



## SWIFTREF LICENCE TERMS AND CONDITIONS for distribution of SWIFTRef Data



August 22, 2022

### New version

This new version of the SWIFTREF LICENCE TERMS AND CONDITIONS for distribution of SWIFTRef Data replaces SWIFTREF LICENCE TERMS AND CONDITIONS SWIFTRef Data Inside Application as of June 2017.

It addresses amongst other things requirements of new laws, regulations and guidelines. It also includes various changes designed for enhanced readability of the Terms and Conditions and development of the sector and SWIFTRef Data Solutions.

### Preface

These SWIFTRef Licence Terms and Conditions together with the electronic or paper-based form or contract (typically, an electronic order) executed by Licensee, proposal for SWIFTRef Data Solutions referenced therein (hereafter referred to as the “**Proposal**”) and related quotation (if any) form the “**Agreement**” that governs the licensing by Society for Worldwide Interbank Financial Telecommunication SC (“**SWIFT**”) of SWIFTRef Data to Licensee.

SWIFT produces reference data solutions (“**SWIFTRef Data Solutions**”) and commercialises them to its customers.

Licensee commercialises an application or service to its customers and wishes to have permission from SWIFT to make Data from SWIFTRef Data Solutions available to its customers, either:

- as part of Licensee’s software product, application or service, as specifically described in the Proposal, or
- as part of a hosted solution, meaning that Licensee installs and operates the Data from a SWIFTRef Data Solution, as specifically described in the Proposal, on its systems in order to provide services to its customers,

either scenario, as defined in the Proposal.

SWIFT is willing to grant the abovementioned permission to Licensee under the terms of, and subject to, the Agreement, including these SWIFTRef Licence Terms and Conditions.

### 1 Definitions

- a. “**Licence**” means the permission granted by SWIFT to Licensee and described in the Article 2 hereof as the same may be varied, amended or replaced from time to time upon reasonable advance notice to Licensee.
- b. “**Licensee**” means the organisation which is authorised to use SWIFTRef data according to the Licence.
- c. “**Transaction**” means a payment, an instruction to make a payment or other exchange of data indicating the intention to transfer funds or value, or any other instruction or instrument that carries value, payment or bank data.
- d. “**Data**”, “**SWIFTRef Data**” means any data contained in SWIFTRef Data Solutions such as (but not limited to) ISO-9362 compliant Business Identifier Codes (BICs), National Bank Identifiers,

names and addresses of the corresponding entities and/or any other data, as designated in the Proposal.

- e. "**Licensee's Solution**" (also referred to as "**Licensee's Product**") means the application, software or service commercialised by Licensee to its customers embedding the Data as specifically described in the Proposal.
- f. "**Authorised User**" means an individual authorised by Licensee to access and use the Data.
- g. "**Outsourcing services provider**" means a third-party engaged by Licensee for data processing purposes only.

## **2 The Licence**

Subject to all of the terms and conditions of the Agreement:

- 2.1. SWIFT grants Licensee a personal, non-exclusive and non-transferable right to extract and re-use the Data and make it available to its customers as per the terms of the Agreement. Licensee may make the Data available to its customers only as part of Licensee's Solution.
- 2.2. Licensee may embed the Data in Licensee's Solution for its customers and/or host the Data in order to provide a service included in Licensee's Solution. At Licensee's customer side, Licensee must ensure that the Data always remains confined to Licensee's Solution, and is not accessed, extracted or used for other purposes. Any further redistribution of the Data by Licensee's customers is strictly prohibited.

