END-USER REPRSENTATIONS

By purchasing and/or possessing these goods as indicated in the online order form, you (entity purchasing from Swift Navigation, Inc. ("Swift")) certify that the facts contained herein are trued and correct to the best of your knowledge and you do not know of any additional facts that are inconsistent with the facts made in this statement.

You further certify the following:

1. The goods will not be used other than the end use specified at the time of purchase in the online order form.
2. The goods will be used for non-military end-use(s) in the country named in the shipping address and will not be redirected, transshipped, or re-exported in violation of the United States and/or other appliable country export laws and regulations.
3. The goods will not be used for foreign military purposes.
4. The goods will not be used for any purpose connected with chemical, biological or nuclear weapons, or for missiles capable of delivering such weapons, nor will the goods be re-sold or re-exported, directly or indirectly, if it is suspected that the end-use will be for such purposes.
5. You will not export or re-export any of the goods in violation of any sanctioned/embargoed country regulation(s), including U.S. sanctions (see http://treas.gov/offices/enforcement/ofac/).
6. You have read through the Starling and Skylark Terms and agree to be bound by the terms thereof.
7. Any future exports of goods will be conducted in compliance with all applicable laws and regulations.
8. Any radio products being shipped as part of the goods are intended to be used only for educational, research or evaluation purposes and will not go into a mass production environment.
9. Any FreeWave radio products being shipped as part of the goods are certified with the U.S. Federal Communications Commission (FCC), Underwriter's Laboratories (UL), and Industry Canada (IC) as well as other certifications as determined by FreeWave Technologies' business requirements. It is the responsibility of you/buyer/final integrator to gain certifications, homologations, and type-approvals required by the countries where the final end product is to be used. Such devices shall not be implemented in the end product in and of itself in any country where it is not certified, homologated, or type-approved.
10. If you are certifying these terms on behalf of your employer or another legal entity, you certify that you have the full legal authority to make these certifications on behalf of your employer or such entity.
11. You shall promptly send a supplemental statement to Swift or the exporting government with proof of importation (such as a Delivery Verification Certificate) or agree to allow on-site verification that the goods are being used for the stated purpose.
12. All laws and regulations will be adhered to with respect to exporting shipments of Swift products.
13. Some of Swift's products are subject to U.S. government agency licensing. You agree to obtain any license or other export authorization, which is required to export these products.

THESE SWIFT STARLING AND SKYLARK MASTER TERMS constitute a legally binding agreement between you (the "**Customer**" or "**you**") and Swift Navigation, Inc. (together, with its affiliates, "**Swift**", "**we**", "**our**" or "**us**") governing your use of our products and services as indicated in the Order Schedule (the "**Services**").

YOU ACKNOWLEDGE AND AGREE THAT, BY CLICKING ON THE "I AGREE" OR SIMILAR BUTTON, REGISTERING FOR AN ACCOUNT, OR ACCESSING OR USING THE SERVICES, YOU ARE INDICATING THAT YOU HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY THESE TERMS, WHETHER OR NOT YOU HAVE REGISTERED WITH SWIFT. IF YOU DO NOT AGREE TO THESE TERMS, THEN YOU HAVE NO RIGHT TO ACCESS OR USE THE SERVICES. These Terms are effective as of the date you first click "I agree" (or similar button or checkbox) or use or access the Services, whichever is earlier. If you accept or agree to these Terms on behalf of your employer or another legal entity, you represent and warrant that (i) you have full legal authority to bind your employer or such entity to these Terms; (ii) you have read and understand these Terms; and (iii) you agree to these Terms on behalf of the party that you represent. In such event, "Customer", "you", and "your" will refer and apply to your employer or such other legal entity.

Your use of the Services constitutes your acceptance of and agreement to all of the terms and conditions in these Terms, the **End User Representations** (as applicable), the **Online Terms of Use**, and any future amendments and additions to these Terms as we may publish from time to time. The End User Representations, Terms and Conditions, Skylark Terms, and Starling Terms are incorporated by reference into these Terms and together form and are hereinafter referred to as these "Terms".

1.   **DEFINITIONS.**

        1.1.   **"Annex"** means a document detailing the Swift Technology and other related details. An Annex may also contain other terms or conditions, as mutually agreed upon by Swift and Customer. Customer agrees that each Annex will be signed or accepted by a representative having the authority to bind Customer, and that Swift may presume that such representative has such authority.

        1.2.   **"Confidential Information"** means these Terms, the Swift Technology, Swift pricing information, and any other information disclosed by one party ("**Discloser**") to the other ("**Recipient**") hereunder. Regardless of whether marked or identified as "confidential" or "proprietary", any information that the Receiving Party knew or should have known, under the circumstances, was considered confidential or proprietary by the Disclosing Party, will be considered Confidential Information of the Disclosing Party. By way of example, but not limitation, Swift Confidential Information includes the Licensed Software, and notwithstanding Customer's license rights under Section 2.1, Customer will protect the Licensed Software as Swift's Confidential Information.

        1.3.   **"Customer Data"** means any Customer-specific data or other information provided or submitted to or through the Swift Technology.

        1.4.   **"Device"** means any Customer-owned or managed mechanical, electromechanical, and/or electronic machine, such as a vehicle, that is enabled with the Licensed Software and capable of connecting to the Hosted Service and transmitting Customer Data (including location coordinates) to the Hosted Service and/or receiving data from the Hosted Service.

        1.5.   **"Documentation"** means the online help files, use instructions, documentation, and related description of the applicable Licensed Software or Hosted Services features and functionality that Swift provides for use with the Licensed Software and Hosted Services, which may be updated by Swift from time to time.

        1.6.   **"Electronic Communications"** means any transfer, transmission, and/or receipt of text, images, data, or other information of any nature to, from, or through the Service.

1.7. "**Trial Period**" means the period of time specified in the applicable Order Schedule and as further defined in Section 2.6.

1.8. "**Executable Code**" means the fully compiled version of a software program that can be executed by a computer and used by an end user without further compilation.

1.9. "**Feedback**" means any and all suggestions, ideas, enhancement requests, error identifications or other information related to the Licensed Software, Documentation, and other items provided hereunder and/or relating to Customer's use thereof.

1.10. "**Hosted Service(s)**" means the SaaS-based service(s) provided by Swift pursuant to an Order Schedule commonly referred to as "**Skylark**".

1.11. "**Intellectual Property Rights**" means all present and future worldwide patents, copyrights, trademarks, service marks, trade names, domain name rights, know-how, and other trade secret rights, and all other proprietary rights.

1.12. "**Integration Code**" means the Enterprise SSR Reference example code supplied by Swift for implementation of the "SSR gateway" and "SSR tile distribution" as described therein to facilitate correct caching and lookup of the SSR data.

