to identify confidential information among the parties.
- A new clause 14.8 has been inserted to protect the liability of the auxiliaries of each party following a change of the Belgium civil code in that respect.
- Legal Notices clauses have been updated as regards to Swift trademarks.

Swift-defined terms

In the context of Swift contractual documentation, certain terms have a specific meaning. These terms are called Swift-defined terms (for example, customer or user). The definitions of Swift-defined terms appear in the _Swift Glossary_.

Effective Date

Effective as of 1 August 2024, this new version of the _Swift General Terms and Conditions_ terminates and replaces the previous version of the _Swift General Terms and Conditions_ dated 1 December 2020. Without prejudice to clauses 2.2 and 10.5, ongoing contractual relationships will be exclusively governed by this new version of the _Swift General Terms and Conditions_.

About Swift and Swift Contractual Documentation

Swift governance and community

Swift is a member-owned cooperative through which the financial world conducts its business operations.

Swift is a cooperative society under Belgian law. Swift has its headquarters in Belgium.

Swift is owned and controlled by more than 2,000 banks and other financial institutions worldwide that are Swift shareholders. The shareholders elect a Board of 25 directors, which governs Swift and oversees its management.

As a cooperative, Swift's corporate rules are designed to ensure that Swift users have an important role determining its strategic priorities and direction. In particular, Swift regularly consults Swift users through national groups or other channels such as ad hoc working groups (typically, on usership or operational matters, or for the development of standards). Swift users provide feedback to Swift directly, or through their national groups or Swift directors.

As a cooperative serving Swift users worldwide, Swift is committed to be globally inclusive. As explained in more detail below, Swift services and products are available to duly registered customers under a common contractual framework. The eligibility criteria for becoming a customer and the permitted use of Swift services and products may vary depending on the category of customers.

More than 11,000 financial institutions and corporations in over 200 countries use Swift every day to exchange millions of standardised financial messages.

Swift's role is two-fold. Swift provides the proprietary communications platform, products and services that allow customers to connect and exchange financial information. Swift also acts as the facilitator that brings the financial community together to work collaboratively to shape market practice, define standards and consider solutions to issues of mutual interest such as *Swift Customer Security Controls Framework (CSCF)* and *Swift Customer Security Controls Policy* which are designed to help the Swift users community improve cybersecurity and to facilitate cybersecurity risk assessment by and amongst users directly.

Swift does not hold funds nor does it manage accounts on behalf of customers, nor does it store financial information on an on-going basis.

For more information about the Swift governance and community, see *Swift governance*.

Becoming a Swift customer

Except as otherwise expressly permitted in the Swift contractual documentation or other applicable contractual documentation of other Swift group entities, Swift provides services and products only to duly registered Swift users, service bureaux, application providers and Swift registered providers.

Swift users are the only customers who are granted access to the Swift messaging services and send and receive messages or files over Swift in their own name. To join Swift and become a Swift user, the applicant organisation must follow the Swift on-boarding process and sign a Swift Undertaking. The Corporate Rules govern the Swift usership and, if a Swift user is eligible to become a shareholder of Swift, the Swift By-laws apply. More information is available at Join the Swift network.

Service bureaux are non-Swift user organisations that provide shared infrastructure services to Swift users in the context of the Shared Infrastructure Programme. Service bureaux register with Swift under the *Shared Infrastructure Programme Terms and Conditions.*

Application providers are non-Swift user organisations registered under the *Alliance Lite2 for Business Applications Terms and Conditions* and under the *Enabler Programme* that provide business application offerings, in combination with shared connectivity services, to Swift users.

Swift registered providers provide services or applications for use by Swift users in connection with

their use of Swift services and products. Swift registered providers register with Swift under the *Swift Partner Programme Terms and Conditions.*

To avoid any doubt, and subject to the applicable eligibility criteria, the same organisation can be a customer in different categories of customers.

The Swift contractual documentation may expressly permit other customers (for example, customers of other Swift group entities or customers of specific Swift services and products such as Sanctions Testing) to use Swift services and products. These customers must register with Swift by executing the specific registration form applicable to them.

A common contractual framework to order and use Swift services and products

Swift offers Swift services and products to all customers on a common contractual basis.

This is a key element of Swift's co-operative nature. It ensures, for example, that the sender and receiver of a Swift message are treated equally in all material respects.

Swift reviews customer requests to change Swift terms and conditions in keeping with Swift's co-operative nature. Rather than executing ad hoc amendments with individual customers, Swift prefers to include acceptable changes in the next version of its standard terms and conditions for all customers.

The *Swift General Terms and Conditions* constitute the main set of Swift standard terms and conditions for the provision and use of Swift services and products. They apply to each electronic form or contract executed by the customer for the provision of use of Swift services and products, unless expressly stipulated otherwise in the Swift contractual documentation.

The *Swift General Terms and Conditions* apply to most Swift services and products, including:

- Messaging (for example, FIN, InterAct, FileAct, or WebAccess/Browse)
- Solutions (for example, Cash Reporting or SCORE)
- Access to the secure IP network (for example, the Alliance Connect products)
- Software (for example, SwiftNet Link, the Alliance portfolio, or Alliance Messaging Hub)
- Business Intelligence products (for example, Watch Analytics, Watch Insights, or Compliance Analytics)
- Compliance Services (such as Transaction Screening, Sanctions Testing, or the KYC Registry)
- Support services

The *Swift General Terms and Conditions* include by reference (without limitation):

- Swift policies, such as the *Swift Personal Data Protection Policy*, the *Swift Data Retrieval Policy*, the *Swift Customer Security Controls Policy*, the *Shared Infrastructure Policy*, the *Alliance Lite2 for Business Applications Policy for End Users*, the *Swift Customer Testing Policy*, and the *BIC Policy*

- Swift service descriptions

- Swift pricing and invoicing documentation (for example, the *Price List for Swift Messaging and Solutions*)

Other useful Swift documentation

Swift appoints an external security auditor to review on a calendar year basis the then current control policies and controls, both manual and computer-based, related to Swift's core messaging services (that is, FIN and SwiftNet messaging services) and other specific offerings such as Alliance Lite 2.

At the date of publication of this new version of the *Swift General Terms and Conditions*, such review is made in accordance with the International Standard for Assurance Engagements (ISAE) 3000 established by the International Auditing and Assurance Standards Board (IAASB). ISAE 3000 is an international standard enabling service providers, such as Swift, to give independent, third-party assurance on their processes and controls to their customers.

The ISAE 3000 type 2 report available to customers upon request covers both controls placed in operation and tests of operating effectiveness, as specified in the standard.

Where to find Swift Contractual Documentation

Customers can find the latest version of the *Swift General Terms and Conditions* and other Swift standard terms and conditions, Swift policies, and Swift pricing and invoicing documentation at www.swift.com > About Swift > Legal. Swift service descriptions are available at www.swift.com > mySwift > Knowledge Centre.

General Terms and Conditions

1   Interpretation

1.1   Unless inconsistent with the context, the following reading conventions apply in these *General Terms and Conditions*:

a)   Terms that are capitalised in the text have the specific meaning set out in these *General Terms and Conditions*. Terms that are highlighted in grey in the text have the specific meaning set out in the *Swift Glossary*.

b)   A reference to a document or form refers to the latest version in force at the time the reference is applied.

c)   A reference to a person includes any other person for which he is responsible, including his employees, directors, agents, and subcontractors.

d)   A reference to a day refers to a calendar day.