## **3 Secure access to the SWIFTRef online portal**

- 3.1. For the sole purpose of downloading the SWIFTRef files containing the Data, SWIFT may allocate passwords to Licensee to allow its Authorised Users to access the SWIFTRef online portal. Licensee agrees to, and will ensure that its Authorised Users agree to, keep passwords confidential. Neither Licensee nor any Authorised User may assign, share, sell, barter, transfer or exchange the password. If Licensee learns or suspects that any password has been revealed to or obtained by any person not authorised by Licensee to access and use the Data, it must immediately notify SWIFT. The password will be cancelled and, subject to certain conditions, SWIFT may assign a new password. Licensee must immediately notify SWIFT if any individual Authorised User ceases to be an Authorised User and will use its best efforts to prevent that person from accessing the Data and/or the portal. Licensee will not allow any person other than the Authorised Users to use the portal and will ensure that each Authorised User uses only his or her authorised password or identifier. Repeated breaches of this clause on secure access to the portal entitle SWIFT to terminate the Agreement for cause. Licensee acknowledges that registration on the SWIFT portal can be subject to other requirements stated on [www.swift.com](http://www.swift.com) and Licensee agrees to assure compliance with such requirements.
- 3.2. Licensee must change or ensure that its Authorised Users change any compromised password within 12h when Licensee became aware of the compromised access. Any attempt to access any part of the portal which requires a password without the required password and/or payment of the fees or with compromised password is not permitted and deemed to be a breach of the Agreement. It also could result in criminal and/or civil penalties. SWIFT may change passwords upon prior notice to Licensee or its Authorised Users for security reasons.
- 3.3. SWIFT shall give Licensee access to the Data and updates thereto in accordance with the delivery specifications set forth in the Proposal.
- 3.4. Licensee shall comply with any access restrictions (if any) set forth in the Proposal.

## **4 Non authorised usage**

Except as specifically stated in the Agreement, any other use of the Data by Licensee is strictly prohibited. SWIFT and its Data suppliers reserve all rights not expressly granted under this Agreement.

**In particular, Licensee may not:**

- a. Market, display or otherwise provide the Data directly or indirectly:
  - (i) via any means other than Licensee's Solution as described in the applicable Proposal including any other service or Internet site; or
  - (ii) to any third-party information retrieval networks selling or licensing information to third parties; or
  - (iii) to any distributor or redistributor; or
  - (iv) to anyone (e.g., person, firm or entity) other than a customer of Licensee's Solution. It includes any entity that is an affiliate or subsidiary of Licensee in the same country or abroad unless expressly provided otherwise in the Proposal.
- b. Distribute the Data or any portion thereof through any service (including Licensee's Solution) with a third-party (e.g. joint or co-branded services) or support a product for third parties (including its own customers) embedding or providing access to the Data;
- c. Authorise any third-party to link, bookmark or point from a third-party service to Licensee's Solution or a portion thereof;
- d. Integrate the Data into a standalone commercial directory or database product that could reasonably be expected to serve as a substitute for a subscription to the Data;
- e. Make the Data publicly available free of charge;
- f. Provide a copy or a sub-set of the Data on a stand-alone basis.

**5 Demos and trials**

Licensee may provide demonstrations of Licensee's Solution with the Data embedded therein and/or offer a trial period not exceeding thirty (30) days before final activation.

**6 Outsourcing**

If Licensee enters into an agreement with an Outsourcing services provider, Licensee may permit access to, and use of, the Data by the Outsourcing services provider at its own risk, provided that Licensee:

- i. makes the Data available to the Outsourcing services provider under no less strict conditions than the ones in this Agreement,
- ii. ensures that the Outsourcing services provider's use of the Data does not exceed the limits as specified in this Agreement and
- iii. ensures that the Outsourcing services provider is bound by undertakings or obligations which protect the Data to at least the extent that it is protected under this Agreement and that the scope of rights granted to the Outsourcing services provider does not exceed those contracted with SWIFT.

Without prejudice to the above, Licensee shall be fully responsible for the Outsourcing services provider's compliance with this Agreement as well as for the performance and observance by the Outsourcing services provider of any obligations applicable to it.

Upon expiry, completion or earlier termination of the services provided to Licensee by the Outsourcing services provider, Licensee shall certify in writing to SWIFT that the Outsourcing services provider has uninstalled and/or ceased use of the Data and has destroyed all copies of the Data within thirty (30) days of completion of the Outsourcing services provider's services to Licensee.

**7 No less protective terms**

Licensee will ensure that the Data is made available via Licensee's Solution to its customers on no less protective terms than in this Agreement, and will procure that these terms are duly observed by its

customers.

At SWIFT's request, Licensee will provide a copy of relevant contractual arrangements between Licensee and its customers or, at SWIFT's discretion, a binding signed statement from Licensee warranting and representing compliance with the Agreement.