1.13. "**Licensed Information**" means any data or content provided by Swift in connection with the Hosted Service.

1.14. "**Licensed Software**" means the Starling Positioning System provided hereunder and as further described in the Order Schedule, whether as on-premise software, test/development software, interface software, or otherwise, as well as any and all associated algorithms, processes, data, and/or reports, including any and all associated enhancements, improvements, modifications, and derivative works thereof or relating thereto. The Licensed Software it also commonly referred to as "**Starling**".

1.15. "**Order Schedule**" means a document that details the Service(s) to be provided by Swift, the associated fees, and other related details. An Order Schedule may be used in connection with, or in lieu of, an SOW and multiple Order Schedules may be issued as applicable. All mutually executed Order Schedule(s) are deemed incorporated herein by this reference. Each Order Schedule is intended to define a separate contract particular to that order, incorporating by reference these Terms. An Order Schedule may also contain other terms or conditions, mutually agreed upon by Swift and Customer, which apply specifically to that particular order/contract. Customer agrees that each Order Schedule will be accepted by a representative having the authority to bind Customer, and that Swift may presume that such representative has such authority. A binding order is created when Customer accepts an Order Schedule.

1.16. "**Professional Services**" means the implementation, configuration, and/or training, services to be provided by Swift to Customer pursuant to an SOW and/or Order Schedule.

1.17. "**Purpose**" means use of the Swift Technology, in a controlled, non-safety-critical environment, solely on the device(s) and/or platform(s) expressly set forth in the Order Schedule, in connection with the use case(s) expressly identified in the Order Schedule, and solely if described in the Order Schedule, connecting the Licensed Software to the Hosted Services.

1.18. "**Service Term**" means the specified period in an applicable order form during which the Hosted Service is available.

1.19. "**Support Services**" means Swift's standard maintenance and support services, as further described in the Skylark Terms.

1.1. **"Swift Technology"** means the technology provided via the Services, including hardware provided by Swift in connection with an SOW and/or Order Schedule, the firmware provided for such hardware (including any firmware updates), and any and all associated enhancements, improvements, modifications, and derivative works to any of the foregoing, as well as any and all suggestions, ideas, enhancement requests, and feedback relating thereto.

1.20. **"Use Term"** means the Trial Period or Service Term, as applicable and as indicated on the applicable Order Schedule.

1.21. **"User"** means a Customer employee who uses the Licensed Software on Customer's behalf.

1.22. **"Virus"** means any computer code intentionally designed to (a) disrupt, disable, harm, or otherwise impede in any manner the proper operation of a computer program or computer system or (b) damage or destroy any data files residing on a computer system without the user's consent.

2. **PROVISION OF SWIFT TECHNOLOGY.**

2.1. **Starling.** This Section 2.1 applies if you purchased a Device pursuant to an applicable Order Schedule. Subject to these Terms, Swift grants to Customer a non-exclusive, non-transferable (but subject to the assignment provisions hereunder), perpetual, fee-bearing license within the territory specified in the applicable Order Schedule(s) to install and use (and to authorize Users to install and use) one copy of the Licensed Software per Device purchased, in Executable Code only, solely for Customer's internal business purposes, meaning use in connection with Customer's routine business operations, which for clarity, excludes use in a service-bureau or timesharing environment, or similar provision of the Licensed Software to third parties. Subject to payment by Customer of the applicable fees, Swift will provide to Customer maintenance and support services for the Licensed Software in accordance with Swift's then-current policies and procedures. Additional details regarding Swift's Starling Maintenance and Support Services are set forth **herein**.

2.2. **Skylark.** This Section 2.2 applies if you purchased access to the Hosted Service pursuant to an applicable Order Schedule. Subject to these Terms, during the applicable Use Term, Swift will provide Customer with the Hosted Service described in these Terms and on one or more Order Schedule(s). Swift will host the Hosted Service (either directly or through a third-party hosting services provider) and may update the content, functionality, and user interface of the Hosted Service from time to time. Swift will use commercially reasonable efforts to ensure that any changes made to the Hosted Service will not materially diminish its core functionality, performance or security. Unless otherwise specified in the applicable Order Schedule, the Hosted Services are purchased on a subscription basis. Accordingly, subject to the terms and conditions of these Terms, Customer is hereby granted a limited, personal, non-exclusive, worldwide, non-sublicensable, nontransferable right to access and use the Hosted Service via the Device and display the Swift Technology on the Device during the applicable Use Term, solely for Customer's internal business purposes in connection with the use case(s) (if any) set forth in the Order Schedule. For clarity, each subscription will be tied to one (1) Device. Swift reserves all rights not expressly granted hereunder. Swift may create and maintain administrative, support, system, and maintenance accounts within the Hosted Service, all with Customer Data access for Swift and its service providers and other personnel, in order to deliver the Hosted Service and perform all other activities set forth in or contemplated by these Terms. Customer acknowledges that in order to use the Hosted Service, (a) Customer must (i) independently have or must independently obtain Internet access, either directly or through devices that access Web-based content, as well as browser software that supports protocols used by Swift; and (ii) follow logon procedures for the services that support such protocols; and (b) Swift assumes no responsibility for the foregoing. Additional details regarding Swift's Support Services are set forth **herein**.

2.3. **Access and License Restrictions.** Customer will store the Swift Technology in a secured environment at all times. Customer will not (nor authorize any third party to): (i) sublicense, sell, transfer, assign, distribute or commercially exploit the Swift Technology, or provide access to the Swift Technology to any third party

other than Users; (ii) modify, adapt, translate or create derivative works based on the Swift Technology; (iii) create Internet "links" to the Swift Technology or otherwise link the Swift Technology to any third party technology, applications, or services; or (iv) reverse engineer or access the Swift Technology to build a product using features, functions or graphics similar to the Swift Technology; (v) copy any features, functions or graphics of the Swift Technology; (vi) allow User subscriptions to be shared or used by more than one individual User (except that User subscriptions may be reassigned to new Users replacing individuals who have terminated employment or otherwise changed job status or function and no longer need to use the Swift Technology for the Purpose); (vii) allow subscriptions for one use case to be used for any other use case; (viii) use the Swift Technology to: (a) send or store infringing, obscene, threatening, harmful, libelous, or otherwise unlawful material, including material harmful to children or violative of privacy rights; (b) send or store software viruses, worms, Trojan horses or other harmful computer code, files, or scripts; (c) interfere with or disrupt the integrity or performance of the Swift Technology or the data contained therein; or (d) attempt to gain unauthorized access to the Swift Technology or its related systems or networks; (e) provide or disclose to, or permit use of the Swift Technology by, persons other than Users, without Swift's prior written consent on a case-by-case basis, which consent may be granted or withheld in Swift's sole discretion; or (f) use the Swift Technology other than in connection with the Purpose.

