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SWIFT Developers Toolkit Licence Agreement\*

Preface

This version of the SWIFT Developers Toolkit Licence Agreement replaces and supersedes the previous versions of this document and contains numerous clarifications and modifications of the terms of previous versions. It is intended to cover SWIFT’s licensing of a Developers Toolkit or Developers Seat. S.W.I.F.T. SCRL (“SWIFT”) and its Customer subscribing to a Developers Toolkit (or Developers Seat) Licence agree that, per the Service Documentation (as defined below), such licence shall be on the following terms and conditions, unless otherwise expressly agreed.

(July 2019)

\*Sometimes referred to as “Developers Seat” Licence

**1. Definitions**

* 1. Unless inconsistent with the context or otherwise specified, capitalised terms in this Agreement shall have the meaning set out below or in the SWIFT Glossary:

**“Agreement”** means the present agreement and any other document to the extent referred to herein, as may be amended from time to time in accordance with its terms or the terms of this Agreement, as the case may be;

**“Developer”** means any third party as identified by the Customer that is permitted to use the Licensed Materials at a Site in accordance with the terms of this Agreement;

**“Charges”** means SWIFT’s charges from time to time in connection with the supply of the Licensed Materials. The Charges are as set out in the then current version of the SWIFT Price List or as otherwise notified to Customer by SWIFT from time to time;

**“Customer”** has the meaning assigned to it in the SWIFT Glossary;

**"Customer Software"** means any computer program created by or for the Customer using the Developers Toolkit(s) for the Permitted Purpose;

**“Developers Toolkit”** the SWIFT Developers Toolkit (or Developers Seat) product as ordered by the Customer using the SWIFT ordering tool;

**“Embedded Software”** means any software supplied as part of the Licensed Materials embedded by the Customer in the Customer Software using the Developers Toolkit for the Permitted Purpose in accordance with this Agreement;

**“Licensed Materials”** means in relation to the Developers Toolkit, any software, libraries, materials and documentation made available to the Customer by SWIFT from time to time for the Permitted Purpose pursuant to this Agreement;

**“Permitted** **Purpose”** means in relation to the Developers Toolkit, the permitted use as notified by SWIFT to the Customer from time to time, typically in the Service Documentation;

 **“Service Documentation”** means in relation to the Developers Toolkit, the then current corresponding SWIFT service description and related SWIFT contractual documentation as issued by SWIFT from time to time (for example, the Alliance Access Service Description; SWIFT Integration Layer Service Description; Connector for SWIFT gpi Service Description; etc., as applicable);

**“Site”** means each specific location (typically only one) where the Customer uses the Developers Toolkit pursuant to this Agreement, as notified to SWIFT;

**“SWIFT Partner**” means an organization that is registered under the SWIFT Partner Program or, for purposes of this Agreement, a SWIFT registered Service Bureau;

**“SWIFT User”** means an organization that has been admitted under the SWIFT Corporate Rules as a duly authorized user of the relevant SWIFT service or product.

1.2 Any reference to a person shall, unless the context requires otherwise, be construed as a reference to that person and any other person for which it is responsible, including but not limited to its employees, directors, agents and subcontractors.

1.3 In the event of any conflict or inconsistency between this Agreement and any other document referred to herein, and unless the context requires otherwise, this Agreement shall prevail.

**2. Condition Precedent**

It is a condition for the performance of this Agreement that the Customer is a person registered with SWIFT as either a SWIFT User or a SWIFT Partner (as the case may be).

**3. Delivery**

3.1 SWIFT will make the Licensed Materials available in such form or medium as it deems appropriate from time to time, including by electronic means such as over the Internet (most typically on the download area of swift.com). It is the sole and exclusive responsibility of the Customer to access the latest version available of the Licensed Materials, including where appropriate to download the Licensed Materials and to install them.

3.2 Where the Licensed Materials are downloaded, SWIFT’s obligation to make the Licensed Materials available is discharged when SWIFT posts the Licensed Materials on the relevant part of its website. No specific or formal notice of availability of the Licensed Materials will be provided by SWIFT.

**4. Licence**

4.1 The Customer is granted a non-exclusive and non-transferable right to (as appropriate) download, possess, install and use at the Site as many copies of the Licensed Materials (including one back up copy for contingency purposes) as reasonably necessary for the Permitted Purpose. Such license is personal to the Customer so that it will not permit third parties to access the Licensed Materials except its employees and other persons under its responsibility who need to do so for the Customer’s own business operations.