1.2   General principles or words are not given any restrictive meaning when they are illustrated with examples.

1.3   If there is a conflict within the Swift contractual documentation, then the following order of precedence, from highest to lowest shall be:

a)   the electronic or paper-based form or contract (typically, an electronic order or subscription form) executed by the customer for or in connection with the provision or use of Swift services and products

b)   the Swift standard terms and conditions (such as these *General Terms and Conditions*)

c)   the Swift policies

d)   the service descriptions

e)   any other documentation included by reference in the Swift contractual documentation.

If any document expressly or manifestly amends or supplements any Swift contractual documentation (including changes to the order of preference), then that document prevails.

1.4   These *General Terms and Conditions* constitute a legal agreement between Swift and its customers. However, these General Terms and Conditions do not govern any contractual arrangements directly between customers, including those set out in the Swift contractual documentation (for example, the binding provisions of the rulebook of a Solution).

2   Swift Contractual Documentation

2.1   Each party accepts the validity of an electronic signature or electronic data, and confirms that such signature or data is legally equivalent to a hand-written signature on a paper document. Parties further agree not to contest the validity or enforceability of any electronic signature solely on the grounds that it is in electronic form.

2.2   The customer acknowledges and agrees that Swift may amend or supplement the Swift contractual documentation at any time upon prior notice to the customer (typically, by updating the relevant document(s) in the Knowledge Centre (www.swift.com > mySwift > Knowledge Centre). Subject to exercise of its termination right pursuant to clause 10.5, the customer is deemed to accept such amendments or supplements.

The customer must ensure that it always refers to the latest Swift contractual documentation and other service documentation in effect, and that it is aware of the latest available information relating to Swift services and products. In particular, customers must regularly consult the following:

a) the Swift contracts section (www.swift.com > About Swift > Legal),

b) the Knowledge Centre (www.swift.com > mySwift > Knowledge Centre),

c) the Support section (www.swift.com > Support) (typically, the articles in the Knowledge Base).

To assist customers, Swift publishes in particular various newsletters or What's New information. These typically inform customers about the latest news, changes, known issues and solutions, and frequently asked questions. In particular, Swift notifies changes to these *General Terms and Conditions* through the What's New information published on the Knowledge Centre (www.swift.com > mySwift > Knowledge Centre). Swift encourages customers to subscribe to all relevant newsletters and to regularly consult the What's New section on the Knowledge Centre or elsewhere on swift.com.

2.3 Only the English version of this publication is the official and binding version.

3 Conditions of Use for Swift Services and Products

3.1 Except as otherwise expressly permitted in the Swift contractual documentation or other applicable contractual documentation of other Swift group entities, the customer must be a registered Swift user, service bureau, application provider or Swift registered provider in order to subscribe to and use Swift services and products. No subscription to Swift services and products will be effective until finally accepted by Swift.

3.2 Swift may set out additional conditions of use for Swift services and products in the Swift contractual documentation or, as the case may be, other applicable contractual documentation of other Swift group entities.

For example, Swift registered providers, service bureaux and application providers may access messaging services, solutions, and applications in their own name for testing or demo purposes only.

The customer must refer to the Swift contractual documentation or, as the case may be, other applicable contractual documentation of other Swift group entities, and check which services and products are available to it, and in which environment.

4 Swift Role and Responsibilities

4.1 Provide Swift services and products

4.1.1 Swift provides Swift services and products and complies with any applicable service levels in all material respects as set out in the Swift contractual documentation.

4.1.2 When Swift is responsible for shipment, and save to the extent that Swift is prohibited under applicable laws and regulations to obtain any import licence or other official authorisation and, where applicable, to carry out all customs formalities necessary for the import, Swift services and products are 'Delivered duty paid' (DDP) (Incoterms 2020) at the delivery address designated by the customer in the relevant form or contract - or such other address as may be subsequently agreed in writing by Swift and the customer - provided always that the customer shall co-operate and provide all reasonable assistance to Swift for the export and import of Swift services and products.

Save to the extent that Swift is prohibited under applicable laws and regulations to obtain any import licence or other official authorisation and, where applicable, to carry out all customs formalities necessary for the import of the Equipment, the delivery of the Equipment is 'Delivered duty paid' (DDP) at the delivery address designated by the customer in the order form - or such other address as may be subsequently agreed in writing by Swift and the customer - provided always that the customer shall co-operate and provide all reasonable assistance to Swift for the export and import of the Equipment.

4.1.3 When Swift services and products are available for download, Swift's obligation to make them available to the customer is fulfilled by making them available on the relevant site in a downloadable format.

4.1.4 When Swift is responsible for implementation or activation, Swift will use all commercially reasonable efforts to complete such implementation or activation by the date confirmed to the customer, or any other date agreed with the customer.

4.1.5 When Swift provides Swift services and products through the internet, Swift cannot be held responsible for the routing of data over the internet nor problems due to or arising in connection with the internet channels that are used.

4.2 Suspension and Change

4.2.1 The customer acknowledges and agrees that Swift may suspend or change Swift services and products, in whole or in part, at any time and without prior judicial intervention, by written notice issued in advance if and as appropriate in the circumstances, if in the reasonable opinion of Swift any of the following events occurs:

a) to perform or allow maintenance, or to upgrade or otherwise change Swift services and products (typically, as per the *SwiftNet and Alliance Release Policy* and during announced downtime windows)

b) to prevent, mitigate or resolve any adverse effect on the proper performance, security, reliability, or resilience of the provision or use of Swift services and products

c) to comply with any law, decree, regulation, order or any other act or intervention of a regulatory, governmental, legislative or judicial authority, including a court or arbitral tribunal

d) if the customer (or the service administrator of a Closed User Group in which the customer participates) has committed, in the reasonable opinion of Swift, a material breach or persistent breaches of the Swift contractual documentation (whether of the same or of different provisions) or of any instruction given by Swift in accordance therewith, or of any other contractual arrangements with Swift, or of any applicable laws and regulations.

Swift informs the customer about changes to Swift services and products (typically, in the *Swift Release Timeline*, a release letter, or an update of the Swift contractual documentation).

This clause 4.2.1 applies without prejudice to any other rights or remedies of Swift (typically, termination rights pursuant to clause 10).

4.2.2 Swift limits any suspension of, or changes to, Swift services and products pursuant to clause 4.2.1 as reasonably practicable or prudent in the circumstances. Swift typically schedules maintenance, upgrade, and change activities during announced downtime windows as published at *www.swift.com* > *Support* > *Operational status*.

4.3 Swift Responsibilities

4.3.1 Swift provides Swift services and products using care and skill consistent with good industry practice.

4.3.2 Swift provides Swift services and products using competent personnel with appropriate experience.

4.3.3 Unless Swift notifies the customer otherwise, and provided Swift is permitted and in a position to do so using commercially reasonable efforts, Swift warrants that it is not aware of any bona fide claim that the possession or use of Swift services and products by the customer, as permitted under the Swift contractual documentation, infringes the intellectual property rights of any third party.

4.3.4 Swift has controls in place that are designed to provide adequate assurance regarding the security of its messaging services. Its corporate security policy and standards are based on principles of ISO/IEC 27001:2022 (Information security, cybersecurity and privacy protection – Information security management systems) . Swift's service commitments regarding data

obtained from customers as part of their use of Swift services and products, which include security commitments in terms of confidentiality, integrity, and availability of such data, are as described in the Swift contractual documentation.