2.4.   Custom Development and Enhancement Requests. These Terms do not include programming services for new software. Such work, if negotiated and agreed to between Swift and Customer, will be the subject of a separate agreement for development services between the parties. The fees, payment terms and delivery schedules related to such work will be as outlined in such agreement for development services and are independent of Licensed Software or services provided under these Terms. Customer acknowledges that Swift is not a contract development organization, but rather Swift is a software developer that licenses the Licensed Software within specified industries. As such, Customer further acknowledges that the Licensed Software is a major and valuable asset of Swift's business and, as such, Swift will have complete control of the design and development of the Licensed Software. Therefore, Swift has the right, and sole discretion, to reject any request for enhancement or modification to the Licensed Software by Customer or any User.

2.5.   Trial Subscriptions. If Customer receives free access or a trial or evaluation subscription to the Hosted Service (a "**Trial Subscription**"), Customer may use the Hosted Service in accordance with Section 2.2 of these Terms for the period designated in the Order Schedule or otherwise by Swift (and if not designated, then for thirty (30) days) ("**Trial Period**"). Trial Subscriptions are permitted solely for Customer's use to determine whether to purchase a full subscription to the Hosted Service. Customer may not use a Trial Subscription for any other purposes. At the end of the Trial Period, the Trial Subscription will expire, all Customer Data will be permanently deleted, unless Customer purchases a paid subscription to the Hosted Service (provided that the paid subscription is for the same Swift product). If Customer purchases a full subscription, all of the terms and conditions in these Terms will apply to such purchase and the use of the Hosted Service. Each party has the right to terminate a Trial Subscription at any time. NOTWITHSTANDING ANYTHING IN THESE TERMS TO THE CONTRARY, SWIFT WILL HAVE NO WARRANTY, INDEMNITY, SUPPORT, OR OTHER OBLIGATIONS WITH RESPECT TO TRIAL SUBSCRIPTIONS (WHICH ARE PROVIDED "AS IS" AND "WITH ALL FAULTS").

2.6.   Storage Limits. In the event that the Order Schedule specifies a database storage limit for the Services, Customer agrees not to exceed such limit, and that if Customer does exceed such limit, Swift reserves the right to charge and Customer agrees to pay for such additional access, as set forth in the Order Schedule (or if not set forth in the Order Schedule), according to Swift's then current pricing for excess usage.

3.   CUSTOMER RESPONSIBILITIES.

3.1.   Compliance with Laws. Customer will abide by all applicable laws, treaties and regulations regarding use of the Services.

3.2.   Responsibility for Users; Safeguarding Access Credentials. Customer will abide by all applicable laws and regulations regarding use of the Swift Technology. Customer will be responsible for Users' acts and

omissions, as well as access to and use of the Swift Technology by any person logging in under a User ID registered under Customer's account or providing Customer Data hereunder.

3.3.   Provision of Customer Data; Responsibility for Customer Data Issues. Customer acknowledges that by transmitting Customer Data hereunder, Customer is making information available for use by Swift on an aggregated, anonymized basis. Accordingly, Customer grants Swift a nonexclusive, perpetual, irrevocable, transferable, sublicensable, fully paid-up, worldwide license to de-identify Customer Data and to use Customer Data on an aggregated, anonymized basis for Swift business purposes, including providing and improving Swift Technology and other Swift products and services. Customer is entirely responsible for obtaining all rights related to the Customer Data required by Swift to perform Swift's obligations and to exercise Swift's rights hereunder.

3.4.   Responsibility for Customer Data Issues. Swift is not obligated to screen Customer Data, although Swift reserves the right to screen Customer Data and to suspend access to Customer Data that Swift reasonably considers may breach these Terms or any applicable law. Swift will notify Customer as soon as practicable if Swift suspends access to any Customer Data and will restore access to such Customer Data as soon as, in Swift's reasonable opinion, doing so would not place Swift at risk of loss or damage. Swift is not liable for any damage or loss caused by Swift's decision to suspend access to Customer Data for any permissible reason under these Terms. Customer is entirely responsible for the content and delivery of Customer Data, including without limitation, the accuracy, usefulness, timeliness, completeness, appropriateness, quality, integrity, reliability, and legal sufficiency of Customer Data, and for obtaining all rights related to the Customer Data required by Swift to perform the Services and other obligations, and to exercise all rights, hereunder. Customer is responsible for ensuring Customer Data is correctly addressed and timely and does not represent a breach of any obligations to a third party or of law.

3.5.   Security/Data Integrity. Swift will maintain reasonable administrative, physical, and technical safeguards designed for the protection, confidentiality, and integrity of Customer Data. The terms of Swift's standard data processing addendum ("**DPA**"), a copy of which will be made available at DPA, are hereby incorporated by reference and shall apply to the extent Customer Data includes Personal Data, as defined in the DPA. To the extent Personal Data from the European Economic Area (EEA), the United Kingdom and Switzerland are processed by Swift, the Standard Contractual Clauses shall apply, as further set forth in the DPA. For the purposes of the Standard Contractual Clauses, Customer is the data exporter, and Customer's acceptance of these Terms shall be treated as its execution of the Standard Contractual Clauses and Appendices.

3.6.   Responsibility for Personal Data.

(a)   General. Customer, on behalf of itself and all Users (whose prior written permission Customer represents and warrants that Customer has obtained) agrees to allow Swift and its Affiliates and their personnel to store and use Customer's and Users' contact information, including names, phone numbers, and e-mail addresses, in every jurisdiction in which the foregoing individuals reside and/or conduct business. Such information will be processed and used only in connection with the parties' business relationship described and contemplated hereunder, including the provision of the Services hereunder, and may be provided to Swift and its Affiliates and its and their personnel, contractors, business partners, and assignees for uses consistent with their collective business activities, including communicating with Customer (for example, for processing orders).

(b)   Swift's Responsibilities. Customer represents that (i) Customer is duly authorized to provide personal data to Swift and Customer does so lawfully in compliance with relevant legislation, (ii) Swift and any entity within the Swift group of companies (each, a "**Swift Entity**") or its subcontractors can process such data and (iii) Swift may disclose such data to any Swift Entity and its subcontractors for the purpose of satisfying its obligations to Customer and may transfer such data to countries outside of the country of origin. The Swift Entities have committed to comply with relevant data protection/privacy legislation, and to the extent Customer Data includes personal data protectible under laws requiring a data processing addendum to be executed, then the terms of Swift's standard data processing addendum ("**DPA**"), a copy of which will be made available at DPA, are hereby incorporated by reference. To the extent Personal Data, as defined in the DPA, from the European Economic Area (EEA), the United Kingdom and Switzerland are processed by Swift, the Standard Contractual Clauses shall apply, as

further set forth in the DPA. For the purposes of the Standard Contractual Clauses, Customer is the data exporter, and Customer's acceptance of these Terms shall be treated as its execution of the Standard Contractual Clauses and Appendices.

