

## Data Processing Addendum to the Services Terms and Conditions

### 1. Definitions

1.1. In this Data Processing Addendum (“DPA”):

- a) “Controller”, “Data Subject”, “Personal data”, “Process” or “Processing”, “Processor”, and “Personal Data Breach” and “Supervisory Authority” have the meaning given to these terms in the EU General Data Protection Regulation (EU) 2016/679 (“GDPR”);
- b) “Customer Personal Data” means any Personal Data for which You are the Controller, and which is Processed by SWIFT on Your behalf to provide the Services.
- c) “Data Protection Laws” means any applicable laws and regulations governing the Processing of Personal Data, including the GDPR.
- d) “EU Data Protection Law” means the GDPR and e-Privacy Directive 2002/58/EC (as amended by Directive 2009/136/EC), and their national implementations in the European Economic Area (“EEA”), the Swiss Federal Act on Data Protection, the UK Data Protection Act, the Data Protection Acts of the EEA countries, each as applicable, and as may be amended or replaced from time to time;
- e) “Data Subject Rights” means Data Subjects’ rights to information, access, rectification, erasure, restriction, portability, objection, and not to be subject to automated individual decision-making in accordance with Data Protection Laws;
- f) “International Data Transfer” means any transfer of Customer Personal Data from the EEA, Switzerland or the United Kingdom to an international organization or to a country outside of the EEA, Switzerland and the United Kingdom, and includes any onward transfer of Customer Personal Data from the international organisation or the country outside of the EEA, Switzerland and the United Kingdom to another international organisation or to another country outside of the EEA, Switzerland and the United Kingdom;
- g) “Partner” is any Sub-processor that participates in the SWIFT partner programme, in accordance with a Partner agreement that it has concluded with SWIFT;
- h) “Sub-processor” means a Processor engaged by a Processor to carry out Processing on behalf of a Controller; and
- i) “Standard Contractual Clauses” means the clauses annexed to EU Commission Decision 2010/87/EU of 5 February 2010 on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC of the European Parliament and of the Council (OJ L 39, 12.2.2010, p. 5-18).

1.2. Capitalized terms used but not defined herein have the meaning given to them in the SWIFT Services Terms and Conditions.

### 2. Scope and applicability

- 2.1. This DPA applies to any Processing of Customer Personal Data by SWIFT subject to Data Protection Laws.
- 2.2. This DPA prevails over any conflicting term of the Agreement, but does not otherwise modify the Agreement.

### **3. Roles of the parties**

- 3.1. You are a Controller and You appoint SWIFT as a Processor to Process, on Your behalf, Customer Personal Data to provide the Services as per the Agreement. You are responsible for compliance with the requirements of Data Protection Laws applicable to Controllers.
- 3.2. SWIFT will Process Customer Personal Data for the purpose of providing the Services, which includes the processing operations listed in Appendix 1. The subject matter, nature and purpose of the Processing, the types of Customer Personal Data and categories of Data Subjects are set out in this Agreement and its Appendix 1. The duration of the Customer Data Processing will be for as long as necessary to provide the Services and as permitted under the Agreement, in particular Section 11 of this DPA.

### **4. Instructions**

- 4.1. SWIFT will Process Customer Personal Data to provide the Services and in accordance with Your instructions, which are documented in this DPA, the Agreement, and any applicable statement of work. You may reasonably issue additional instructions as necessary to comply with Data Protection Laws. SWIFT may charge a reasonable fee to comply with any additional instructions.
- 4.2. SWIFT will immediately inform You if, in its opinion, any of Your instructions infringe EU Data Protection Law. If SWIFT informs You that your instruction given in the context of Section 7 infringes EU Data Protection Law, SWIFT may withhold the requested information until You have modified or confirmed the lawfulness of the instruction in writing. Unless prohibited by applicable law, SWIFT will inform You if SWIFT is subject to a legal obligation that requires SWIFT to Process Personal Data in contravention of Your documented instructions.

### **5. Security and Confidentiality**

- 5.1. SWIFT implements appropriate technical and organisational security measures to ensure a level of security for Customer Personal Data that is appropriate to the risks presented by the Processing, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the Processing as well as the risk of varying likelihood and severity for the rights and freedoms of individuals. In assessing the appropriate level of security account shall be taken in particular of the risks that are presented by the Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Customer Personal Data transmitted, stored or otherwise Processed.
- 5.2. SWIFT will notify You without undue delay after becoming aware of a Personal Data Breach involving Customer Personal Data. If SWIFT's notification is delayed, it will be accompanied by reasons for the delay.

5.3. SWIFT will ensure that all personnel authorized to Process Customer Personal Data have agreed to confidentiality obligations or are under a statutory obligation of confidentiality.

