



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 July 2017, this new version of the *SWIFT General Terms and Conditions* terminates and replaces the previous version of the *SWIFT General Terms and Conditions* dated 2 September 2016.

01 July 2017

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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](#)
- [SWIFT Corporate Rules](#)
- [SWIFT Customer Testing Policy](#)
- [SWIFT Data Retrieval Policy](#)
- [SWIFT Glossary](#)
- [SWIFT Partner Programme Terms and Conditions](#)
- [SWIFT Personal Data Protection Policy](#)
- [SWIFT Privacy Statement](#)
- [SWIFTNet and Alliance Release Policy](#)
- [SWIFT Certified Interface Programme Overview](#)
- [SWIFT Service Descriptions](#)
- [Customer Security Programme – Terms and Conditions](#)
- [SWIFT Customer Security Controls Framework \(CSCF\)](#)
- [SWIFT Customer Security Controls Policy](#)
- L2BA Programme Terms and Conditions
- End-User Policy
- [SWIFT Trademark Guidelines](#)

## Significant changes

This new version of the *SWIFT General Terms and Conditions* addresses recent developments to SWIFT's offering and documentation, such as the recently published [SWIFT Customer Security Controls Framework \(CSCF\)](#) and [SWIFT Customer Security Controls Policy](#). It also includes various changes designed to further clarify the *SWIFT General Terms and Conditions* and to align more closely with other SWIFT standard terms and conditions and other SWIFT Contractual Documentation.

## What's new?

More specifically, the main changes include:

- The *SWIFT General Terms and Conditions* have been updated to expressly refer to and reflect further changes introduced under the Customer Security Programme, including the recently published [SWIFT Customer Security Controls Framework \(CSCF\)](#) and [SWIFT Customer Security Controls Policy](#) and related self-attestation and reporting processes. For more information, see in particular the updated section entitled 'SWIFT governance and community' in 'About SWIFT and SWIFT Contractual Documentation' and revised clauses 5.2, 12.2 and 14.2.4.
- The *SWIFT General Terms and Conditions* have been further updated to expressly refer to the Alliance Lite2 for Business Applications (L2BA) application providers and related documentation such as the *L2BA Programme Terms and Conditions* and the *End-User Policy*. For more information, see in particular updated section entitled 'Becoming a SWIFT customer' in 'About SWIFT and SWIFT Contractual Documentation' and revised clauses 3.1, 3.2, 5.2, 10.6, 12.2 and 14.1.3.
- The conditions of application of the *SWIFT General Terms and Conditions* have been further clarified. For more information, see in particular the updated section entitled 'Purpose of this document' in the Preface.
- SWIFT Partners having been renamed **SWIFT registered providers**, related references have been updated accordingly.
- The *SWIFT General Terms and Conditions* have been revised to expressly confirm that any right for SWIFT to suspend or change **SWIFT services and products** pursuant to clause 4.2.1 or to terminate the **SWIFT Contractual Documentation** pursuant to clauses 10.3, 10.6 or 10.7 applies without any prior court intervention.
- Clause 4.2.1 d) has been updated for enhanced clarity about the conditions for SWIFT to suspend or suspend or change **SWIFT services and products** if the **customer** commits a material breach or repeated breaches.
- Clause 5.1.2 has also been updated for enhanced clarity about the responsibility of the **customer** to comply with all technical, operational, security, availability, legal and regulatory requirements applicable to its use of **SWIFT services and products**, including requirements for increased resilience (previously covered in clause 5.2).
- A new clause 5.4 confirming **customers'** obligation to respect SWIFT's rights to its trademarks, company names, and trade names has been inserted.
- The *SWIFT General Terms and Conditions* have been reviewed to confirm SWIFT's rights and obligations in connection with malware supplied or made available by **customers**. For more information, see in particular revised clauses 5.2, 7.1 and 12.2.
- The wording of clause 9.1 has been modified to align more closely with Belgian law concepts.
- Clause 9.1.2 c) has been supplemented with a new sentence regarding the appointment of an independent third party to certify the total value and the calculation of SWIFT's liability 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 exceeds any applicable financial cap .
- The exclusions of SWIFT's liability set out in clause 9.1.3 a) now expressly refer to loss of reputation and (financial) sanctions, fines and penalties imposed by authorities.
- The principles governing SWIFT's liability based on a series of events or facts that are connected or contribute to the same loss or related losses have been further developed as set forth in new clause 9.1.5 (replacing previous clause 9.2).
- A new paragraph has been inserted in clause 10.2 to confirm the conditions governing termination of **SWIFT services and products** contracted for a minimum term or (renewable) fixed term.
- Clause 11 a) has been reviewed to expressly refer to the purposes for which SWIFT may process personal data collected by SWIFT as set out in the [SWIFT Personal Data](#)

[Protection Policy](#). An express reference to the *SWIFT Personal Data Protection Policy* has also been inserted in clause 12.2.