## 8 Licensee's obligations

- 8.1. Licensee will: (1) refrain from knowingly making any false or misleading statements, claims or representations with respect to SWIFT or the Data; (2) conduct its business in such a way so as not to damage the valuable reputation of SWIFT; (3) require adherence by its customers to the restrictions contained in this Agreement; and (4) promptly notify SWIFT when and if Licensee becomes aware of any (likely) violations of such restrictions or loss of the Data by its customers.
- 8.2. Licensee acknowledges and agrees that:
  - a. the Data, when integrated with Licensee Solution, shall at all times be presented in a manner (content, data format) as supplied by SWIFT or SWIFT's third-party supplier (as applicable) and;
  - b. Licensee will make Licensee's customers aware that they are using Data provided by SWIFT.

## 9 Proprietary rights. Intellectual property rights

- 9.1. Any and all rights (including title, ownership rights, database rights, and any other intellectual property rights) in the Data are and will remain the sole and exclusive property of SWIFT or its licensors.

Licensee will acknowledge SWIFT's rights in the Data by displaying the following notice in Licensee's Solution: "**SWIFTRef Data licensed from S.W.I.F.T. SC. All rights reserved YYYY**" (to be updated annually).

- 9.2. Licensee is allowed to use the term "**SWIFTRef Data**" in relation to the Data embedded in Licensee's Solution. Licensee will not use any other SWIFT names, trademarks, or logos without SWIFT's prior written consent.
- 9.3. Licensee shall inform SWIFT without undue delay about any claims related to the possession or use of Data. SWIFT has the right to participate in the defence and settlement of any such claim.

## 10 Right to modify

- 10.1. SWIFT reserves the right to modify at any time the scope, format, delivery mode, delivery manner or frequency of the Data updates upon reasonable advance notice to Licensee. Such written notice of change to delivery methods or specifications may be made via email or newsletter. In case some part of the Data is supplied by third-party, and it changes the scope, format, delivery mode or frequency of updates of the Data, then SWIFT informs the Licensee within reasonable time from the time when SWIFT became aware of such changes.

SWIFT shall use reasonable efforts to give Licensee a reasonable period of time to make necessary changes in its system in order to process and transmit the Data.

- 10.2. Any revisions, amendments or updates to the Data shall be included in Licensee's Solution as soon as reasonably practicable (not to exceed seventy-two (72) hours period) after such revision, amendment or update was made available to Licensee. Licensee must always use the latest available version of the Data and timely stop use of previous versions. SWIFT and its licensors expressly disclaim any responsibility or liability for any loss or damage caused by the continued usage of outdated Data.
- 10.3. SWIFT reserves the right, in its sole discretion and upon reasonable prior written notice, to request at any time that any Data be removed from Licensee's Solution, in which case Licensee

shall remove the Data as soon as reasonably practicable after receiving notice from SWIFT requesting such removal. In addition, SWIFT may by written notice, request to remove Data from Licensee's Solution as soon as it is reasonably possible if in the reasonable opinion of SWIFT any of the following events occurs: the provision or use of the Data may infringe third-party rights or applicable laws, or SWIFT has reasonable concerns about the quality, accuracy and/or reliability of the Data.

## 11 No warranties

Although SWIFT uses reasonable efforts to maintain the quality of the Data, the latter is provided "as is", and nothing in the provision of the Data constitutes any representation, warranty or guarantee on the part of SWIFT that (1) it is error-free, accurate, complete, or up to date; and (2) availability of Data and SWIFTRef online portal will be un-interrupted.

**SWIFT DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES AS TO MERCHANTABILITY, TITLE, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE OF THE DATA.**

## 12 Reporting and Invoicing

- 12.1. Two (2) months before the end of the Initial Term or any Successive Period, Licensee shall report to SWIFT the number of ongoing subscriptions, licenses, transactions or customers per Licensee's Solution and any other information with respect to usage of the Data by Licensee's customers as per any other usage report requirements specified in the Agreement.

Licensee's continued failure to provide any usage report requirements for more than thirty (30) days after SWIFT has provided written notice of such breach shall constitute a material breach of the Agreement.

- 12.2. SWIFT will, based on Licensee's report as set out in clause 12.1, verify the fees due to SWIFT as set forth in the Proposal and send its invoice to Licensee for Successive Period.

If the report provided by Licensee as per clause 12.1 is still within the same band of ongoing subscriptions, licenses, transactions or end-users per Licensee Product or other information with respect to usage of the SWIFTRef Data and there is no expected change of the band for the next year, there will be no commercial changes of the prices, charges and fees to the Agreement, unless specifically notified by SWIFT.