The Customer acknowledges and agrees that it must:

- agree upfront with SWIFT on the nature and scope of the Customer Software, the project planning, milestones and deliverables; and

- use in the Customer Software the unique component name and acronym agreed with SWIFT on a per application basis.

4.2 The Customer shall not remove the Licensed Materials from the Site (except to return them to SWIFT) without providing SWIFT with prior written notice of the new Site. Any such change of Site must be made in compliance with clause 13 (Export Control) of this Agreement.

4.3 The Customer shall only use the Licensed Materials in accordance with, and during the term of, this Agreement and the Service Documentation, and any directions given by or for SWIFT. Without prejudice to the foregoing, the Customer shall in particular comply with good industry practice and all relevant laws and regulations and third party rights with respect to use of the Licensed Materials. Except for the foregoing, the Customer has no other rights with respect to the Licensed Materials. Specifically, but not limited to, the Customer has no right, or right to authorise others, to:

- modify, enhance or otherwise change the Licensed Materials, merge them with another program, or prepare derivative works based upon or derived in whole or part from them (save to the extent necessary for the Permitted Purposes);

- translate, decompile, disassemble, reverse-engineer or otherwise re-create the Licensed Materials or determine their source code (save to the extent expressly permitted by applicable law);

- reproduce the Licensed Materials (except as expressly permitted by SWIFT);

* rent, lease, sell, sub-licence, distribute to or allow access to or otherwise provide or transfer the Licensed Materials or copies thereof to third parties (except as permitted under sub-clause 4.1); or

- remove, alter, cover, obfuscate or cancel from view any copyright or other proprietary rights notices, marks or legends appearing on the physical medium or contained in the Licensed Materials (and the Customer will reproduce and include the same on any permitted copy).

4.4 Where the Customer Software includes Embedded Software, the Customer shall comply with the following obligations and restrictions in relation to such Embedded Software:

- the Customer shall be entitled to sub-license the Embedded Software solely to SWIFT Users provided and to the extent that they are bound for the benefit of SWIFT and its licensors by licence terms which are no less stringent than those applicable to provision of the Licensed Materials under this Agreement. Furthermore, such SWIFT Users shall only be entitled to use the Embedded Software or make copies of it as may be reasonably necessary to access or use the SWIFT products and services in accordance with their related documentation;

- the Customer shall not make any representations or warranties regarding the Embedded Software inconsistent with those representations and warranties made by SWIFT to the Customer in respect of the Licensed Materials.

4.5 The Customer acknowledges that the Licensed Materials may include software, libraries or materials the intellectual property rights of which may belong to a third party. Such third party software, libraries or materials must not be used except as part of the Licensed Materials. With respect to such third party software, libraries or materials, SWIFT may require the Customer to comply with additional licence terms imposed by SWIFT licensors from time to time, as notified by or for SWIFT to the Customer. In any event, the download, possession, installation or use (as the case may be) by the Customer of any such third party software, libraries or materials shall be deemed to constitute its acknowledgement of and agreement with any such additional license terms which, in case of conflict, will prevail over this Agreement. With regard to all such third party software, libraries or materials, SWIFT disclaims any responsibility or liability for the installation, fitness for purpose, performance, infringing nature, use or ongoing update or maintenance or support of such software, libraries or materials. While SWIFT will use good faith efforts to support such third party software, libraries and materials, it will not have any responsibility or liability for the update, maintenance or support of such software, libraries or materials. The Customer understands that it uses all such software, libraries or materials in its discretion and at its own risk.

4.6 The Customer shall, at SWIFT’s request, promptly provide written evidence of the number of copies and locations and users of the Licensed Materials that have been made by or for the Customer and/or, if applicable, the number of copies and locations and users of Embedded Materials distributed by the Customer. When subscribing to a license of the Licensed Materials, the number of installations and users will typically be defined and unless expressly agreed otherwise by SWIFT, the Customer is limited to one installation site and one user.

4.7 The Customer shall indemnify and keep SWIFT and/or its licensors fully and effectively indemnified against any and all actions, liabilities, claims, demands, losses, damages, proceedings, costs or expenses (including legal fees, costs and expenses on a full indemnity basis) suffered or incurred by SWIFT and/or its licensors howsoever caused, arising from or which is related to a failure to comply with its obligations under this clause 4.