- A new clause 12.3 has been added confirming the customer obligations of confidentiality with respect to information, data or materials marked as subject to the SWIFT Traffic Light Protocol (TLP).
- Clause 14.2.2 has been reviewed to further clarify the obligations of customers in connection with (potential) security incidents.
- Clauses 14.3 (Severability) and 14.4 (No Waiver) have been revised for enhanced clarity.
- Clause 15 (Dispute Resolution) has been amended to confirm the conditions for customers to make a valid claim and applicable dispute resolution procedure.

### **SWIFT-defined terms**

In the context of SWIFT documentation, certain terms have a specific meaning. These terms are called SWIFT-defined terms (for example, customer, user, or SWIFT services and products). The definitions of SWIFT-defined terms appear in the [SWIFT Glossary](#).

### **Effective date**

Effective as of 1 July 2017, this new version of the *SWIFT General Terms and Conditions* terminates and replaces the previous version of the *SWIFT General Terms and Conditions* dated 2 September 2016. 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 global member-owned cooperative and the world's leading provider of secure financial messaging services.

Headquartered in Belgium, SWIFT is a cooperative society under Belgian law.

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.

SWIFT's international governance and oversight reinforces the neutral, global character of its cooperative structure. 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 more than 200 countries and territories use SWIFT every day to exchange millions of standardised financial messages.

SWIFT's role is two-fold. SWIFT provides its community with a platform for messaging, and offers products and services to facilitate access and integration, identification, analysis and regulatory compliance. SWIFT also acts as the facilitator that brings the financial community together to work collaboratively – at global, regional and local levels - to shape market practice, define standards for communication and consider solutions to issues of mutual interest such as the recently published [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 the [SWIFT Corporate Rules](#).

## 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, Alliance Lite2 for Business Applications (L2BA) application providers and SWIFT registered providers.

SWIFT users 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 execute a [SWIFT Undertaking](#). The [SWIFT 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 [www.swift.com](http://www.swift.com) > [Join SWIFT](#).

Service bureaux 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](#).

Alliance Lite2 for Business Applications (L2BA) application providers are non-SWIFT user organisations registered under the *L2BA Programme Terms and Conditions* 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](#).

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.

These *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 to subscribe to SWIFT services and products, unless expressly stipulated otherwise in the SWIFT Contractual Documentation.

These *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)
- Applications (for example, Accord, Trade Services Utility, or SWIFT's VAN Solution for T2S)
- Public Key Infrastructure (PKI)
- 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 (for example, Sanctions Screening, Sanctions Testing, or the KYC Registry)
- Support services

These *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 *End-User Policy*, the [SWIFT Customer Testing Policy](#), and the [BIC Policy](#)
- SWIFT service descriptions
- SWIFT pricing and invoicing documentation (for example, the [Pricing and Invoicing – 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 Lite2.

At the date of publication of these *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 these *SWIFT General Terms and Conditions* and other SWIFT standard terms and conditions, SWIFT policies, and SWIFT pricing and invoicing documentation at [www.swift.com](http://www.swift.com) > About Us > Legal > [Terms and Conditions](#). SWIFT service descriptions are available at [www.swift.com](http://www.swift.com) > Ordering & Support > Other useful information > [User Handbook Home](#).



# 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.
- 1.2 General principles or words are not given any restrictive meaning when they are illustrated with examples. A reference to a clause is not given any restrictive meaning and other provisions may continue to be relevant or apply.
- 1.3 The following order of precedence applies within the *SWIFT Contractual Documentation*:
- a) the electronic form or contract executed by the customer to subscribe to *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 provides that another document amends or supplements it, that other document prevails.
- 1.4 These *General Terms and Conditions* constitute a legal agreement between SWIFT and its customers. However, they 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 have the same force and legal effect as if in writing or paper based.
- 2.2 The customer acknowledges and agrees that SWIFT may amend or supplement the *SWIFT Contractual Documentation* at any time upon notice to the customer (typically, by updating the relevant document(s) in the [SWIFT User Handbook](#) available on [www.swift.com](http://www.swift.com)).
- 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 Terms and Conditions section ([www.swift.com](http://www.swift.com) > About Us > Legal > [Terms and Conditions](#))