If the report provided by Licensee as per clause 12.1 confirms a variation in the band of ongoing subscriptions, licenses, transactions or end- users per Licensee's Solution or other information with respect to usage of the SWIFTRef Data, from what has been agreed in the e-Order, Proposal or other contractual document, the Licence prices, charges and fees can be changed by SWIFT before the anniversary billing. In case price for a new band was stated in the Agreement, then this price applies. If the price for new band was not stated in the Agreement, then a new quotation and Proposal will be issued to Licensee. The invoice for the renewal year, will be set as per this new/adjusted price as confirmed in the latest Proposal.

If Licensee wants to add some new SWIFTRef Data Solution, then Licensee needs to place a new e-order before the start of the new Successive Period.

In case SWIFT didn't inform Licensee about new price for Successive Period the price is deemed to be the same for the coming Successive Period.

- 12.3. Licensee shall pay to SWIFT all fees and charges applicable to it in accordance with the Agreement. Invoices are payable within thirty (30) days of receipt, in full and without any deduction, withholding, set-off or counterclaim. The invoice number must be quoted in the payment instruction. Any invoice not paid within thirty (30) days from invoice date will bear an interest charge corresponding to the then current late payment interest rate for commercial transactions as defined and published in the Belgian Gazette from time to time in accordance with the Belgian Late Payment Act of 2 August 2002 as amended by the Belgian Act of 22 November 2013 implementing Directive 2011/7/EU on combatting late payment in commercial transactions. An administration charge of EUR 100 may at SWIFT's discretion be levied on

accounts exceeding sixty (60) days past due.

All prices, charges and fees are net of any taxes. Present and future taxes (for example, withholding taxes, VAT, business taxes, consumption taxes, service taxes, sales taxes, taxes payable under a reverse charge mechanism, or any other similar taxes), as well as fines and penalties, or interest assessed directly or indirectly on such amounts, which may apply to fees or charges due for, or in connection with, the provision of SWIFT services and products, are always (even retroactively) borne by Licensee. Licensee is solely responsible for reporting and paying any such local taxes (in addition to SWIFT prices, charges and fees) in accordance with applicable laws and regulations. In the event a withholding tax is applicable, Licensee must increase or "gross-up" its payment such that SWIFT receives the full amount due to it following application of such withholding. SWIFT cannot be held responsible for seeking any refund of such local taxes, and will not initiate any procedure to that effect.

Without prejudice to any other rights and remedies available to it, SWIFT reserves the right to suspend the Licence immediately on notice to Licensee if any amount due has not been paid in full after three (3) reminders.

- 12.4. All invoices are payable in the currency specified in the invoice.
- 12.5. The fees are established for the granted Licence irrespective of any actual usage of the SWIFTRef Data. These fees shall be due and payable by Licensee to SWIFT regardless of whether Licensee exercises the Licence under the Agreement.
- 12.6. Applicable prices, charges and fees are incurred for the first time upon the date of the first availability for delivery of the Data and, subsequently, after every one (1) year (no pro-rata adjustment for partial years will be made) unless expressly provided otherwise in the Proposal. SWIFT invoices at the end of the month in which the applicable price, charge or fee is incurred.
- 12.7. SWIFT reserves the right to set off any balance or amount due from Licensee to SWIFT against any balance or any amount payable by SWIFT to Licensee.

### **13 Audit**

- 13.1. SWIFT reserves the right to check and approve how the Data within Licensee's Solution will be presented, listed, and stored before such Licensee's Solution becomes available to any Licensee's customers and at any moment during the term of the Agreement. Licensee shall provide such information, data, materials and assistance as is reasonably requested by SWIFT to exercise its rights under this provision.
- 13.2. Licensee shall at all times during the term of this Agreement maintain full and accurate records (including all relevant data in electronic format) with respect to access to and usage of the Data and Licensee's Solution covering at least the previous thirty-six (36) months.

During the term of this Agreement and for a twenty-four (24) month period thereafter, SWIFT reserves the right, during normal business hours and upon reasonable notice to Licensee and subject to Licensee's reasonable security procedures, to (a) review relevant portions of these records; and (b) review the manner of Licensee's access to, and usage of the Data, in each case to confirm that the fees and charges have been accurately determined and that restrictions on use and access have been observed.