(c) **Customer's Responsibilities.** Without prejudice to clauses (a) and (b) above, Customer is responsible for: (i) any required notices, consents, and/or authorizations related to Customer's (or any User's) provision of, and Swift's processing of, Customer Data (including any personal data) as part of the Services; (ii) any security vulnerabilities, and the consequences of such vulnerabilities, arising from Customer Data, including any viruses, Trojan horses, worms, or other harmful programming routines contained in Customer Data, and (iii) any use by Customer or any User(s) of the Services in a manner that is inconsistent with the terms of this agreement. To the extent that Customer (or any User) disclose(s) Customer Data to a third party that is not subject to any restriction on the disclosure of the Customer Data, Swift is no longer responsible for the security, integrity, or confidentiality of such Customer Data.

(d) **Data Restrictions.** Unless specified in an Order Schedule, Customer Data will not include any sensitive or special data that imposes specific data security or data protection obligations on Swift in addition to or different from those described herein (or in Swift's form of data protection addendum).

4. **INTELLECTUAL PROPERTY OWNERSHIP.**

4.1. **Customer Ownership.** As between Swift and Customer, Customer owns all right, title and interest, including all related Intellectual Property Rights, in and to the Customer Data. This includes any data, or other information that is logged, input, or uploaded by Customer or a User during Customer's (or such User's) use of the Swift Technology for the Purpose.

4.2. **Swift Ownership.** As between Swift and Customer, Swift (or its licensors and suppliers) owns and will continue to own all right, title and interest, including all related Intellectual Property Rights, in and to the Swift Technology and all technologies related thereto. No jointly owned intellectual property is created under or in connection with these Terms. Customer acknowledges that the Swift name, the Swift logo, and the product names associated with the Swift Technology are trademarks of Swift or third parties, and no license to such marks is granted herein.

4.3. **Feedback.** If Customer provides Swift with Feedback, Swift owns and will continue to own such Feedback, exclusively. Customer hereby assigns to Swift all right, title and interest in and to all Feedback, including all Intellectual Property Rights therein, and agrees to assist Swift in perfecting such rights and obtaining assignments of such rights from all individuals involved in generating the Feedback. If such assignment is deemed unenforceable for any reason, then Customer waives any and all rights as to Feedback, and hereby grants Swift an unlimited, perpetual, irrevocable, sublicensable, transferable, fully paid up and royalty-free license to use and exploit Feedback in any manner that Swift deems appropriate, in Swift's sole discretion. Without limiting the generality of the foregoing, Customer acknowledges and agrees that providing Feedback is entirely optional, and Customer's rights under these Terms will not be affected if Customer should choose to not provide Feedback.

4.4. **No "Sale" of Licensed Software, etc.** Customer acknowledges and agrees that: (i) Customer is only licensing the right to use the Licensed Software, Documentation, and related materials provided hereunder, (ii) by providing the Licensed Software under these Terms, Swift is not selling but, rather, is only licensing the right to "use" the Licensed Software, the Documentation, and related materials, and (iii) no sale or other transfer of any title or ownership or any proprietary interest therein is contemplated hereunder.

4.5. **Reservation of Rights.** Swift and its licensors and suppliers reserve all rights in and to the Licensed Software, Documentation, and related materials not expressly granted to Customer hereunder, and there are no implied licenses granted hereunder. Customer will not remove, alter, or obscure any proprietary rights notices on the Licensed Software, Documentation, or related materials, nor authorize any third party to do so.

4.6.   Third Party Code. The products and/or services provided hereunder may incorporate or be provided with third party software, including open source software (collectively, "**Third Party Code**"), as detailed on Swift's website, www.swiftnav.com/legal/thirdpartycode. Such Third Party Code is provided under and subject to the terms and conditions of the Third Party Code licensors and/or suppliers. Swift will use commercially reasonable efforts to update the web page identified above, so that such information remains current; however, Customer acknowledges and agrees that if the applicable Third Party Code licensor or supplier does not notify Swift of updated terms, the Swift website may not be up-to-date at all times, and Swift will not be responsible in such event. In the event of a conflict between the licenses granted to Customer under these Terms and the licenses applicable to the Third Party Code, the latter will be controlling. For clarity, Third Party Code is not subject to the warranty or indemnity protections set forth herein; however, the warranty disclaimers and limitation of liability provisions set forth in these Terms will apply.

4.7.   DELIVERY. Following payment pursuant to an applicable Order Schedule, Swift will make the Licensed Software and the Documentation available to Customer, via FTP or another industry-standard download mechanism. This master copy of the Licensed Software and the Documentation will be deemed irrevocably accepted upon delivery.

5.   FEES AND PAYMENT.

5.1.   Fees. Customer will pay to Swift a non-refundable fee as specified in an applicable Order Schedule. If applicable, Customer will also pay Swift annual renewal fees and/or support fees, as specified in an applicable Order Schedule. Fees are a factor of subscription volume, length of service term, data volume, named active users, and other commercial factors. Except as otherwise specified in these Terms or in an Order Schedule, (i) fees are quoted and payable in United States dollars (ii) fees are based on services purchased and data volume used and not actual usage, and (iii) payment obligations are non-cancelable and fees paid are non-refundable and (iv) the number of subscriptions purchased cannot be decreased during the relevant subscription term stated on the Order Schedule. If an Order Schedule specifies any limits for the applicable Hosted Service or Licensed Software, Customer agrees not to exceed such limit(s); otherwise, Swift will charge for, and Customer agrees to pay for such additional access.

5.2.   Payments. Except as otherwise provided in Section 5.1 or an applicable Order Schedule, Customer will pay to Swift all fees required under Section 5.1 and these Terms within thirty (30) days after the date of the invoice therefor.

5.3.   Taxes. Customer will be responsible for payment of all taxes (other than taxes based on Swift's income), fees, duties, and other governmental charges, and any related penalties and interest, arising from the payment of fees to Swift under these Terms or the delivery or license of the Licensed Software to Customer. Customer will make all payments of fees to Swift free and clear of, and without reduction for, any withholding taxes; any such taxes imposed on payments of fees to Swift will be Customer's sole responsibility, and Customer will provide Swift with official receipts issued by the appropriate taxing authority, or such other evidence as the Swift may reasonably request, to establish that such taxes have been paid.

5.4.   Audit. Swift will have the right, upon at least thirty (30) calendar days' prior notice, to inspect or have an independent audit firm selected by Swift inspect Customer's facilities and audit Customer's records relating to Customer's activities pursuant to these Terms in order to verify that Customer has paid to Swift the correct amounts owed under these Terms and otherwise complied with the terms of these Terms. The audit will be conducted at Swift's expense, unless the audit reveals that Customer has underpaid the amounts owed to Swift by five percent (5%) or more in any quarter, in which case Customer will reimburse Swift for all costs and expenses incurred by Swift in connection with such audit. Customer will promptly pay to Swift any amounts shown by any such audit to be owing.