- b) the SWIFT User Handbook Online ([www.swift.com](http://www.swift.com) > Ordering & Support > Other useful information > [User Handbook Home](#))
- c) the Support section ([www.swift.com](http://www.swift.com) > Ordering & Support > [Discover our support tools](#)) (typically, the tips in the [Knowledge Base](#))

To assist customers, SWIFT publishes various newsletters. These typically inform customers by e-mail about the latest news, changes, known issues and solutions, and frequently asked questions. SWIFT notifies changes to these General Terms and Conditions through the SWIFT User Handbook newsletter. SWIFT encourages customers to subscribe to all relevant newsletters (available at [www.swift.com](http://www.swift.com) > Ordering & Support > Stay up-to-date > [Newsletters](#)).

- 2.3 Only the English version of the SWIFT Contractual Documentation as published by SWIFT (typically, in the *SWIFT User Handbook*) is valid.

### 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, L2BA 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 to subscribe to or use 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 L2BA 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 SWIFT 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, SWIFT accepts responsibility for loss or damage until delivery at the address designated by the customer and agreed by SWIFT.
- 4.1.3 When the customer is responsible for downloading SWIFT services, products, or documentation, SWIFT's obligation to make these 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 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 court 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 security, reliability, resilience or proper performance 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 repeated 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 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](http://www.swift.com) > Ordering & 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 specific SWIFT services and products. Its corporate security policy and standards are based on principles of the ISO/IEC 27000 standard series (a series of Information- Security Management Systems standards). 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 clause 9.

## 5 Customer Role 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 a certified interface. For more information about the SWIFT Certified Interface Programme, see [www.swift.com](http://www.swift.com) > Ordering & Support > Other useful information > [User Handbook](#) and [www.swift.com](http://www.swift.com) > About Us > [Partner Programme](#).

The customer is and remains responsible at all times for ensuring 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. SWIFT publishes general guidance relating to specific SWIFT services and products to help customers implement such resilience in connection with 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 such guidance constitutes any representation, warranty or guarantee on the part of SWIFT against the occurrence or prevention of downtime, system failure or other similar events. Furthermore, nothing in such guidance 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 5.1.2 or elsewhere in the SWIFT Contractual Documentation.

- 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 [SWIFTNet and Alliance 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 the connection of the customer through a service provider such as a service bureau, group hub or L2BA 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 L2BA Application Providers 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 cyber-security and to facilitate cyber-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 L2BA 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](http://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 trademarks.

### 5.5 Industry Practice, Applicable Laws, and Regulations

The customer is 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 comply with good industry practice and all relevant laws, regulations, and third-party rights, even if this restricts its usage entitlement under SWIFT's governance.

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 and enter into all necessary contractual arrangements in order to ensure that no 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 SWIFT 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 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 ninety (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 ninety (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')

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 Indemnification

- 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, are and will remain the sole and exclusive property of SWIFT or its licensors. Any such rights in derivatives works developed by or for SWIFT based on malware supplied or made available by customers shall belong to SWIFT.

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, laws and regulations, SWIFT will defend the customer against that claim 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 indemnification by SWIFT is subject to the customer:

- a) notifying SWIFT promptly in writing of any such claim
- b) doing nothing to jeopardise or prejudice SWIFT's defence and settlement of any such claim
- c) promptly handing over to SWIFT control over the defence and settlement of any such claim

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, 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 accepts liability (if any) to the customer only for contractual and non-contractual defaults (wilful or not) and fraud, or under the indemnity in clause 7.2, and always subject to clauses 9.1, 9.3, 9.4, 9.5, 13 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 in a non-pilot live environment, 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
  - (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.

- 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 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 set out in clause 9.1.2.a)

The above total value and calculation pursuant to (i) and (ii) shall be certified by an independent third party who shall keep confidential the particulars and details (including the identity of the claimant) of the relevant claims.

9.1.3 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 personal 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. Unless expressly provided otherwise in the [SWIFT Contractual Documentation](#) or any other contractual arrangement in place between the relevant [customers](#) and SWIFT (or any other [SWIFT group entity](#)):

- a) this rule shall apply 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; and
- b) 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](#))

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 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.

## 9.2 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 beyond the reasonable control of, 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 are beyond the reasonable control of, and are not attributable to the Affected Party.

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 for convenience 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.