Furthermore, Licensee agrees, to permit SWIFT, or its designated representative(s), to review or receive a demonstration at Licensee's premises of any network on or by which any Data is accessed for purposes of establishing compliance with the terms of this Agreement. The costs of such review shall be borne by SWIFT unless such review reveals a breach of the terms and conditions of this Agreement, in which case the costs of such review shall be borne by Licensee.

- 13.3. At SWIFT's sole discretion, SWIFT has the right to request a self-attestation duly signed by an authorised representative of Licensee certifying compliance with the terms of this Agreement.

## **14 Non-disclosure**

The parties may disclose the existence of the Agreement, but will keep in confidence its specific terms, including but not limited to its financial and pricing terms.

The confidentiality obligations of the parties under the Agreement shall survive the termination or expiry of the Agreement and shall continue to apply as long as SWIFT offers SWIFTRef licences or similar offerings, or the confidential information is protected under obligations of confidentiality applicable to that party or by intellectual property or trade secret rights.

No party will make any communications or issue any press releases relating to this Agreement without the prior written approval of the other party.

## **15 Duration**

The Agreement shall come into effect on the date when e-order of Licensee has been accepted by SWIFT or the effective date of the Agreement in case of the absence of e-order and shall run for an initial term of one (1) year thereafter (the "**Initial Term**"). Unless terminated in accordance with Article 16, 17 or 18 of these SWIFTRef Licence Terms and Conditions, the term of this Agreement will, after the expiry of the Initial Term, automatically renew for successive one-year periods (each a "**Successive Period**"). In case either Party is not going to renew the Agreement, then it shall inform another Party according to the Article 16 (Termination for convenience).

## **16 Termination for convenience**

Each party may terminate the Agreement for convenience by giving the other party not less than three (3) months' prior notice of such termination in writing.

## **17 Termination for cause**

Either party may terminate the Agreement immediately upon notice and without prior judicial intervention in any of the following events:

- a. in the reasonable opinion of the terminating party, the other party committed a material breach of its obligations under the Agreement, which breach is either incapable of remedy or is not remedied within thirty (30) days after receipt of written notice specifying such breach or specified as material breach in the Agreement or in case of persistent breach;
- b. the other party engages in a course of conduct that has injured or is likely, in the opinion of the terminating party, to injure the reputation of such party, or its products as the case may be, and the other party does not discontinue said conduct, or cause it to be discontinued, within ten (10) days after receipt of written notice thereof;
- c. the other party ceases to function as a going concern, or to conduct its operations in the normal course of business; or
- d. receivership, bankruptcy or insolvency proceedings are commenced by or against the other party, or an assignment for the benefit of creditors occurs, or upon the voluntary winding up or liquidation of its business by the other party hereto, whether or not with the aid and assistance of any court.

## **18 Termination for change**

If Licensee objects to a change to the Agreement that Licensee can demonstrate materially adversely affects Licensee, Licensee may as its sole and exclusive right and remedy, terminate (without any liability or charge) the Agreement upon one (1) month prior written notice to SWIFT. Licensee must serve such notice within one (1) month of the date on which Licensee becomes aware (or should reasonably have become aware) of such change.

## **19 Consequences of termination**

Upon expiration or termination of the Agreement, whether for convenience, for change or for cause, the

Licence granted per clause 2 shall automatically and immediately terminate and Licensee shall stop any further use of the Data, permanently remove and delete the Data from the Licensee's Solution, and, if requested by SWIFT, certify the deletion in writing and, (ii) Licensee shall promptly, following request of SWIFT, return to the other party all confidential information (if possible).

Notwithstanding the foregoing, Licensee may retain an archival record of the Data to the extent required by applicable law or regulation.

Termination does not relieve any party from any obligations under the Agreement which may have arisen prior to termination (e.g. fees and charges) or which expressly or by implication become effective or continue to be effective on or after such termination.

Even if Licensee ceases to use the Data, it must continue to pay all fees and charges (if any) that may expressly or by implication become due until the expiry of the termination notice plus all fees and charges that may expressly or by implication become due on termination.

In case Licensee initiates termination of the Agreement for convenience or change, then the full annual fee remains due in full, and SWIFT does not reimburse any charge or fee already paid by Licensee, even if the subscription terminates early unless it is specified otherwise elsewhere in the Agreement. Any such fees and charges must be paid in full except that future annual fees and charges will be pro-rated if Licensee has notified SWIFT in writing of its intention to terminate this Agreement for convenience by notice according to the Article 16 (Termination for convenience).