5.5.   Suspension. Without limiting Swift's termination rights set forth herein, Swift reserves the right, upon written notice to Customer (email sufficing) to suspend or interrupt Customer's use of the Licensed Software, cease providing Licensed Software updates, and/or suspend delivery of technical support to Customer while any fees

remain unpaid for fifteen (15) days after Swift provides prior written notice (including by way of email) of such unpaid Fees to Customer. Swift will not be precluded from exercising any additional available remedies.

5.6.   Invoice Disputes. In the event Customer in good faith disputes a portion of an unpaid invoice, Customer will notify Swift within thirty (30) days from the date of such unpaid invoice. Customer agrees to provide reasonable supporting documentation to Swift concerning any amount disputed, along with Customer's dispute notice, and Customer acknowledges and agrees that invoices issued in accordance with the Order Schedule will be presumed to be valid and payable. The amount not in dispute (i.e., not subject to a timely dispute notice) shall be paid in accordance with the terms of these Terms. Once an invoice dispute is resolved, Customer will pay within thirty (30) days of dispute resolution. If necessary, Swift will reissue an invoice for the undisputed and disputed portions of the invoice to facilitate Customer's payment of the undisputed invoiced amounts.

6.   WARRANTIES AND DISCLAIMERS.

6.1.   Starling. This Section 2.1 applies if you purchased a Device pursuant to an applicable Order Schedule.

(a)   Performance. For a period of ninety (90) days after date on which the initial Licensed Software is first made available to Customer pursuant to Section 2.1 (the "**Software Warranty Period**"), Swift warrants to Customer alone that the Licensed Software, when used as permitted under these Terms and in accordance with the instructions in the Documentation (including use on a computer hardware and operating system platform supported by Swift), will operate substantially as described in the Documentation.   Swift does not warrant that use of the Licensed Software will be error-free or uninterrupted.   Swift will, at its own expense and as its sole obligation and Customer's exclusive remedy for any breach of this warranty, use commercially reasonable efforts to correct any reproducible error in the Licensed Software reported to Swift by Customer in writing during the Software Warranty Period or, if Swift determines that it is unable to correct the error, Swift will refund to Customer the license fees actually paid by Customer to Swift for the affected Licensed Software, in which case these Terms and the rights licensed to Customer hereunder will terminate. Any such error correction provided to Customer will not extend the original Software Warranty Period.

(b)   Viruses. Swift will use commercially reasonable efforts in screening the Licensed Software before delivery, to reduce the possibility of the existence of a Virus. If Swift performs such screening, but Customer is able to demonstrate that the Licensed Software supplied by Swift is the source of a Virus introduced into Customer's computing environment, Swift's sole obligation will be to deliver a new copy or copies of the Licensed Software free of the identified Virus, at no charge to Customer. Customer acknowledges that not all Viruses can be detected by such programs and, therefore, Swift does not represent or warrant that the Licensed Software or other materials provided to Customer hereunder will be free of Viruses. In such regard, Customer further acknowledges that Customer is responsible for mitigating the risk of Viruses by running up-to-date antivirus software on Customer's systems on which the Licensed Software or other materials provided hereunder are installed and/or used.

6.2.   Skylark. This Section 6.2 applies if you purchased access to the Hosted Service pursuant to an applicable Order Schedule. Further this Section 6.2 applies only during a Service Term and does not apply during a Trial Period.

(a)   Hosted Service. Swift warrants that the applicable Hosted Service, when used in accordance with the instructions in the Documentation and these Terms, will conform to the specifications for such platform expressly set forth in the applicable Documentation. Customer will have thirty (30) days following the commencement of the initial Service Term hereunder to notify Swift of a breach of the foregoing warranty, in which event, Swift's entire liability and Customer's sole and exclusive remedy for such breach will be, at Swift's election, to either: (A) reperform, modify, or replace the Service so that it so conforms to such warranty; or (B) provide a refund of the fees paid for the affected Service, and solely as to the refunded Service, these Terms, and Customer's right to access such Service will immediately terminate. Any remedy provided by Swift will not extend the original warranty period. Swift will have no obligation under these Terms to correct, and Swift makes no warranty with respect to, errors caused by or relating to: (1) use of the Service in a manner inconsistent with the Documentation or these Terms; or (2) third party hardware or software misuse, modification, or malfunction.

(b) **Professional Services.** Swift warrants that the Professional Services will be performed in a professional and workmanlike manner consistent with industry standards. Customer will have thirty (30) days following the performance of each Professional Service to notify Swift of a breach of the foregoing warranty as to such Professional Service, in which event, Swift's entire liability and Customer's sole and exclusive remedy for such breach will be, at Swift's election, to either: (A) reperform the Professional Service so that it so conforms to such warranty; or (B) provide a refund of the fees paid for the affected Professional Service, and solely as to the refunded Professional Service, these Terms, and Customer's right to access such Professional Service will immediately terminate. Any remedy provided by Swift will not extend the original warranty period. Swift will have no obligation under these Terms to correct, and Swift makes no warranty with respect to, errors caused by or relating to use of the Professional Service (or its deliverable(s)) independently from the Hosted Service.

(c) **Noninfringement.** Swift warrants that the Service, when used in accordance with the instructions in the Documentation and these Terms, does not and will not infringe or misappropriate any third party's Intellectual Property Rights. As Swift's sole and exclusive obligation and Customer's sole and exclusive remedy for breach of the foregoing warranty, Swift will indemnify Customer as set forth in Section 9.

(d) **Licensed Information.** Swift (on behalf of itself and its suppliers and licensors) represents and warrants that the Licensed Information is provided according to industry standards, and that Swift exercises reasonable care in collecting such Licensed Information and producing related reports in connection with the Hosted Service. For clarity, Customer acknowledges that Swift (and its suppliers and licensors) collect data from a number of third party sources and accordingly, Swift and its suppliers and licensors do not and cannot warrant the validity, genuineness, or accuracy of the Licensed Information or the related reports.