For SWIFT services and products contracted by customers for a minimum term or (renewable) fixed term, termination for convenience is not permitted before the expiry date of the minimum or (on-going) fixed term. If nevertheless a customer decides that the provision of SWIFT services and products should be terminated early, SWIFT shall be entitled, without recognition and without prejudice to any other rights or remedies available to it under the SWIFT Contractual Documentation, to terminate the provision of such SWIFT services and products at a time that SWIFT deems fit in its reasonable opinion. In such case however, the customer must continue to pay the agreed fees and charges for the relevant SWIFT services and products until the expiry date of the minimum or (on-going) fixed term.

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

To the extent permitted by applicable law, each party has the right to terminate the SWIFT Contractual Documentation for the provision of any or all SWIFT services and products immediately and automatically (without prior court 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 repeated 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 its obligations and such breach is not remedied within 30 days after notice of the breach has been given in writing to the other party

- c) the other party becomes insolvent (typically, subject to bankruptcy or similar proceedings) 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](#)
- d) 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 court intervention in the circumstances set out in clause 4.2.1.b) or 4.2.1.c), or pursuant to clause 6.3 or 7.3.

#### 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, L2BA 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 court 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 court 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 [SWIFT 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 law or regulation to retain such materials.

## 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 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 (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.

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.

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 to be disclosed by law, regulation, or pursuant to a binding and enforceable order or legal process of a court, arbitral tribunal, or supervisor, regulator or other governmental authority, 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](#), [SWIFT Personal Data Protection Policy](#) and [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, L2BA application providers 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, L2BA application providers 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, except that if such malware allows to identify the customer, SWIFT will not share any such malware other than (i) as reasonably necessary to protect other customers (typically, by sharing such malware with antivirus vendors) and provided that the recipient complies with obligations of confidence no less restrictive than those in clause 12.2; or (ii) in accordance with clause 14.2.4.

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](http://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](http://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.

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 provided that SWIFT may refuse at its discretion any sub-contracting or delegation of the financial obligations of the customer.

- 14.1.2 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 L2BA application provider to connect to SWIFT is subject to the *End-User Policy*.

### 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.

- 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 or information about (possibly) fraudulent messages)

- 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 supervisors, regulators or other governmental authorities, or the customer's SWIFT messaging counterparties, facts and circumstances relating to the security of the customer's use of SWIFT services and products (for example, the failure by the customer to use a mandatory release or update of the software or other circumstances as specified in the [SWIFT Customer Security Controls Policy](#)).
- 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

Except where a specific period for exercising any right arising under the SWIFT Contractual Documentation is provided for in the SWIFT Contractual Documentation or under applicable law, any waiver to be effective must be in writing signed by duly authorized representative(s) of the waiving party and no delay on the part of a party to exercise such right or remedy shall constitute, or be construed to constitute, a waiver thereof. Neither any waiver by a party of any right or remedy nor any single or partial exercise of such right or remedy shall preclude any further exercise by such party thereof or of any other right or remedy.
- 14.5 No Agency

The relationship between SWIFT and the customer is not that of agent and principal, and neither party has the 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 the 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.

### 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, 3 months after the end of the conciliation process pursuant to clause 15.2.a), unless the customer has commenced arbitration proceedings pursuant to clause 15.2.b).

#### 15.2 Dispute resolution

##### a) Conciliation

The parties will 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 claim has been notified to the customer, or (in the event of a customer claim) following a valid notification of claim in accordance with clause 15.1. 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).

## Explanatory Comments

These explanatory comments are included for information and illustrative purposes. While designed to provide useful information about certain provisions of these *SWIFT General Terms and Conditions*, nothing in these explanatory comments shall be interpreted or construed as granting any rights or imposing any obligations in addition to those set out in the commented provisions of these *SWIFT General Terms and Conditions*.

### Testing (clause 5.3)

SWIFT conducts regular tests to probe the availability, integrity and confidentiality of *SWIFT services and products*. SWIFT typically reports on such tests through SWIFT's third-party assurance framework such as SWIFT's ISAE 3000 type 2 report.

SWIFT understands that, beyond SWIFT's tests, *customers* may also wish to conduct certain performance or vulnerability tests on or through *SWIFT services and products*.

Because such tests might adversely affect SWIFT's operations or be indistinguishable from real threats, *customers* must not conduct any such test unless expressly permitted in the [SWIFT Customer Testing Policy](#). This applies to (without limitation) stress tests, throughput tests, intrusion tests or penetration tests.