If SWIFT terminates the Agreement for convenience, and upon Licensee's prior written request to SWIFT which should be submitted within three (3) months from termination notice, SWIFT will reimburse charges and fees paid by Licensee on a pro-rata basis for the early termination. However, if SWIFT terminates the Agreement for cause or Force Majeure, SWIFT will not reimburse any fees or charges paid by Licensee.

## **20 Force Majeure**

For the purposes of this clause 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 Agreement.

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 the Agreement 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 above.

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

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

## **21 Liability**

21.1. To the maximum extent permitted by law and notwithstanding anything else contained herein, in no event shall the total maximum liability of SWIFT for any and all causes (whether in tort, contract, indemnity or otherwise) for direct damages exceed either the invoice paid by Licensee in the last twelve (12) months, or if no amount has been paid, ten thousand (10,000) Euros.

To the extent permitted by law 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

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 this article or Article 20 (Force Majeure).

## **22 Indemnification**

Licensee shall indemnify and hold SWIFT harmless from and against any and all costs, losses, damages, expenses, suits, actions, claims, penalties, fines, settlement amounts including legal fees, arising out of Licensee's possession and use of Data, including the integration of the Data into Licensee's Solutions and the commercialisation of Licensee's Solution to its customers.

## **23 Applicable law and jurisdiction**

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

23.2. This Agreement is subject to the exclusive jurisdiction of the competent court of Brussels.

23.3. 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.

## **24 Miscellaneous**

24.1. Licensee understands that the Data (including portions of the Data provided by third parties) might be subject to export control, sanctions or other regulatory restrictions in effect from time to time. SWIFT aims to comply with all laws and regulations applicable to it and therefore reserves the right to terminate the Agreement and the Licence provided hereunder based on restrictions arising from any EU, Belgian, US or other applicable sanctions regulations. By ordering the Data, Licensee represents, undertakes and warrants that it will at all times comply with any sanctions and export control regulation that is applicable to them and to the supply and use of the Data. Licensee also warrants that neither its Authorised Users nor its customers are targeted by any EU and/or US sanctions programs nor are designated on any related sanctions lists. SWIFT hereby disclaims all liability for Licensee's non-compliance with the abovementioned laws and regulations.

24.2. This Agreement constitutes the entire agreement of the parties, and supersedes all other oral or written representations, understandings, or agreements relating to the Licence or the subject matter hereof.

24.3. Licensee shall comply with the applicable laws and regulations including competition law and personal data protection law.

SWIFT will process provided personal data in accordance with the [SWIFT Privacy Statement](#) available on [www.swift.com](http://www.swift.com).

24.4. The Licensee is solely and exclusively responsible for its use of SWIFTRef Data.

In using SWIFTRef Data and conducting its business, the Licensee must always:

- exercise due diligence and reasonable judgment, and must conduct itself with integrity and act in accordance with good industry practice and all relevant laws, regulations, and third-party rights, even if this restricts its usage entitlement under SWIFT's governance;
- ensure it does not adversely affect SWIFT's revenue, reputation, brand, goodwill or cooperative finality.

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

- a) perform due diligence and apply adequate know-your-customer principles to its counterparts.
- b) ensure not to use, or try to use, SWIFTRef Data 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) seek and obtain all necessary or advisable consents and authorisations to perform under the Agreement 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).

24.5. Licensee acknowledges and agrees that SWIFT has the right to revisit or reconsider the terms (including pricing) of the Agreement including the SWIFTRef Licence Terms and Conditions, and upon prior reasonable advance written notice to Licensee (letter, release letter, newsletter, website publication or email), change such terms.

24.6. If any part of the Agreement 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 Agreement 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.

24.7. Any notice, request, demand, direction, or other communication required or permitted to be given

or made under this Agreement or in connection therewith, shall be addressed to the contact person identified in the Proposal (or to any other contact person notified in writing to the other party) or to the latest contact details (if any) notified by the other party for such matters pursuant to the provisions of this clause, or the latest registered or principal office so communicated by the other party.

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).

24.8.Unless expressly agreed otherwise between the parties elsewhere in the Agreement, in the case of discrepancies between these SWIFTRef Licence Terms and Conditions and the Proposal or any related documents, these SWIFTRef Licence Terms and Conditions will prevail.