6.3. **Disclaimers.** UNLESS EXPRESSLY PROVIDED IN SECTIONS 6.1 AND 6.2, ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, QUALITY, ACCURACY, OR QUIET ENJOYMENT, ARE DISCLAIMED BY SWIFT, ON BEHALF OF ITSELF AND ITS SUPPLIERS AND LICENSORS. SWIFT'S SERVICES MAY BE SUBJECT TO, AND SWIFT IS NOT RESPONSIBLE FOR, LIMITATIONS, RISKS, AND OTHER PROBLEMS INHERENT IN ELECTRONIC COMMUNICATIONS, AND SWIFT DOES NOT WARRANT THAT USE OF THE SWIFT TECHNOLOGY IS RISK-FREE. SWIFT DOES NOT PROVIDE REPRESENTATIONS, WARRANTIES, OR ASSURANCES AGAINST INTERCEPTION OF ACCESS, AND SUBJECT TO SECTION 3.2, SWIFT IS NOT RESPONSIBLE FOR ANY UNAUTHORIZED ACTS RESULTING IN LOSS OF OR DAMAGE TO CUSTOMER DATA OR OTHER PROPERTY IN CONNECTION WITH CUSTOMER'S USE OF THE SWIFT TECHNOLOGY. THE SWIFT TECHNOLOGY AND OTHER MATERIALS PROVIDED BY SWIFT HEREUNDER ARE NOT DESIGNED, INTENDED, OR CERTIFIED FOR USE IN CONNECTION WITH THE OPERATION OF WEAPONS, WEAPONS SYSTEMS, NUCLEAR INSTALLATIONS, MEANS OF MASS TRANSPORTATION OR AVIATION, MEDICAL SYSTEMS, DEVICES, IMPLANTS, OR EQUIPMENT, POLLUTION CONTROL, HAZARDOUS SYSTEMS MANAGEMENT, OR FOR ANY OTHER DANGEROUS APPLICATION, OR ANY APPLICATION IN WHICH THE FAILURE OF THE SWIFT-PROVIDED ITEMS COULD CREATE A SITUATION WHERE BODILY INJURY, PROPERTY DAMAGE, AND/OR DEATH MAY OCCUR. SWIFT DISCLAIMS COMPLIANCE BY ALL PRODUCTS AND SERVICES PROVIDED HEREUNDER WITH ANSI, ISO, OSHA, JISHA, EU-OSHA, AND/OR OTHER SAFETY STANDARDS. IF ANY PRODUCTS INCLUDE SAFETY AND/OR COLLISION DETECTION TECHNOLOGY, CUSTOMER WILL NOT DISABLE SUCH TECHNOLOGY, AND WILL NOT AUTHORIZE ANY THIRD PARTY TO DO SO, NOR WILL CUSTOMER CREATE OR APPLY (OR HAVE CREATED OR APPLIED) ANY MECHANISM WHICH MAY MAKE THE PRODUCTS UNSAFE OR HARMFUL. CUSTOMER ASSUMES ALL RESPONSIBILITY FOR DAMAGE AND/OR HARM CAUSED BY THE PRODUCTS PROVIDED HEREUNDER AND WILL INDEMNIFY AND HOLD SWIFT HARMLESS FROM ALL LIABILITY RELATING TO SUCH DAMAGE OR HARM. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, CUSTOMER AGREES TO COMPLY WITH ALL SAFETY GUIDELINES PROMULGATED BY SWIFT OR A THIRD PARTY HARDWARE MANUFACTURER AND/OR UNDER APPLICABLE LAW AND/OR GOVERNMENT AGENCY (SUCH AS ANSI, ISO, OSHA, JISHA, EU-OSHA AND/OR OTHER AGENCY WITH OVERSIGHT OVER OR AN INTEREST IN SYSTEM SAFETY). USE IN VIOLATION OF THE FOREGOING RESTRICTIONS IS SOLELY AT CUSTOMER'S RISK, AND NEITHER SWIFT (NOR SWIFT'S SUPPLIERS OR LICENSORS) WILL HAVE LIABILITY HEREUNDER WITH RESPECT THERETO.

7. **LIMITATION OF LIABILITY.** THE FOLLOWING PROVISIONS APPLY TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW. IN NO EVENT WILL SWIFT OR ITS AFFILIATES, OR ITS OR THEIR OFFICERS, DIRECTORS, EMPLOYEES,

AGENTS, AND/OR LICENSORS OR SUPPLIERS (COLLECTIVELY, THE "**SWIFT PARTIES**") BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING ANY LOST DATA AND LOST PROFITS, OR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THESE TERMS, EVEN IF THE FOREGOING PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE SWIFT PARTIES' TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THESE TERMS AND THE LICENSED SOFTWARE, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE FEES (EXCLUDING SUPPORT FEES, AND ANY PROFESSIONAL FEES) PAID TO SWIFT BY (OR THROUGH) CUSTOMER UNDER THESE TERMS IN THE TWELVE (12) MONTH PRECEDING THE CLAIM FOR WHICH MONEY DAMAGES ARE SOUGHT, WITH ALL CLIAMS BEING AGGREGATED IN SATISFACTION OF THE LIMIT. CUSTOMER ACKNOWLEDGES THAT THE FEES SET FORTH IN THESE TERMS REFLECT THE ALLOCATION OF RISK SET FORTH IN THESE TERMS AND THAT SWIFT WOULD NOT ENTER INTO THESE TERMS WITHOUT THESE LIMITATIONS ON ITS LIABILITY. CUSTOMER AGREES THAT SWIFT'S LICENSORS AND SUPPLIERS WILL HAVE NO LIABILITY OF ANY KIND UNDER OR AS A RESULT OF THESE TERMS, AND THAT TO THE EXTENT CUSTOMER MAY OTHERWISE HAVE A CLAIM AGAINST ANY OF THE SWIFT PARTIES (OTHER THAN SWIFT ITSELF), CUSTOMER WILL INITIATE SUCH CLAIM AGAINST SWIFT, AND NOT THE OTHER SWIFT PARTY(IES). CUSTOMER ALSO AGREES THAT CUSTOMER WILL BE FULLY RESPONSIBLE AND LIABLE FOR ITS OWN ACTS AND OMISSIONS, AS WELL AS THE ACTS AND OMISSIONS OF ITS USERS. THE FOREGOING LIMITATIONS OF LIABILITY ARE INDEPENDENT OF ANY EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY AND FOR INDEMNIFICATION OBLIGATIONS SET FORTH IN THESE TERMS.

8. **CONFIDENTIALITY.** Recipient may use Discloser's Confidential Information solely to perform Recipient's obligations or exercise its rights hereunder. Recipient may not disclose, or permit to be disclosed, Discloser's Confidential Information to any third party without Discloser's prior written consent, except that Recipient may disclose Discloser's Confidential Information solely to Recipient's employees and/or contractors who have a need to know and who are bound in writing to keep such information confidential pursuant to confidentiality agreement consistent with these Terms. Recipient agrees to exercise due care in protecting Discloser's Confidential Information from unauthorized use and disclosure, and will not use less than a reasonable degree of care. The foregoing will not apply to any information that: (i) is publicly available through no fault of Recipient; (ii) was properly known to Recipient, without restriction, prior to disclosure by Discloser; (iii) was properly, and with authority, disclosed by a third party to Recipient, without restriction; (iv) Recipient independently develops without use of Discloser's Confidential Information; (v) is expressly permitted to be disclosed pursuant to the terms of these Terms; or (vi) is required to be disclosed pursuant to a judicial or legislative order or proceeding; provided that Recipient provides to Discloser prior notice of the intended disclosure and an opportunity to respond or object thereto.