**5. Co-operation & Assistance**

5.1 The Customer shall:

- notify SWIFT promptly of any problem relating to the supply and use of the Licensed Materials;

- reasonably co-operate with and assist SWIFT in identifying, investigating and resolving any such problem and, in particular, follow any guidelines or other directions given by or for SWIFT from time to time;

- promptly correct any problem if it is the Customer’s responsibility to do so;

- respond correctly and promptly to any procedures initiated or actions requested by SWIFT to eliminate a problem relating to the provision of the Licensed Materials; and

- notify SWIFT promptly if it becomes aware of any breach or attempted breach of security which could affect the integrity of the Licensed Materials or, more generally, the SWIFT products and services in whole or part.

5.2 The Customer acknowledges that it is critical that the Customer Software operates properly and is updated regularly so as to remain compatible with the then current version of the SWIFT services and products. The Customer is in particular expected to ensure that the Customer Software is updated no later than one (1) month prior to the corresponding version or release of the relevant SWIFT services and products being made generally available to the SWIFT Users. SWIFT reserves the right to take reasonable steps (and to require the Customer to take reasonable steps) to enable SWIFT to review the compliance by the Customer with the foregoing. These steps include but are not limited to requiring the Customer to (i) respond to reasonable enquiries from time to time; (ii) keep SWIFT informed of the release cycle of the Customer Software (including any related documentation that is reasonably necessary to permit SWIFT to assess the release); (iii) confer with SWIFT to review matters regarding the proper operation, late update or compatibility of the Customer Software; (iv) as appropriate, timely submit and implement a recovery plan; and (v) allow SWIFT to review, upon reasonable prior notice, the development and test environment and the design and object code and source code of the Customer Software.

**6. Warranties**

6.1 SWIFT warrants that, where the Licensed Materials include software, that software will perform in accordance with the Service Documentation in all material respects for 90 days following its being made available to the Customer.

6.2 As the Customer's sole and exclusive remedies and in the event of breach of sub-clause 6.1 SWIFT will use reasonable efforts to correct the fault or defect. If despite reasonable efforts SWIFT cannot implement a reasonably satisfactory remedy to the fault or defect within a reasonable time period considering the nature of the fault or defect, the Customer shall be entitled to a refund by SWIFT of all Charges that have been paid by the Customer under this Agreement in respect of the faulty or defective software and this Agreement shall then terminate in respect of that faulty or defective software.

6.3 Except for the foregoing, SWIFT does not give and specifically excludes and disclaims any express or implied warranty with respect to the Licensed Materials whether as to quality, fitness for purpose or otherwise.

**7.** **Support and maintenance**

7.1 The Customer acknowledges that only the latest version available of the Licensed Materials will support the latest changes to the SWIFT services and products. The Customer will therefore ensure it continuously subscribes to the appropriate level of service management services (which may include SWIFT professional services) so as to ensure Customer Software remains compatible with the then current version or release of the relevant SWIFT services and products.

7.2 SWIFT will use reasonable efforts to provide those support and maintenance services for the Licensed Materials set out in the Service Documentation. The Customer agrees that SWIFT support and maintenance applies only to the Licensed Materials and that such support and maintenance does not extend to Customer’s development, design, software or code (collectively, “Customer Design”). While SWIFT may confer with the Customer regarding the Customer Design or Customer Software, SWIFT shall not be responsible or liable for any such conferral or any advice. Should the Customer need formal assistance with the Customer Design or Customer Software, it will necessarily contract separately with SWIFT for appropriate professional services. Nothing in this Agreement shall oblige SWIFT licensors to themselves provide support or maintenance services directly to the Customer (see sub-clause 4.5 for important disclaimers regarding third party software, libraries and materials).

7.3 Should the Customer use third-party libraries or third-party software in its Customer Software or Customer Design, it must be aware that, depending upon the nature of such libraries or software, such use may result in lack of suitability or interoperability of the Customer Software or Customer Design with SWIFT services and products, including the Licensed Materials. In cases of doubt, the Customer should confer with SWIFT regarding such matters; provided that notwithstanding any advice or feedback SWIFT may give, SWIFT is not responsible in any way for Customer Design or Customer Software or for the support, maintenance or problem-solving with respect to Customer Design or Customer Software.

**8. Intellectual Property**

8.1 The copyright and all other intellectual property rights of whatever nature in the Licensed Materials and associated processes will remain the exclusive property of or vest in SWIFT or its licensors. This applies equally to any modification, enhancement or other change to the Licensed Materials and, except for the Customer Software other than Embedded Software, any computer program or other materials derived from the Licensed Materials in whole or in part and associated processes.