4.4 Swift's roles and responsibilities under this clause 4 are subject to the provisions of clauses 7, 9, and 14.1.3.

5 Customer Roles and Responsibilities

5.1 General Obligations

5.1.1 The customer must comply with all obligations and other mandatory instructions applicable to it in connection with its use of Swift services and products, as set out in the Swift contractual documentation or otherwise notified by Swift to the customer.

In particular, the customer is responsible for providing and maintaining current, accurate and complete information and authorised representatives as may be required by Swift from time to time in connection with the provision or use of Swift services and products. When designating authorised representatives, the customer shall ensure these persons are and remain aware of and able to perform their role and responsibilities, including any changes to such roles and responsibilities.

5.1.2 The customer is responsible for complying with all technical, operational, security, availability, legal and regulatory requirements applicable to its use of Swift services and products.

Without prejudice to the generality of the foregoing, and as specified in the Swift contractual documentation, the customer must use an interface recognised by Swift as compatible. More information about qualified interfaces is available in the Swift Compatible Interface Programme Overview

The customer must also ensure that its operational environment has been configured for increased resilience in order to minimise any downtime in the event of a failure of its primary systems or connection. The customer will, in particular, comply with the latest principles for increased resilience issued by Swift.

5.1.3 The customer must use only the releases or updates of Swift services and products that Swift currently supports, as specified in the Alliance and SwiftNet Release Policy, the Swift Release Timeline or as otherwise notified by Swift (for example, in a release letter).

Consequently, the customer must subscribe to applicable maintenance services and, when using software, install all new releases or updates and remove preceding versions, by no later than the date specified in the Swift Release Timeline or otherwise notified by Swift (for example, in a release letter). Failure to do so may lead to (i) Swift informing regulators, other authorities or the customer's Swift messaging counterparties; and/or (ii) Swift exercising other rights and remedies available to it such as but not limited to the suspension or termination of the affected Swift services and products.

5.2 Security

The customer is and remains responsible at all times for maintaining the confidentiality, integrity, availability and security of traffic, message, and configuration data on its Swift-related infrastructure and on that segment of its connection to Swift for which Swift is not responsible under the Swift contractual documentation including any segment of its connection through a service provider such as a service bureau, group hub or application provider. More generally, the customer is and remains responsible at all times for protecting and securing its local environment, including but not limited to all internet-facing systems, against potential compromises and (cyber-attacks).

Swift, as a member-owned cooperative, has developed various security-related initiatives under the Swift Customer Security Programme, Shared Infrastructure Programme and Lite2 for Business Applications Programme for the collective benefit of its customers community. These initiatives include the *Swift Customer Security Controls Framework* and the *Swift Customer Security Controls Policy*, which are designed to help Swift users improve security and to facilitate security risk assessments by and amongst users directly, and the Swift Information Sharing and Analysis Center

(ISAC) which aims to facilitate customers' access to security threat intelligence (typically, malware details such as file hashes and YARA rules, indicators of compromise, and details on the modus operandi used by cyber-criminals) to help customers to better defend themselves. Furthermore, Swift publishes general security guidance relating to specific Swift services and products to help customers protect and secure their use of such Swift services and products. Pursuant to clause 2.2, customers must ensure that they regularly check and always refer to the latest available information, data and other materials published by Swift. The customer acknowledges and agrees that nothing in these security-related initiatives constitutes any representation, warranty or guarantee on the part of Swift against the occurrence or prevention of compromises or (cyber-)security incidents or other similar events. Furthermore, nothing in such initiatives shall be construed or interpreted as Swift taking or accepting any responsibility or liability for customers' roles and responsibilities and obligations as set out in this clause 5.2 or elsewhere in the Swift contractual documentation (typically, the responsibility for each customer to duly protect and secure its Swift-related infrastructure and local environment).

Without prejudice to any other roles and responsibilities and obligations under these *General Terms and Conditions* or elsewhere in the Swift contractual documentation, each customer must at all times timely comply with all security-related obligations applicable to it such as, for Swift users, the obligation to self-attest compliance with all mandatory security controls as per the *Swift Customer Security Controls Policy* or, for service bureaux and application providers, the obligation to meet all mandatory security requirements under their respective certification programme.

5.3 Testing

Customers must not conduct any performance or vulnerability tests on or through Swift services and products unless expressly permitted in the *Swift Customer Testing Policy*.

If customers believe they have identified a potential performance or vulnerability threat, they must immediately inform Swift thereof and treat all related information, data or materials as Swift confidential information.

Swift disclaims any liability for any testing performed by customers on or through Swift services and products.

5.4 Trademark, Company Names, and Trade Names

The customer must at all times respect Swift's rights to its trademarks, company names, and trade names, in accordance with the Swift Trademark Guidelines available on www.swift.com. In particular, customers may not use names or signs identical or similar to Swift trademarks in a manner which could cause a likelihood of confusion as to the origin of the products and services offered under those names or signs, nor in a manner which would take unfair advantage of, or be detrimental to, the distinctive character or the reputation of Swift or Swift Trademarks.

5.5 Swift, Industry Practice, Applicable Laws, and Regulations

The customer is solely and exclusively responsible for its use of Swift services and products, including any data transmitted through Swift.

In using Swift services and products and conducting its business, the customer must always:

– exercise due diligence and reasonable judgment, and must conduct itself with integrity and act in accordance with good industry practice and all relevant laws, regulations, and third-party rights, even if this restricts its usage entitlement under Swift's governance;

– ensure it does not adversely affect Swift's revenue, reputation, brand, goodwill or cooperative finality.

Without prejudice to the generality of the foregoing, the customer must:

a) perform due diligence and apply adequate know-your-customer principles to its counterparts. To avoid any doubt, the customer recognizes and acknowledges that Swift 's eligibility criteria and definitions of user categories have not been designed, and must not be relied upon, for these purposes

b) ensure not to use, or try to use, Swift services and products for illegal, illicit or fraudulent

purposes, and refrain from any practices that might create confusion about the purposes for which Swift services and products are used (typically, practices that would not permit a clear identification of or would misrepresent the parties effectively involved in a transaction or the nature of the transaction)

c) use BICs and message standards as prescribed in the applicable documentation

d) seek and obtain all necessary or advisable consents and authorisations to perform under the Swift contractual documentation and enter into all necessary contractual arrangements in order to ensure that no relevant laws, regulations, or third-party rights are violated (including laws and regulations regarding banking, money transmission, securities, money laundering, terrorist financing, economic sanctions, anti-bribery and corruption, competition, outsourcing and data transmission)

e) comply with all relevant laws and regulations regarding the export, re-export, import, and use of any products, software, technology, or materials (including cryptographic technology and materials) comprised in or relating to the provision and the use of Swift services and products

6 Software Licence

6.1 When the Swift services and products are or include software, Swift grants to the customer a non-exclusive, non-transferable and time-limited right to use the software for the specific purposes set out in the Swift contractual documentation (typically, to access and use Swift messaging or other services) or, as the case may be, other applicable contractual documentation of other Swift group entities and in accordance with the applicable licence terms set out in this clause 6 and elsewhere in the Swift contractual documentation or, as the case may be, other applicable contractual documentation of other Swift group entities.