### Non-transferable right to use software (clause 6.1)

As per clause 6.1, the *customer* is not permitted to freely transfer or otherwise assign its right to use *software* to a third party, even if it is another *SWIFT user*, *service bureau*, *SWIFT registered provider*, or any other *customer*. Any such transfer or assignment requires SWIFT's prior express written consent, and may be subject to a specific transfer fee.

### SWIFT liability – caps and claims reduction (clause 9.1.2)

As per clause 9.1.2, SWIFT's total aggregate liability to any and all *customers* for any and all claims notified to SWIFT in any one calendar year will not exceed specific maximum amounts depending on the category of claim.

If the total value of all claims notified to SWIFT in the same calendar year and in the same claims category exceeds any applicable maximum amount, then the amount of each such claim shall be reduced proportionately.

The example below illustrates how this reduction applies.

If, in the same calendar year, *customer A* gives notice to SWIFT of a 4 million Euro claim for damage to or loss of tangible property, and *customer B* gives notice to SWIFT of a 6 million Euro claim for damage to or loss of tangible property, then the total amount of the claims to SWIFT in that calendar year will exceed the annual liability cap of 5 million Euro. Assume that SWIFT fully accepts liability for both claims. Because *customer A* filed a claim for 4 million Euro (that is, 40% of the total 10 million Euro amount or 4/10), *customer A's* claim shall be reduced to 2 million Euro (that is, 40% of the 5 million Euro cap). Likewise, *customer B's* claim is 60% of the total claim (that is, 60% of the total 10 million Euro amount or 6/10), *customer B's* claim shall be reduced to 3 million Euro (that is, 60% of the 5 million Euro cap).

### Force Majeure (clause 9.4)

Subject to the conditions of clause 9.4, a force majeure event may include (without limitation) the following:

- An act or intervention of a public authority or court (including any codes of conduct, instructions, guidelines, decisions, (financial) sanctions, or rules issued by such public authority or court), or any changes in laws
- Interruption or unavailability of power supplies, telecommunications networks, telecommunications services or IT-systems

- Sabotage, terrorism or threats of such acts
- Fire, flood, atmospheric disturbance, lightning, storm, hurricane, cyclone, typhoon, tornado, earthquake, landslide, perils of the sea, soil erosion, subsidence, washout, drought, exceptionally heavy snow or rain, ice or other acts of God
- Acts of war or hostilities (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, military or usurped power, embargo, revolution, riot, insurrection, civil disturbance or civil war or rebellion
- Strikes, lock-outs, or other industrial action or labour disputes (including, without limitation, strikes, lock-outs, or other industrial action or labour disputes that are limited to an enterprise or business unit of the relevant party or any company within its group)
- Epidemic, famine, quarantine or plague
- An act, event or circumstance which primarily affects a person other than the parties and which prevents or delays a party's performance under any [SWIFT Contractual Documentation](#) provided that such act, event or circumstance is of a kind of character that, if it had happened to such party, it would have fallen within the definition of a force majeure event in clause 9.4 of these *SWIFT General Terms and Conditions*

## Personal Use (clause 14.1)

As per clause 14.1, the right for the customer to access or use [SWIFT services and products](#) is personal.

For example, the customer must not permit its BIC to be used to identify a third party (including another customer), or allow a third party to access or use [SWIFT services and products](#) except if that third party is acting under its responsibility (typically, as a sub-contractor or agent of the customer).

In other words, the customer may not permit a third party (including another customer) to impersonate the customer in its use of [SWIFT services and products](#), and the customer may not disclaim any responsibility and liability for the use of its BIC and [SWIFT services and products](#).

## Outsourcing by customer (clauses 14.1.1 and 14.1.3)

One example of the type of delegation or sub-contracting that could be covered by clauses 14.1.1 and 14.1.3 would be the 'outsourcing' by a customer of the installation, operation and maintenance of its [SWIFT interface](#).

For more information about SWIFT's policy with regard to the use of [service bureaux](#) to connect to SWIFT, see the [Shared Infrastructure Policy](#). For more information about SWIFT's policy with regard to the use of L2BA application providers to connect to SWIFT, see the *End-User Policy*.

## Assistance and Reporting (clause 14.2.4)

As per clause 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 governmental authorities, or the customer's [SWIFT messaging counterparties](#), facts and circumstances relating to the security of the customer's use of [SWIFT services and products](#).

For the purposes of identifying the customer's [SWIFT messaging counterparties](#), SWIFT may use information in SWIFT's possession regarding the [SWIFT traffic and relationship management authorisations \(RMA\)](#) exchanged by the customer.

## Legal Notices

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