In particular, and to the extent the Customer makes suggestions or provides information or materials to SWIFT in connection with the download, possession, installation or use (as the case may be) of the Licensed Materials (other than relating to the Customer Software but excluding Embedded Software) then, unless otherwise agreed in writing between the parties, SWIFT shall have the right to use such information, suggestions or materials without payment to the Customer as it thinks fit and any intellectual property created by or for SWIFT as a result or which subsists in such suggestions or materials shall vest in SWIFT absolutely.

8.2 In no event shall the Customer receive any title nor any copyright or any other intellectual property rights of whatever nature in the Licensed Materials or in any other SWIFT service or product or intellectual property or any derivative work of any of the foregoing (collectively, “SWIFT IP”), except as expressly set forth herein. SWIFT and its licensors shall be entitled to enforce their proprietary rights against the Customer with respect to the SWIFT IP and, to the extent that the Customer is authorised to grant rights to third parties in respect of the Licensed Materials, against any such third parties. In cases in which SWIFT licenses the Developers Toolkit in order to allow Customer to develop or maintain custom code that SWIFT (or an affiliate) has delivered under a professional services contract, any development or modification or derivative of such custom code shall be SWIFT IP unless otherwise expressly agreed by SWIFT (or an affiliate) in writing. SWIFT (or an affiliate) will typically define in the professional services contract the rights of the Customer, on the one hand, and SWIFT (or an affiliate), on the other hand, with regard to any SWIFT IP.

8.3 SWIFT warrants that it is not aware, as at the Effective Date, of any claim that the download, possession, installation or use (as the case may be) of the Licensed Materials by the Customer in accordance with this Agreement will infringe any copyright or other intellectual property rights of a third party.

8.4 If a claim is made against the Customer that the download, possession, installation or use (as the case may be) of the Licensed Materials in accordance with the terms of this Agreement infringe the intellectual property rights of a third party, SWIFT will conduct the defence of such claim and will indemnify the Customer against all losses, costs, expenses and proceedings that arise from the claim and which are suffered by the Customer provided that: - the Customer notifies SWIFT promptly in writing of any such claim; - SWIFT has sole discretion over the control over the defence and/or settlement of such claims; - the Customer makes no admission in relation to, nor prejudices in any way the defence of, such claim and provides all assistance reasonably requested by SWIFT in connection with such claim; and - no cost or expense shall be incurred by the Customer in relation to the claim without the prior written consent of SWIFT.

8.5 If the download, possession, installation or use (as the case may be) of the Licensed Materials, in whole or in part, is held to constitute an infringement of intellectual property rights of third parties, or is enjoined or prevented by a court order, in whole or in part, SWIFT will, at its reasonable discretion and expense, use all reasonable commercial efforts to either:

- procure for the Customer the right to continue downloading, possessing, installing or using (as the case may be) the Licensed Materials pursuant to the terms of this Agreement; or

- modify, replace or amend the Licensed Materials so that they are no longer infringing. If SWIFT is unable despite having used all reasonable efforts to secure either of the above options, SWIFT will have the right to terminate the provision of the infringing Licensed Materials to the Customer without any further liability or charge except that SWIFT shall refund a pro-rata amount of the Charge(s) paid by the Customer in respect of the infringing Licensed Materials based on the unexpired term of (in the case of one-time Charges) its useful life which shall be deemed to be 5 years from its supply or (in the case of recurring Charges) the relevant invoicing period.

8.6 The foregoing is subject to sub-clause 4.5 and states the sole and exclusive rights and remedies of the Customer concerning the infringement of intellectual property rights of third parties, or allegations of infringement in respect of the Licensed Materials.

**9.** **Pricing, Invoicing and Payment**

9.1 The Customer shall pay the Charges to SWIFT in accordance with the invoicing and payment terms and conditions notified by SWIFT to the Customer from time to time (typically, through the then current version of the SWIFT Pricing and Invoicing documentation).SWIFT’s Ordering, Invoicing and Payment document shall apply.

9.2 Unless expressly provided otherwise in this Agreement, Charges due will not be reimbursed or refunded. Annual or recurring charges may be amended by SWIFT from time to time upon reasonable prior notice to the Customer.

**10. Termination**

10.1 Without prejudice to any other provision for termination set out elsewhere in this Agreement, either party may terminate this Agreement for convenience by 3 months’ prior notice in writing to the other party at any time or, with immediate effect, by written notice to the other party in the event of any material breach of this Agreement by that party which cannot be remedied or remains unremedied for at least 30 days as from the time it was first notified to that party or if that party becomes insolvent or bankrupt or a receiver or liquidator is appointed over all or part of that party’s assets or any analogous event occurs in any jurisdiction.