6.2 Except to the extent expressly permitted under Swift contractual documentation, the customer must not, nor authorise others to:

a) modify, enhance, or otherwise change the software, or prepare derivative works based upon the software

b) translate, decompile, disassemble, reverse-engineer, or otherwise re-create the software or determine its software model or its source code (except to the extent expressly permitted by applicable law)

c) rent, lease, sell, sub-license, distribute to, or allow access to, or otherwise provide or transfer the software to third parties (except to the extent expressly permitted in clause 14.1.1)

d) merge all or any part of the software with another program

e) reproduce the software (except to the extent necessary for back-up or disaster recovery purposes)

f) remove, alter, or cancel from view any copyright or other notices of proprietary rights, marks, or legends appearing on the physical medium or contained in the software. The customer will reproduce and include the same on any permitted copy.

6.3 If the customer reports to Swift within 90 days after delivery that the software does not perform in all material respects in accordance with the relevant service description, Swift will use all commercially reasonable efforts to implement a remedy within a reasonable time period.

If Swift is unable to remedy the problem, Swift will refund all charges and fees paid in respect of the software, and the Swift contractual documentation for the software will automatically terminate.

This clause 6.3 states the sole and exclusive rights and remedies of the customer, if the customer reports a problem with software within 90 days after delivery and in the event of the resulting automatic termination of the Swift contractual documentation.

6.4 Unless otherwise contracted with Swift, the installation of software is the exclusive responsibility

of the customer. The customer must only install software at the site(s) and those systems permitted under the relevant Swift contractual documentation. A change of site must be notified by the customer to, and agreed with, Swift.

6.5   The customer acknowledges that software may include third-party software, as documented at the time of installation, in the relevant service description or other Swift contractual documentation.

Installation and use of such embedded third-party software may be subject to the customer agreeing to additional licence terms imposed by the third-party licensor, as notified by Swift to the customer (for example, through "on-screen", "pop-up", "click wrap" or "installation notices" terms and conditions).

If the customer objects to such third-party licence terms, it may, as its sole and exclusive right and remedy, terminate (without any liability or charge) the Swift contractual documentation for the affected software in accordance with clause 10.5.

6.6   Without prejudice to clause 5.1.2, Swift may supply accompanying third-party software for use in conjunction with Swift services and products, as documented in the relevant service description or other Swift contractual documentation. Unlike embedded third-party software, such accompanying software is not part of Swift services and products. Swift disclaims any responsibility for the installation, fitness for purpose or use of such accompanying software. The customer may install and use such accompanying software, in its discretion and at its own risk, only upon condition that it has obtained and accepted all applicable licences.

7   Intellectual Property Rights

7.1   Any and all rights (including title, ownership rights, database rights, and any other intellectual property rights) in Swift services and products, and documentation or other materials developed or supplied in connection with them, including any associated processes or any derivative works (including based on malware supplied or made available by customers), are and will remain the sole and exclusive property of Swift or its licensors.

No rights are granted by Swift in respect of Swift services and products other than those expressly granted under the Swift contractual documentation.

7.2   If a third party makes a bona fide claim that the possession or use of any Swift services and products by the customer as permitted under the Swift contractual documentation infringes its intellectual property rights, provided the customer has complied with the Swift contractual documentation and any other contractual arrangements, relevant laws and regulations, Swift will defend the customer against that claim at its own expense and indemnify the customer by paying:

a)   any reasonable legal fees incurred by the customer until control over the defence and settlement of any such claim has been handed over to Swift

b)   any damages that a court or arbitral tribunal effectively awards, in a final and binding decision, against the customer if any such claim is upheld

Any defence of the claim or indemnification by Swift is subject to the customer:

a)   notifying Swift promptly in writing of any such claim. Without prejudice to the generality of the foregoing, such notice must be given no later than 45 days after the customer becomes aware (or should reasonably have become aware) of such claim

b)   fully cooperating with Swift and doing nothing to jeopardise or prejudice Swift's defence and settlement of any such claim

c)   promptly handing over to Swift sole control over the defence and settlement of any such claim, in which case Swift shall assume control and conduct of the defence, settlement, negotiations and investigation of such claim at its discretion.

7.3   If any of the Swift services and products, in whole or in part, is held to constitute an infringement of intellectual property rights of third parties, or their provision or use is enjoined or prevented, in whole or in part, by a court or arbitral tribunal order, Swift may, in its discretion and at its expense,

achieve one of the following alternatives:

a) procure for the customer the right to continue using the affected Swift services and products

b) modify, replace, or amend the affected Swift services and products so that they no longer constitute an infringement. In this case, the customer will substitute such version of the Swift services and products at the earliest opportunity after it has been made available.

If Swift does not secure either option, then Swift will refund any one-time charge(s) paid for the affected Swift services and products, and the Swift contractual documentation for the affected Swift services and products will automatically terminate.

7.4   This clause 7 states the sole and exclusive rights and remedies of the customer concerning the infringement of rights of third parties, allegations of infringement, or breach of clause 4.3.3. Any right or remedy of the customer, and any obligation to indemnify on Swift's part, under this clause 7 is subject to clause 9.

8   Charges and Fees

The customer must pay to Swift all then current charges and fees applicable to it for the provision or use of Swift services and products.

These charges and fees, and related invoicing and payment terms and conditions, are as notified by Swift to the customer through Swift standard pricing documentation (typically, the *Pricing and Invoicing – Price List for Swift Messaging and Solutions)* or otherwise *(for* example, a specific quotation for the customer or a statement in a Swift invoice).

For the avoidance of doubt, without prejudice to clause 10.5 and unless Swift has expressly agreed otherwise in writing with the customer, charges and fees, and related invoicing and payment terms and conditions, may change at any time upon reasonable prior notice to the customer (typically, through an update of the Swift standard pricing documentation or otherwise such as a new specific quotation for the customer or a statement in a Swift invoice).

9   Liability

9.1   Swift Liability

9.1.1   Swift agrees to indemnify the customer only in case of liability for Swift contractual and non-contractual defaults (wilful or not) and fraud arising out of the use of Swift services and products (including under the indemnity in clause 7.2), and always subject to clauses 9.1, 9.3, 9.4, 9.5, 13, 14.8, and 15 and other relevant provisions for specific Swift services and products (if any) set out elsewhere in the Swift contractual documentation.

The provisions governing Swift's liability in the Swift contractual documentation (typically, the limitation and exclusions of Swift's liability) apply whether the customer claims in contract, tort, or otherwise.

The limitation and exclusions of Swift's liability set out in in the Swift contractual documentation do not apply in case of fraud, wilful default or, more generally, to the extent not permitted under applicable law.