9. **INDEMNIFICATION.**

9.1. **Indemnification by Customer.** Customer agrees to defend, indemnify and hold harmless Swift and its officers, directors, employees, agents, suppliers, and licensors from and against any claims, suits, losses, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) brought by third parties (including any User) resulting from or relating to: (a) any breach by Customer of its obligations, duties, or responsibilities under these Terms; (b) any representations, warranties, guarantees, or other written or oral statements made by or on behalf of Customer relating to the Licensed Software; or (c) any claims against Swift made by Users. Customer's obligations under this Section 9.1 are subject to the conditions that Swift give Customer prompt written notice of any such claim, allow Customer to control the defense and settlement of the claim (except that Customer may not offer any defense or agree to any settlement that does not unconditionally release the indemnified party(ies) or that imposes any obligation or liability on the indemnified party(ies), without the indemnified party's(ies') prior written consent), and cooperate with Customer, at Customer's reasonable request and expense, in defending or settling the claim.

9.2. **Indemnification by Swift.** During an applicable Service Term, Swift will defend Customer against any third party claim to the extent alleging that the Swift Technology as and when provided by Swift, infringes any U.S. copyrights or misappropriates any trade secrets recognized as such under the Uniform Trade Secret law, and Swift will indemnify and hold Customer harmless by paying. those costs and damages finally awarded against Customer in any such action that are specifically attributable to such claim, or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on Customer notifying Swift

promptly in writing of such action, giving Swift sole control of the defense thereof and any related settlement negotiations, and cooperating and, at Swift's reasonable request and expense, assisting in such defense. If the Swift Technology becomes, or in Swift's opinion is likely to become, enjoined pursuant to an infringement claim that is subject to Swift's indemnification obligations hereunder, Swift may, at its option and expense, either (a) procure for Customer the right to continue exercising the rights licensed to Customer in these Terms; (b) replace or modify the Swift Technology so that it becomes non-infringing, or (c) refund to Customer any payments of fees made by Customer to Swift pursuant to Section 5.1, and terminate these Terms by written notice to Customer, subject to Section 10. Notwithstanding the foregoing, Swift will have no obligation under this Section 9.2 or otherwise with respect to any infringement claim based upon: (i) any unauthorized use of the Swift Technology by Customer or any of its Users; (ii) any use of the Swift Technology in combination with other products, equipment, software, or data not supplied by Swift; (iii) any use of any release of the Swift Technology other than the most current release made available to Customer; (iv) any modification of the Swift Technology by any person other than Swift; or (v) any matters or claims for which Customer is obligated to indemnify Swift under these Terms. THIS SECTION 9.2 STATES SWIFT'S ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS AND ACTIONS.

10. TERM; TERMINATION.

10.1. **Term; Termination**. These Terms are effective upon acceptance and unless earlier terminated as set forth below, will continue while any Order Schedule is in effect between the parties. With regard to each Order Schedule, if these Terms have not terminated early, at least thirty (30) days prior to the expiration of a Service Term, Customer will either: (a) renew the Service Term at for a renewal Service Term equal in duration to the then-current Service Term, at Swift's then-current fees or such other fees as the parties may mutually agree (provided that Swift continues to make the applicable Service modules available); or (b) allow the Service Term to expire. If Customer fails to elect either (a) or (b), then (b) will apply. Either party may terminate these Terms (or any SOW or Order Schedule) upon the other party's material breach that remains uncured for thirty (30) days following notice of such breach, except that in the event of a breach of Section 2.2 or 10, the cure period is five (5) days. Swift reserves the right to modify, or discontinue offering, any Service module effective as of the conclusion of Customer's then-current Service Term.

10.2. **Customer Data Following Expiration or Termination**. Following the expiration or early termination of any Use Term: (a) Customer's right to use the Swift Technology will immediately terminate, and Customer will stop using the Swift Technology, and delete all copies of the Swift Technology in Customer's and Users' possession or under its or their control; (b) Swift may deactivate Customer's online account and delete the Customer Data.

10.3. **Effect of Termination; Survival.** Upon expiration or termination of these Terms: (a) any amounts (including expenses) owed to Swift for completed Services and work in progress, as well as fees applicable to the duration of the terminated subscription, and other unpaid amounts, will be immediately due and payable; (b) all subscriptions granted under these Terms Swift's obligation to provide (and Customer's right to access and use) the Service and Swift Technology, will terminate; (c) Customer Data will be returned or deleted pursuant to Section 1.2; and (d) Sections 1, 2.3, 3 through 11 will survive.

11. GENERAL.

11.1. **Notices.** All notices required to be given in writing will be sent via email, to the address(es) in the applicable Order Schedule, and will be deemed given upon sending; in addition, Swift may provide notices to Customer via the Swift Technology portal.

11.2. **Assignment.** Customer may not assign these Terms, by operation of law or otherwise, without Swift's prior written approval. Any attempted assignment in violation of the foregoing will be null and void.

11.3. **Governing Law; Venue.** These Terms will be governed by the laws of the State of California without regard to conflict of laws principles that would require the application of the laws of another jurisdiction.

The United Nations Convention on Contracts for the International Sale of Goods does not apply to these Terms. Any action or proceeding arising from or relating to these Terms must be brought in a federal court in the Northern District of California or in state court in San Francisco County, California, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding. NEITHER THE UNITED NATIONS CONVENTION OF CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS NOR THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT WILL APPLY TO THESE TERMS.

11.4. **Remedies.** The parties' rights and remedies hereunder are cumulative. Customer acknowledges that the Swift Technology and Swift Technology contain Swift's valuable trade secrets and proprietary information, that any breach of these Terms relating thereto will constitute harm to Swift for which monetary damages would be inadequate, and that injunctive relief is an appropriate remedy.

11.5. **Force Majeure.** Any delay in the performance of any duties or obligations of either party (except the payment of money owed) will not be considered a breach of these Terms if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the circumstances causing the delay and to resume performance as soon as possible.

11.6. **Construction.** Headings are for reference purposes only. As used in these Terms, the word "including" means "including but not limited to." Unless the context otherwise requires, words in the singular will include the plural and, in the plural, will include the singular. A reference to a statute or statutory provision will include all subordinate legislation made as at the date of these Terms under that statute or statutory provision. Unless the context otherwise requires, a reference to one gender will include a reference to the other genders.

11.7. **Independent Contractors.** The parties are independent contractors. No joint venture, partnership, employment, or agency relationship exists between the parties as a result of these Terms or use of the Swift Technology. Except for Swift's suppliers and licensors, there are no third-party beneficiaries under these Terms.