10.2 SWIFT shall without prejudice to any other right or remedy be entitled to immediately terminate this Agreement if the Customer ceases to be a SWIFT User or a SWIFT Partner (as the case may be).

10.3 Upon the termination of this Agreement for whatever reason the Customer shall immediately cease using the Licensed Materials and, at SWIFT's direction, the Customer shall promptly destroy or return to SWIFT or allow SWIFT (or any third party designated by SWIFT) to collect the Licensed Materials (and any copies) and any materials incorporating all or part of the Licensed Materials, except where the Customer has the right to retain such materials pursuant to a subsequent agreement with SWIFT. Furthermore, the Customer will promptly notify its customers of such termination and review with them any impact such termination may have on their access to and use of the SWIFT services and products such as but not limited to the obligation for such users to use the then currently supported version of the SWIFT services and products.

10.4 Termination of this Agreement for whatever reason shall not release any party from any of its obligations arising under this Agreement prior to termination or which expressly or by implication become effective or continue to be effective on or after such termination, and shall be without prejudice to any other rights or remedies it may have in respect of the termination.

11. **Limitation and Exclusion of Liability**

11.1 The Customer acknowledges and agrees that except as expressly provided in this Agreement, the Licensed Materials are provided “As Is” solely for the Permitted Purposes and their download, possession, installation or use (as the case may be) are under the Customer’s sole and exclusive responsibility and at its risk. Without prejudice to the generality of the foregoing, the Customer further acknowledges and agrees that it shall be solely responsible for ensuring data integrity and security can be maintained on its systems, including operating back-up procedures, and insuring against loss or damage which may arise from a loss of or a corruption to data or from unintended access or disclosure.

11.2 To the extent not otherwise prohibited by law the Customer further acknowledges and agrees that SWIFT’s liability for or in connection with the performance of this Agreement (whether in contract, tort or otherwise) will be limited or excluded as follows:

 - except for fraud or wilful misconduct, SWIFT’s liability will not exceed the greater of (i) the total amount of the Charges (if any) the Customer has paid to SWIFT under this Agreement in respect of the Licensed Materials during the 12 months immediately preceding the first claim asserted by Customer in connection with such performance or (ii) 10,000 EURO; and

 - SWIFT bears no liability for any indirect, special or consequential loss of any kind nor for loss of revenue, loss of profit, loss of data, loss of use, loss of goodwill, loss of savings, interruption of business or third party claims.

11.3 SWIFT shall in no circumstances be obliged to perform any obligation or bear any liability whatsoever under this Agreement or arising under to the extent resulting from:

- any unauthorised or improper download, possession, installation or use (as the case may be) of the Licensed Materials;

- the use of services or products not supplied by SWIFT for use in connection with the Licensed Materials;

- the Customer’s acts, faults or omissions or those of a third party for which SWIFT is not responsible (including but not limited to any downloading by the Customer of the Licensed Materials); or

- Force Majeure (as defined in sub-clause 11.5).

11.4 In no event shall SWIFT’s licensors be liable for any loss or damage of any kind with respect to or in connection with the use of the Licensed Materials whether arising from contract, tort or any other theory of liability.

11.5 If any party is unable to perform its obligations (except payment obligations) due to causes beyond its reasonable control then that party shall not be held responsible for any loss or damage which may be incurred by the other party as a result of such inability. Such causes include but are not limited to acts of God, governmental acts, acts of authorities (including governmental or regulatory authorities), acts of telecommunications operators, facilities management contractors and service providers (but excluding where such acts were caused by the act, fault or omission of SWIFT), catastrophes in nature, war, fire, flood, strike or industrial disputes, political disturbance, explosion, bombs or civil disturbances, epidemics and all other circumstances which prevent or hinder a party against its will from performing its obligations (“Force Majeure”). Each party will give notice to the other as soon as possible upon becoming aware of a Force Majeure. If due to Force Majeure a party remains unable to perform its obligations arising under this Agreement for more than sixty (60) days, then the other party may terminate this Agreement immediately. Neither party shall have any liability to the other as a result of such termination, but any such termination shall be without prejudice to any rights, which may have arisen prior to termination.