9.1.2   Except as otherwise provided in clause 9.1.4 and to the extent not expressly provided otherwise elsewhere in the Swift contractual documentation (typically, in the relevant service description), any liability of Swift is subject to the following limitations:

a) Swift's total cumulative and aggregate liability for claims duly notified to Swift in accordance with clauses 13 and 15 in any one calendar year will not exceed the maximum amount per claims category as specified below:

(i) for claims about damage to, or loss of, tangible property, Swift's total cumulative and aggregate liability to all customers (on a collective basis) for all such claims duly notified in any one calendar year will not exceed 5 million Euro

(ii) for claims about the provision or use of Swift services and products and claims relating

to clause 4.3.3 or 7, Swift's total cumulative and aggregate liability to all customers (on a collective basis) for all such claims duly notified in any one calendar year will not exceed 50 million Euro, subject to application of the following sub-limits (together the "Sub-limits"):

- any maximum amount as expressly provided elsewhere in the Swift contractual documentation (typically but not only, in the relevant service description) to which Swift's liability is limited for specific categories of claims (and duly notified in any one calendar year); and

- for claims about the use of Swift services and products in a pilot live environment, Swift's total cumulative and aggregate liability to all customers (on a collective basis) for all such claims duly notified in any one calendar year will not exceed 1 million Euro;

(iii) for any other claims, Swift's total cumulative and aggregate liability to all customers (on a collective basis) for all such claims duly notified to Swift in any one calendar year will not exceed 1 million Euro

For the purpose of this clause 9.1.2.a), and if a claim is followed by one or more claims that relate to the same event or series of connected events, these claims shall be treated as one claim, notified on the date the first claim was notified subject to application of the relevant Sub-limits across all claims that are to be treated as one. Also, where the customer has a contractual relationship with more than one Swift group entity, the total cumulative and aggregate liability of all relevant Swift group entities, taken together, for any claims relating to the provision or use of any Swift services or products governed by the *Swift General Terms and Conditions*, shall not exceed the limitations set out in this clause 9.1.2 a). This shall be deemed to be included in any and all part of the Swift contractual documentation and any other contractual arrangement in place between the customer and any Swift group entity.

b) Swift will have no obligation to pay any compensation in respect of any claim until:

(i) Swift has accepted its liability and the amount of the compensation; or

(ii) a court order, judgment or an arbitral award has been rendered in respect of Swift's liability that can no longer be challenged and that is final and binding upon the parties (each of (i) and (ii) being referred to in this clause 9.1.2 as an "Established Claim"),

it being understood that Swift will only pay compensation within 90 days following the date that each and every claim in the same claims category notified to Swift in a particular calendar year has become an Established Claim or has been dismissed in a court order, judgment or an arbitral award that can no longer be challenged and that is final and binding upon all parties concerned.

c) If the total value of all Established Claims resulting from claims notified to Swift in the same calendar year and in the same claims category (as such categories are listed in clause 9.1.2.a), exceeds any applicable maximum amount (including Sub-limit) set out in clause 9.1.2.a, then the amount of each such claim shall be reduced proportionately by:

(i) calculating the value of each such Established Claim as a percentage of the total amount of all Established Claims in that calendar year and in that claims category; and then

(ii) for each such claim, applying the percentage referred to in (i) to the applicable maximum amount for the relevant claims category (including Sub-limit) as set out in clause 9.1.2.a).

9.1.3 The above total value and calculation pursuant to (i) and (ii) shall be certified by the independent international audit firm of Swift (which costs are borne by Swift) which certification shall be final and binding upon the parties, and who shall keep confidential the particulars and details (including the identity of the claimant) of the relevant claims. Except as otherwise provided in clause 9.1.4 and to the extent not expressly provided otherwise elsewhere in the Swift contractual documentation (typically, in the relevant service description), Swift's liability is subject to the following exclusions:

a) Even if Swift has been advised of their possibility, Swift excludes any liability for:

      (i)   any loss or damage the occurrence or extent of which is unforeseeable

      (ii)   any loss of business or profit, revenue, anticipated savings, contracts, loss or corruption of data, loss of use, loss of goodwill, loss of reputation, interruption of business, or other similar pecuniary loss howsoever arising (whether direct or indirect)

      (iii)   any indirect, special, or consequential loss or damage of any kind

      (iv)   any (financial) sanctions, fines and penalties of any kind imposed by any competent authority.

    b)   Swift is not obliged to perform or has no liability to the extent resulting from the provision or use of services or products not supplied by Swift, or in the circumstances set out in clause 9.3.d) or 9.4.

9.1.4   The limitations and exclusions of Swift's liability in clauses 9.1.2 and 9.1.3 do not apply to any liability for death or bodily injury.

9.1.5   Where Swift's liability is based on a series of events or facts that are (even indirectly) connected or contribute to the same loss or (even indirectly) related losses, Swift's (and any other Swift group entity's) total cumulative and aggregate liability to all customers (on a collective basis) shall in no event exceed any liability defined pursuant to this clause 9, irrespective of the Swift contractual documentation or any other contractual arrangement in place between the relevant customers and Swift (or any other Swift group entity), or any combination thereof, under which Swift's liability is triggered. This clause 9.1.5 shall be deemed to be included in any and all part of the Swift contractual documentation and any other contractual arrangement in place between the relevant customers and Swift (or any other Swift group entity).

9.1.6   This clause 9.1 applies before as well as after any termination of the contractual arrangements between Swift and the customer, and is also for the benefit of any other Swift group entities (whether their liability is in contract, tort, or otherwise) that, for the purpose of the application of the limitations and exclusions of liability provided in this clause 9.1 and for the application of the limitations and exclusions of liability provided therein and without creating any joint or shared liability between them, shall be treated as one entity with respect to any liability in connection with the provision and use of the Swift services and products. Also, any compensation paid by a Swift group entity will be deducted from any liability of any other Swift group entity for the same event or series of connected events and, as the case may be, refunded.

9.1.7   In the event different parts of the Swift contractual documentation apply, with a different liability regime, Swift shall in its reasonable discretion determine the applicable liability regime in view of the nature of the claim or incident.

9.2   Customer Liability

Except if and to the extent exclusively caused by an act or omission of Swift, the customer will hold Swift harmless and will indemnify and keep Swift indemnified from and against any and all actions, liabilities, claims, fines, demands, losses, damages, proceedings, costs, or expenses (including reasonable legal fees, costs, and expenses) suffered or incurred by Swift in connection with any claim (including any claim made by another customer) related to or in connection with the customer's possession or use of Swift products and services.

9.3   General Principles Governing the Liability of Each Party

    a)   Each party will use all commercially reasonable efforts to limit any loss or damage.

    b)   Neither party may recover more than once for the same loss (including under insurance coverage).

    c)   No undue enrichment will ever accrue to any party.

    d)   Neither party is obliged to perform or will have any liability for any act, fault or omission by that party to the extent exclusively resulting from any act, fault or omission of the other party (typically, a failure by that other party, or one of its sub-contractors or agents, to act in accordance with the Swift contractual documentation), or of a third party for which it is not

responsible.

9.4 Force Majeure

For the purposes of this clause 9.4, force majeure event means any event or circumstance, or combination of events or circumstances, which is (i) beyond the reasonable control of, (ii) cannot be prevented, avoided or removed by the affected party despite the exercise of reasonable diligence; (iii) and is not attributable to, the affected party (the "Affected Party") resulting in the Affected Party being prevented from performing or being delayed in the performance of any of its obligations under the Swift contractual documentation. Without prejudice to the generality of the foregoing, a force majeure event may include those events or circumstances listed in the Explanatory Comments to these *General Terms and Conditions* provided always such events or circumstances meet all requirements directly above.

Subject to the Affected Party notifying the other party in writing, as soon as possible upon becoming aware of a force majeure event, of the force majeure event causing delay or non-performance and the likely duration of the delay or non-performance, and provided the Affected Party uses all commercially reasonable efforts to limit the effect of that delay or non- performance on the other party, the performance of the Affected Party's obligations, to the extent affected by the force majeure event, and the performance by the other party of its obligations directly related thereto shall be suspended during the period that the force majeure event persists and neither party shall be liable to the other party for such delay or non- performance.