## **6. Assistance**

6.1. Taking into account the nature of the Processing, and the information available to SWIFT, SWIFT will assist You, including, as appropriate, by implementing technical and organizational measures, with the fulfilment of Your own obligations under Data Protection Laws to:

- a) respond to any requests from Data Subjects to exercise their Data Subject Rights with regard to Customer Personal Data;
- b) conduct data protection impact assessments and prior consultations with Supervisory Authorities; and
- c) notify Personal Data Breaches.

6.2. SWIFT may charge a reasonable fee for its assistance under this Section 6, to the fullest extent permitted under applicable law.

## **7. Audit**

7.1. *SWIFT will make available to You all information necessary to demonstrate compliance with this DPA and EU Data Protection Law, and will allow for and contribute to requests for information from Your (own or external) auditors regarding such compliance on the basis of SWIFT's own audit reports.*

## **8. Sub-processing**

8.1. You agree that SWIFT may engage its Partners and any other Sub-processors to Process Customer Personal Data in accordance with Data Protection Laws. SWIFT will enter into a written agreement with Sub-processors which imposes the same obligations on the Sub-processor as those included in this DPA, in particular providing sufficient guarantees to implement appropriate technical and organizational measures to ensure the Processing meets the requirements under EU Data Protection Law. Where the Sub-processor fails to fulfil its data protection obligations under such Sub-processing agreement, SWIFT shall remain fully liable towards You for the performance of the Sub-Processor's obligations under such agreement.

8.2. The details of any Sub-processor used on the engagement will be provided to you upon request. You may object - on reasonable grounds relating to potential or actual violation of EU Data Protection Law - to SWIFT's use of a Sub-processor by providing written notice detailing the grounds of Your objection to SWIFT as soon as possible but no later than ten (10) days following SWIFT's notification. The parties will work together in good faith to address Your objection. If SWIFT decides to retain the Sub-processor, it will notify You upon reasonable notice and You will have the right to terminate the part of the Services impacted by the sub-processing. You acknowledge that objection and following change of Sub-processor might impact the timing of the delivery of the ordered services. SWIFT shall not be responsible for such impact and any consequences arising thereof.

## **9. Cross-Border Data Transfers**

9.1. You must ensure compliance with any cross-border data transfer restrictions that apply to the transfer of Customer Personal Data to SWIFT under this DPA.

- 9.2. You hereby authorize SWIFT to perform International Data Transfers of Customer Personal Data (1) to any country deemed adequate by the EU Commission; (2) on the basis of appropriate safeguards in accordance with EU Data Protection Law; or (3) pursuant to the Standard Contractual Clauses.
- 9.3. You hereby authorize SWIFT to enter into the Standard Contractual Clauses with non-EEA based Sub-processors in Your name and on Your behalf if deemed necessary by SWIFT.
- 9.4. If SWIFT's compliance with Data Protection Laws applicable to International Data Transfers of Customer Personal Data is affected by circumstances outside of SWIFT's control, including if a legal instrument for such transfers is invalidated, amended, or replaced, then the parties will work together in good faith to reasonably resolve such non-compliance.

## **10. Notification**

You will send all notification, requests and instruction under this DPA to SWIFT's Data Protection Officer via [privacy.officer@swift.com](mailto:privacy.officer@swift.com).

## **11. Termination and return or deletion**

Upon termination of the Services, SWIFT will, at Your choice, delete or return all Customer Personal Data and delete all remaining copies within ninety (90) days after confirmation of Your choice, unless EEA or EEA member state law requires storage of the Customer Personal Data.

## APPENDIX 1

### DESCRIPTION OF THE PROCESSING

#### 1. Data Subjects

The Customer Personal Data Processed concern the following categories of Data Subjects:

| # | Category  |
|---|---|
| 1 | Your employees, including current and former employees, as well as, temporary staff, interns, and contractors and consultants who perform services for You. |
| 2 | Your customers and vendors.   |
| 3 | Any other individuals whose Personal Data may be included in Your documents and systems that SWIFT needs to access to provide the Services.                 |
|   |   |

#### Categories of Customer Personal Data

The Customer Personal Data Processed concern the following categories of data:

| # | Category  |
|---|---|
| 1 | Name  |
| 2 | Contact Details (e.g. name, email address, address, phone number) |
| 3 | Online Identifiers (e.g. IP address)                              |
| 4 | Job title, function within the organization                       |
| 5 | Financial information (e.g. bank account number)                  |

#### Sensitive data

The Customer Personal Data Processed concern the following special categories of data:

| # | Category   |
|---|--|
| 1 | The Services are not intended to Process special categories of data. |
|   |  |

#### Processing operations

The Customer Personal Data will be subject to the following basic Processing activities:

| # | Operation  |
|---|--|
| 1 | Analysis of Your documents (e.g., organizational charts)   |
| 2 | Analysis of Your IT systems and related information (e.g. SWIFT messages you'd ask SWIFT to process during the execution of the Agreement) |
|   |  |
|   |  |