**12. Confidentiality**

12.1 Unless otherwise expressly permitted, the Customer will keep strictly confidential and not disclose information obtained in connection with the provision or use of the Licensed Materials, including the Licensed Materials and any part or copies thereof, to third parties except to the Customer’s employees or other persons under the Customer’s responsibility who need to use the Licensed Materials for the Permitted Purpose and who have agreed to be bound for the benefit of SWIFT and its licensors by no less stringent obligations of confidence, restrictions on download, possession, installation or use (as the case may be) and proprietary rights than those in this Agreement. The obligations of confidence in this clause shall not apply to any materials which enter the public domain other than by the Customer’s breach of this Agreement or which are required by law to be disclosed.

12.2 The Customer shall hold the Licensed Materials in confidence in particular for the benefit of SWIFT and its licensors.

12.3 The obligations of confidence in this clause shall survive termination for whatever reason of this Agreement.

**13. Export Control**

The Licensed Materials and SWIFT’s dealings with the Customer may be subject to export and import restrictions, as well as relevant sanctions laws and regulations. The Customer must, and Customer acknowledges that SWIFT must, comply with all such restrictions, laws and regulations. The Customer may not export or import the Licensed Materials (including without limitation by way of downloading the Licensed Materials from SWIFT’s web site) without all appropriate government licenses (if any) having been obtained.

**14. Non-competition**

Except to the extent necessary for the Permitted Purposes or otherwise expressly agreed with SWIFT, the Customer shall not download, possess, install or use (as the case may be) the Licensed Materials to develop any computer program or other materials competing directly or indirectly with the SWIFT products and services. This obligation shall terminate 6 months after termination of this Agreement for whatever reason.

**15. Public Announcements**

The parties shall, wherever possible, consult with one another before making public announcements in connection with the supply or use of the Licensed Materials pursuant to this Agreement. However the Customer shall allow SWIFT to publicly announce or advertise any subscription to and use of the Licensed Materials by the Customer or any cessation of any such subscription and use.

**16. Privacy**

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 or other purposes set out in the SWIFT Personal Data Protection Policy (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.

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.

**17. Ancillary Provisions**

17.1 ENTIRE AGREEMENT and VARIATIONS: This Agreement constitutes the entire agreement between the parties. Each party confirms that it has not relied upon any representation not recorded in this Agreement inducing it to enter into it. No variation of these terms and conditions will be valid unless confirmed in writing by authorised signatories of both parties on or after the date of this Agreement provided always that SWIFT shall be entitled to issue revised versions of the Service Documentation and/or this Agreement at any time on notice to the Customer (which notice shall include publication of a revised version of any such document or agreement on swift.com) and, if the Customer objects to any material revision of the Service Documentation or this Agreement (as the case may be) and demonstrates to the reasonable satisfaction of SWIFT such revision materially adversely affects its use of the Licensed Materials, then, as its sole right and remedy, it shall be entitled to terminate this Agreement upon written notice to SWIFT subject to any Charges due being paid.

17.2 SEVERABILITY: The terms and conditions of this Agreement are severable and if any part is found by a court of competent jurisdiction or other competent authority 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.

17.3 WAIVER: No delay or failure by any party to exercise any of its powers, rights or remedies in enforcing any term will operate as a waiver of such term, nor will any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them.

17.4 RELATIONSHIP OF THE PARTIES: The relationship between SWIFT and the Customer is that of independent contractors. Neither party is an agent for the other, and neither party has any authority to make any contract, whether expressly or by implication, in the name of the other party, except where the party’s prior written consent has been obtained.

17.5 ASSIGNMENT: Except where expressly provided otherwise elsewhere in this Agreement, the Customer may not assign, transfer, sub-licence or sub-contract any rights or obligations arising under this Agreement without the prior written consent of SWIFT. SWIFT may assign or transfer any of its rights or obligations to any of its majority-owned subsidiaries worldwide. Furthermore SWIFT may delegate or sub-contract its obligations under this Agreement.

17.6 NOTICES: Any notice required to be given under this Agreement by either party must be in writing (and for the purposes of this Agreement “in writing” includes in readable electronic form such as an email) and may be delivered either personally, by post, by fax or by email to the address of the receiving party as specified on the front of this Agreement or any subsequent address notified to that party pursuant to this clause. Notices shall be deemed to have been served at the time of their receipt by the receiving party.

17.7 GOVERNING LAW AND JURISDICTION: This Agreement is governed by Belgian Law and the parties submit to the exclusive jurisdiction of the competent court in Brussels, Belgium.