If performance is not resumed within 60 days after that notice, either party may terminate the affected Swift contractual documentation immediately by written notice to the other party and without any liability or charge being due on the basis of such termination.

9.5 No Warranties

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT AS EXPRESSLY PROVIDED FOR IN THESE *GENERAL TERMS AND CONDITIONS* OR ELSEWHERE IN THE SWIFT CONTRACTUAL DOCUMENTATION, SWIFT MAKES NO REPRESENTATION OR WARRANTY (I) AS TO THE CONDITION, QUALITY, PERFORMANCE, SECURITY, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY SWIFT SERVICES AND PRODUCTS; OR (II) THAT THE USE OF SWIFT SERVICES AND PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE.

9.6 Liability of Swift Licensors, Service Providers, or Vendors

Except to the extent Swift's licensors, service providers, or vendors may otherwise agree with the customer directly, Swift's licensors, service providers, or vendors are not liable to the customer for any loss or damage of any kind in connection with the provision or use of Swift services and products, whether arising in contract, tort, or otherwise.

10 Duration and Termination

10.1 Indefinite Term

Unless expressly provided otherwise in the Swift contractual documentation, Swift provides Swift services and products to the customer for an indefinite period.

10.2 Termination for Convenience

Each party has the right to terminate the Swift contractual documentation for the provision of any or all Swift services and products. To do so, the requesting party must inform the other party by written notice 3 months in advance or, for the termination of a service administration agreement governing a market infrastructure or a Member-Administered Closed User Group, 12 months in advance.

If the customer terminates its participation in a market infrastructure or a Member-Administered Closed User Group, the customer must also notify the service administrator of the Closed User Group of its intention to terminate.

10.3 Termination for Cause

Each party has the right to terminate the Swift contractual documentation for the provision of any or all Swift services and products immediately upon written notice to the other party and without prior judicial intervention in the following events:

a) In the reasonable opinion of the terminating party, the other party committed a material breach of its obligations and such breach is incapable of remedy, or persistent breaches (whether of the same or of different provisions).

b) In the reasonable opinion of the terminating party, the other party committed a material breach of (i) its obligations, or (ii) applicable laws or regulations and such breach is not remedied within 30 days after notice of the breach has been given in writing to the other party.

c) When required by an authority having jurisdiction over the terminating party.

d) The other party becomes insolvent or generally fails to pay, or admits its inability to pay, all or a substantial part of its debts as they become due, or applies for or is granted a moratorium except, in the case of the customer, if and to the extent that the customer is permitted to continue use of the Swift services and products in chapter 3 of the _Swift Corporate Rules_.

e) A receiver, manager, administrator, liquidator, or other similar officer or practitioner is appointed over the whole or any substantial part of the other party's business or assets, or any steps are undertaken to that effect (typically, it becomes the subject of a bankruptcy, insolvency, or other similar proceeding) except, in the case of the customer, if and to the extent that the customer is permitted to continue use of the Swift services and products in chapter 3 of the _Swift Corporate Rules_.

Without prejudice to termination pursuant to clauses 6.3 and 7.3, Swift also has the right to terminate the Swift contractual documentation for the provision of any or all Swift services and products immediately upon written notice to the customer and without prior judicial intervention in the circumstances set out in clause 4.2.1.b) or 4.2.1.c).

10.4 Termination by the Service Administrator

The participation of the customer in a market infrastructure or Member-Administered Closed User Group will automatically and immediately terminate if the service administrator requests Swift:

a) to withdraw the customer from the market infrastructure or Member-Administered Closed User Group

b) to terminate the market infrastructure or Member-Administered Closed User Group.

10.5 Termination for Change or New Third-Party Licence Terms

If the customer objects to a change to the Swift services and products, to the Swift contractual documentation, to a change pursuant to clauses 2.2 and 8, or to new third-party licence terms governing the use of third-party software embedded in software, the customer may, as its sole and exclusive right and remedy, terminate (without any liability or charge) the Swift contractual documentation for the affected Swift services and products upon 1 month written notice to Swift. The customer must serve such notice within 1 month of the date on which the customer becomes aware (or should reasonably have become aware) of such change or new licence terms.

10.6 Termination for Loss of Customer Status

If the customer loses its status of Swift user, service bureau, Swift registered provider, application provider or other registered customer (as the case may be) for any reason, then the Swift contractual documentation for the provision of all Swift services and products automatically and immediately terminates without prior notice and without prior judicial intervention.

10.7 Termination for failure to subscribe or renew maintenance

If the customer must subscribe to maintenance services to keep Swift services and products (typically, software) up-to-date as per clause 5.1.3, failure to timely subscribe to, or renew, these

maintenance services will automatically and immediately terminate the Swift contractual documentation for the affected Swift services and products without prior notice and without prior judicial intervention.

10.8 Consequences of Termination

Termination of the Swift contractual documentation for any reason will:

a) not relieve any party from any obligations under the Swift contractual documentation which may have arisen prior to termination or which expressly or by implication become effective or continue to be effective on or after such termination

b) be without prejudice to any other rights or remedies any party may have in respect of the termination (typically, any right for Swift to terminate the Swift usership and shareholding (if any) of a Swift user under the *Corporate Rules* or *Swift By-laws*).

Upon termination of the Swift contractual documentation for Swift services and products, and without prejudice to any other right or remedy of Swift, the customer must cease its use of the terminated Swift services and products and, at Swift's direction, promptly return or destroy all related materials (including any software) supplied by or for Swift in connection with the terminated Swift services and products.

The foregoing does not apply to the extent that the customer (i) has the right to retain such materials pursuant to the terminated Swift contractual documentation or other contractual arrangements with Swift or (ii) is required by applicable law or regulation to retain such materials and promptly provide written notice to Swift specifying the reasons and the materials that it is required to retain.

11 Personal Data Protection

Swift processes personal data (as defined in the *Swift Personal Data Protection Policy*) collected:

a) by Swift for purposes relating to the provision of Swift services and products or relating to Swift governance (for example, contact details of customer employees or security officers)

b) by the customer and supplied to Swift as part of the customer's use of Swift services and products (for example, personal data contained in messages or files that the customer sends, or in PKI certificates that the customer requests Swift to issue).

The rights and obligations of the parties in each case are set out in the *Swift Personal Data Protection Policy*, such as any notification obligation Swift may have in case of unauthorised disclosure of personal data contained in messages or files.

12 Confidentiality

12.1 Customer Obligations of Confidentiality

The customer must keep in confidence all information, data or materials accessed or obtained in connection with the provision of Swift services and products whether orally or in writing (on paper or electronic form, or whatever format)

The customer must only use such information, data or materials as reasonably necessary to use Swift services and products in accordance with the Swift contractual documentation. The customer shall ensure the protection, confidentiality and security of such information, data or materials using the same standard it employs to safeguard its own information, data or materials of like kind, but in no event less than a reasonable standard of care.

The customer must only disclose such information, data or materials to its employees, agents, subcontractors, or professional advisors (or those persons of its affiliated entities) on a "need-to-know" basis. Any other use or disclosure requires Swift's prior written consent (which will not be

unreasonably withheld or delayed).

In each case, the customer must inform the recipient of the confidential nature of such information, data or materials, and ensure that the recipient is bound by an obligation of confidence no less restrictive than this clause 12.1. The customer remains responsible for the use of information, data or materials by any such persons.

These confidentiality obligations will survive termination of the Swift contractual documentation and shall continue to apply as long as such information, data or materials are used for the provision or use of Swift services and products, or are protected under obligations of confidentiality applicable to the customer or by intellectual property or trade secret right.

These confidentiality obligations do not apply to information, data or materials that the customer can demonstrate:

a) were in the public domain (other than through a breach by the customer of its obligations)

b) were lawfully received free of any obligations of confidentiality from a third party who, in the customer's reasonable opinion, did not owe a duty of confidentiality in respect of such information, data or materials

c) were developed independently by the customer without reference to such information, data or materials

d) were required by law or regulation to be disclosed, in which case the customer shall, unless prevented to do so by confidentiality or other requirements under applicable law, inform Swift thereof with as much advance notice as possible.

12.2   Swift Obligations of Confidentiality

The obligations of confidentiality in clause 12.1 apply mutatis mutandis to Swift in respect of all information, data or materials accessed or obtained by Swift from or through the customer in connection with the provision of Swift services and products, save to the extent varied by this clause 12.2 or other Swift contractual documentation including the *Swift Data Retrieval Policy* and the *Swift Privacy Statement*.

Swift will only use confidential information, data or materials of customers for purposes relating to the promotion, deployment, provision, security (including forensic investigations), or support of Swift services and products or related services and products of service bureaux, application provider or Swift registered providers, or in connection with the Swift Customer Security Programme; Swift governance; accounting and records keeping; or customer relationship management.

For these purposes, Swift may also share such information, data or materials within the Swift group, or with service bureaux and Swift registered providers or Swift's licensors, service providers, or vendors (including their respective employees, agents, subcontractors or professional advisors) provided that any such third party complies with obligations of confidence no less restrictive than this clause 12.2.

Nothing in this clause 12.2 shall be interpreted or construed as preventing Swift to use or disclose confidential information, data or materials of the customer as Swift deems necessary or desirable to report facts and circumstances relating to the security of the customer's use of Swift services and products pursuant to clause 14.2.4 provided that, if and to the extent the *Swift Data Retrieval Policy* or the *Swift Customer Security Controls Policy* applies, such disclosure conforms to the *Swift Data Retrieval Policy* or, as the case may be, the *Swift Customer Security Controls Policy*. When disclosing confidential information, data or materials of the customer pursuant to this provision, Swift shall notify the recipient of the confidential nature thereof and of the importance to protect and preserve the confidentiality of such information, data or materials.

Furthermore, the customer acknowledges and agrees that:

a) Swift may disclose the information, data, or materials of the customer to other customers registered within the same group of Swift users as the customer for the purposes of Swift

traffic aggregation (for more information about traffic aggregation, refer to the *Pricing and Invoicing – Price List for Swift Messaging and Solutions*);

b) any malware accessed or obtained by Swift from or through the customer is not confidential or proprietary information, data or materials of the customer.

More information about the protection of personal data is set out in clause 11.

12.3 Swift Traffic Light Protocol

If Swift information, data or materials are marked as subject to the Swift Traffic Light Protocol (TLP), the Traffic Light Protocol provisions attached to the *Customer Security Programme – Terms and Conditions* shall apply and, in the event of inconsistency, shall prevail over the customer confidentiality obligations as set out in clause 12.1.

13 Notices

13.1 Except when expressly provided otherwise in the Swift contractual documentation, all notices from one party to the other will be in English and in writing, whether in paper form (typically, post or courier with acknowledgement of receipt) or in electronic form (typically, e-mail, Swift e- form, Swift e-invoice, statement on Swift's websites or in a Swift release letter, newsletter or magazine, installation notice for Swift services and products, or facsimile transmission).

When sent to the other party, such notices will be considered correct and valid if they are sent to the latest contact details (if any) notified by the other party for such matters pursuant to the provisions of this clause 13.1, or the latest registered or principal office so communicated by the other party.

13.2 Wherever applicable and notwithstanding clause 13.1, the customer must notify Swift in electronic form through www.swift.com of its intention to terminate the Swift contractual documentation for the provision or use of the Swift services and products.

Notices relating to the termination of the Swift services and products by Swift, or by the customer but which cannot be served in electronic form through www.swift.com, and notices by either party which relate to any claims procedure must be served in either of the following manners:

- by email, facsimile transmission, mail, or courier, with evidence of delivery such as a reply by the recipient or a signed or stamped dated receipt
- by MT 999

The address for service of any such notices will be as follows:

- customer: its registered or principal office, or any other correct and valid address pursuant to clause 13.1
- Swift: its registered office and marked for the attention of End-to-End Ordering or, in the case of a claim made pursuant to clause 15, of the General Counsel.

13.3 All notices served in accordance with this clause 13 will be deemed effective upon their publication for or, if sent to the other party, delivery to the intended recipient.

14 Miscellaneous

14.1 Assignment and Sub-Contracting

14.1.1 The right for the customer to access or use Swift services and products is personal. The customer must not assign, transfer or otherwise dispose of all or part of its rights or obligations under the Swift contractual documentation without Swift's prior written consent.

14.1.2 The customer may delegate or sub-contract to a third party the exercise of its rights or the performance of its obligations under the Swift contractual documentation subject to Swift prior written approval, as for the sake of clarity Swift may refuse at its discretion any sub-contracting or delegation of the financial obligations of the customer. Except in respect of an assignment or

transfer to another entity within the Swift group which shall be effective upon written notice to the customer, Swift must not assign, transfer or otherwise dispose of all or part of its rights or obligations under the Swift contractual documentation without the customer's prior written consent.

Subject to any restrictions set out in the *Swift Personal Data Protection Policy*, Swift may delegate or sub-contract the exercise of its rights or the performance of its obligations.

14.1.3 If either party delegates or sub-contracts to a third party the exercise of its rights or the performance of its obligations in accordance with this clause 14.1, it does so at its own risk and must ensure that the scope of rights granted to any such third party does not exceed those contracted with the other party. The party that delegates or sub-contracts to a third party the exercise of its rights or the performance of its obligations in accordance with this clause 14.1, also remains fully responsible to the other party for the performance and observance by any such third party of any obligations applicable to it.

Without prejudice to the generality of the foregoing, use of a service bureau to connect to Swift is subject to the Shared Infrastructure Policy and use of a application provider to connect to Swift is subject to the *Policy for End Users Lite2 for Business Applications*

14.2   Assistance and Reporting

14.2.1 Each party will give the other party such assistance as is reasonably required to ensure the smooth performance of the Swift contractual documentation, including cooperation with authorities having jurisdiction over the other party such as authorities exercising information gathering and investigatory powers granted to them under applicable laws and regulations.

14.2.2 In case of problems relating to the provision or use of Swift services and products (in particular, problems that can affect the confidentiality, integrity, availability or security of Swift services and products), the customer must:

a)   notify the Swift Customer Support Centre promptly of the problem

b)   assist Swift in identifying, investigating, and resolving the problem. In the event of a (potential) security incident relating to the provision or use of the Swift services or products, the customer must promptly supply to Swift any information, data or other materials that are reasonably necessary for Swift to conduct a forensic investigation of such incident (typically, forensic copies of the Swift interface) and to help and support mitigate the consequences of such incident (typically, information about messages (potentially) generated by fraudulent activity).

c)   promptly correct the problem if it is the customer's responsibility to do so, and notify Swift when it has been resolved

d)   respond correctly and promptly to any actions requested, recovery or fallback procedures initiated, or directions given by Swift to mitigate or resolve the problem and revert to normal operation conditions when the problem is resolved.

14.2.3 Upon prior reasonable written request from Swift, the customer will provide any information, data and other assistance regarding the possession and use by the customer of Swift services and products (such as the number of copies of software in its possession and their use, or compliance by the customer with security obligations).

The customer acknowledges and agrees that Swift may require that the internal auditors of the customer confirm, in writing, the accuracy and completeness of any information or data supplied by the customer pursuant to this clause 14.2.3.

14.2.4 Swift reserves the right, in its sole discretion, to report (or to require the customer to report) to regulators, supervisors or other authorities, the customer's Swift messaging counterparties or other customers involved in a transaction of the customer (potentially) generated by fraudulent activity, facts and circumstances relating to the security of the customer's use of Swift services and products.

14.3   Severability

If any part of the Swift contractual documentation is found to be invalid, unlawful, or

unenforceable, then such part will be severed from the remainder which will continue to be valid and enforceable to the fullest extent permitted by law. Upon determination that any term or other provision is invalid, unlawful or unenforceable, the parties shall negotiate in good faith to modify the Swift contractual documentation so as to effect the original intent of the parties as closely as possible in a manner which removes the cause of the invalidity, unlawfulness or unenforceability and ensuring that the economic or legal substance of the transaction contemplated hereby is not affected in any manner materially adverse to either party.

14.4   No Waiver

Subject to clause 15, the delay or failure by any party to exercise any of its rights or remedies under the Swift contractual documentation shall not be interpreted nor shall operate as a waiver of such rights or remedies.

14.5   No Agency

The relationship between Swift and the customer is not that of agent and principal. Each party shall act independently and shall have no authority to bind the other to any obligations.

14.6   Entire Agreement

The Swift contractual documentation contains the entire agreement and understanding between Swift and the customer relating to the provision and the use of Swift services and products. It supersedes and cancels all prior negotiations, representations, proposals, statements, agreements and undertakings, written or oral, relating to the provision or the use of Swift services and products.

14.7   Amendments

Subject to clauses 2.2, 8 and 13, no amendment or modification to the Swift contractual documentation will be effective unless it is in writing and signed by duly authorised representatives of the relevant parties.

14.8   Waiver of liability for Auxiliaries

Except as explicitly stated otherwise in the Swift contractual documentation, and to the fullest extent permitted by law, each party expressly and irrevocably waives (for itself and on behalf of any of its affiliates; affiliate meaning any legal entity controlling, controlled by, or under common control with each party. Qualification for control requires (i) the ownership and control, directly or indirectly, of more than 50% of a company's shares or voting rights) any claim and right in connection with Swift General Terms and Conditions against any auxiliaries of each other party.

For the purposes of this clause, auxiliary means any person or entity who performs (in whole or in part) any obligation of a party, is engaged in relation to the performance of any obligation under the Swift contractual documentation, or represents a party in connection with the Swift contractual documentation (whether in its own name and/or for its own account, or in the name and/or for the account of a party), including but not limited to auxiliaries of a party as referred to in article 6.3, §2 of the Belgian Civil Code. This includes, without limitation, any affiliate, director, officer, board member, manager, employee, founder, member, partner, shareholder, associate, volunteer, agent, attorney, advisor or contractor of any party. For the avoidance of doubt, this definition also includes, without limitation, any subsequent tiers of such auxiliaries, including any secondary, tertiary, or further removed auxiliaries, irrespective of their level or order in the chain of appointment.

Notwithstanding the above, nothing herein shall be construed to limit or waive the rights of a party to bring claims against, seek remedies from, or engage the liability of any auxiliary that (i) on behalf of such party signed, executed or performed any obligation under the Swift contractual documentation; or (ii) such party has itself engaged in relation to the performance of any obligation under Swift General Terms and Conditions.

For the avoidance of doubt, this clause applies to both contractual and tortious claims or liabilities. This clause will survive termination of the Swift contractual documentation, and shall apply to any

actions, suits, proceedings, claims, demands, damages, liabilities and expenses in connection with the Swift contractual documentation.

15   Dispute Resolution

15.1   Time Limit for customer claims

If the customer becomes aware of a matter or circumstance which may give rise to a claim, the customer must notify its claim to Swift specifying the relevant facts (including, without limitation, detailed evidence on which the customer relies to make the claim, the reference to the relevant provisions of the Swift contractual documentation, the amount of the claim and, more generally, all information reasonably available to enable Swift to assess the merits of the claim) within the following time limits:

a)   for claims about material errors relating to Swift invoices: within 30 days of the date of the invoice

b)   for claims directly or indirectly relating to messages or files (allegedly) sent or received using Swift services and products for the time period during which messages or files can be retrieved as specified in the Swift contractual documentation

c)   for any other claims: within 6 months of the date on which the claiming customer becomes aware (or should reasonably have become aware) of the event giving rise to the claim.

If the customer fails to make a valid claim in accordance with this clause 15.1, the customer shall be barred from making any (further) claim, which the customer shall be deemed to have definitively withdrawn and waived to the benefit of Swift, without however affecting any right, claim or counterclaim on the part of Swift.

Any claim validly notified in accordance with this clause 15.1 shall (if it has not been previously satisfied, settled or withdrawn) be deemed to be definitively withdrawn, and Swift shall have no liability whatsoever, if (i) the Swift customer fails to start the conciliation process pursuant to clause 15.2(a) within 3 months after the date of the valid notification of claim of the Swift customer, or (ii) the customer fails to commence arbitration proceedings within 3 months after the end of the conciliation process (not to exceed a 3 months period) pursuant to clause 15.2(b) unless the parties have confirmed in writing within the conciliation period that they have successfully and fully resolved their dispute.

15.2   Dispute resolution

a)   Conciliation

The conciliation must be started by the claiming party, with a written notice to the other party. The parties will then use all commercially reasonable efforts to resolve at a business level between the representatives of each party any disputes arising out of or in connection with these *General Terms and Conditions* or in relation to a non-contractual claim, within 3 months after the claiming party's notice to start the conciliation. If the business representatives of the parties are unable to resolve the dispute(s) within such 3 months period, such dispute(s) may be referred to arbitration in accordance with clause 15.2.b).

b)   Arbitration proceedings

Any dispute arising out of or in connection with these *General Terms and Conditions* or in relation to a non-contractual claim arising out of these *General Terms and Conditions* or in connection with them, shall be referred to and finally resolved by arbitration (the **"Arbitration"**) under the Rules of Arbitration of the International Chamber of Commerce then in force (the **"Rules"**) before three arbitrators appointed in accordance with the Rules.

The place of the Arbitration shall be Brussels, Belgium. The language of the Arbitration shall be English. Unless the Parties agree otherwise, all proceedings are to be held in English and the award shall be based solely on documents and information provided in the English language, including where the original was written in a language other than English.

Notwithstanding the foregoing, Swift reserves the right to commence legal proceedings in relation to a claim against a customer before the courts of the jurisdiction in which the customer is established.

16 Applicable Law

These *General Terms and Conditions* and all contractual and non-contractual obligations arising out of them or in connection with them shall be governed by and construed in accordance with Belgian law (without giving effect to any conflict of law provision that would cause the application of other laws), and with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (Vienna 1980).

CONFORME:

(SIGNED)

Officer-In-Charge, Operations Sector
(Per OO 453 dated 13 November 2024)