11.8. **Export Compliance.** Customer acknowledges that the Swift Technology may be subject to U.S. and foreign export and import restrictions. Customer will comply with all applicable export and import control laws and regulations in its use of the Licensed Software and, in particular, Customer will not export or re-export the Licensed Software without all required United States and foreign government licenses. Customer understands that the Licensed Software contains technology that may require an export license from the U.S. State Department. Customer will comply and will require its Users to comply fully with all then-current applicable laws, rules, and regulations relating to the export and re-export of technical data, including any regulations of the United States Office of Export Administration, and other applicable government agencies. Customer will defend, indemnify, and hold harmless Swift from and against all fines, penalties, liabilities, damages, costs, and expenses incurred by Swift as a result of any violation of such laws or regulations by Customer or any of its Users. The Swift Technology is further restricted from being used for the design or development of nuclear, chemical, or biological weapons or missile technology, or for terrorist activity. Services will not be provided unless Customer certifies the End User Certifications.

11.9. **U.S. Government End Users.** If Customer is a branch agency of the United States Government, the following applies. Swift provides the Licensed Software, and related technology, in accordance with the following: Government technical data and software rights related to the Licensed Software include only those rights customarily provided to the public. This customary access right and license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFARS 252.227-7015 (Technical Data – Commercial Items) and DFARS 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for additional or different rights not conveyed under these terms, it must negotiate with Swift acceptable terms for such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement. Swift disclaims any and all supply representations and government flow-downs through Customer, and moreover, Swift

does not accept any government flow-down provisions. Further, Swift will not provide any government-required representations or certifications to Customer or any User.

11.10. **Waiver; Severability.** Failure to enforce any provision in these Terms will not constitute a waiver unless in writing. No modification hereof will be effective unless in a mutually executed writing. If any provision of these Terms is unenforceable, it will be changed and interpreted to accomplish the objectives of such provision to the extent legally permissible; remaining provisions will continue in full force and effect. However, Section 7 (Limitation of Liability) will remain in effect notwithstanding the unenforceability of any provision in Section 6 (Warranties).

11.11. **Publicity.** Swift will have the right to publicize the parties' relationship, by listing Customer as a Swift licensee and/or embedded Customer, or the like. Customer hereby grants to Swift, during the term of these Terms, a nonexclusive, royalty-free and fully-paid, worldwide license to use Customer's name, logo, and other marks as is reasonably necessary for Swift to exercise its rights as set forth above. Swift agrees to comply with any commercially reasonable trademark usage guidelines provided to Swift in writing.

11.12. **Entire Terms.** These Terms form the entire agreement between Customer and Swift, and supersede all prior or contemporaneous negotiations or agreements between the parties regarding the subject matter hereof. Any conflict between the above terms and the terms of any Order Schedule will be resolved in favor of the Order Schedule. Any preprinted terms on a Customer purchase order will have no effect on the terms of these Terms and are hereby rejected, notwithstanding any such preprinted terms to the contrary. Headings are for reference purposes. "Including" means "including but not limited to."

1. DEFINITIONS.

1.1. "**Error**" means a reproducible failure of the unmodified Licensed Software to conform to the specifications set forth in the User Documentation, resulting in the inability to use, or material restriction in the use of, the Licensed Software environment.

1.2. "**Hot Patch**" means a revision, patch, "hot-fix" or workaround that Swift provides to its customers, generally, as a fix or workaround for a specific Priority 1 Error in the Licensed Software reported by a customer. Hot Patches are provided on an as-required basis, may be customer-specific, and are not typically subject to extensive testing prior to deployment. Hot Patches exclude enhancements to the Licensed Software and are typically designated by a change in the number to the right of three decimal points in the version number (0.0.0.x).

1.3. "**Maintenance and Support Services**" means technical assistance and maintenance services provided by Swift for Licensed Software in accordance the terms and conditions of this Agreement, and more particularly, these Starling Maintenance and Support Services terms, in consideration of a customer's payment of Swift's then current fees therefor.

1.4. "**Maintenance Pack**" means a revision to the Licensed Software, that Swift provides to its customers, generally, whether on a routine or scheduled basis, in order to remedy or provide a workaround for one or more specific Errors. Maintenance Packs may incorporate one or more Hot Patches, and exclude enhancements to the Licensed Software. Maintenance Packs are subject to more extensive testing than Hot Patches. Maintenance Packs are typically designated by a change in the number to the right of two decimal points in the version number (0.0.x).

1.5. "**Release**" means a Minor Release or a Major Release.

(a) "**Minor Release**" means a new version of Licensed Software that is generally released by Swift to customers then entitled to receive Maintenance and Support Services. Minor Releases may incorporate fixes or workarounds to Errors and may incorporate Hot Patches and/or Maintenance Packs. Minor Releases do not typically include, and are not released for the purpose of, introducing enhancements or new features, but a particular Minor Release may include a small number of minor feature enhancements and new supported platforms, at Swift's discretion. Minor Releases are typically designated by a change in the number to the right of the decimal point in the version number (0.x).

(b) **Major Release** means a new version of Licensed Software that is generally released by Swift to customers then entitled to receive Maintenance and Support Services, which includes major feature enhancements, new functionality, improvements, architectural changes, and may also remedy or provide a workaround for a specific Error. Major Upgrades are typically designated by a change in the number to the left of the decimal point of the version number (x.0).

1.6. "**Support Services Term**" means the annual or other period for which a customer has paid applicable support fees to Swift, thereby being entitled to receive support services under this Agreement, and more particularly, these Starling Maintenance and Support Services terms.

1.7. "**Update**" means a Hot Patch, Maintenance Pack or Release.

2. MAINTENANCE SERVICES.

During the Support Services Term, Swift will make Updates available to Licensee. Minor Releases and Major Releases exclude releases of the Licensed Software that Swift reasonably designates as a separate product or a new module, and that are not released in numerical sequence with earlier versions of the Licensed Software, or which Swift does not generally provide to its customers then entitled to receive Maintenance and Support

Services. If a question arises as to whether a product offering is an Update or a separate product, Swift's opinion will prevail, provided that Swift treats the product offering consistently for its customers, generally.

3.   SUPPORT SERVICES.

During the Support Services Term, Swift will provide the following support services to customers for the Licensed Software (the "Support Services").

1. **Swift Customer Support Services.** Swift will provide the Support Services through its support portal and Customer Support Center. Standard support hours are Monday through Friday, 9:00 a.m. to 5:00 p.m. Pacific Time, excluding holidays ("Business Hours"). After-hours support may be available, for an additional fee, as quoted by Swift.

2. **Licensee Obligations.** Licensee is responsible for providing to its Users front-line technical support (including answering support questions) and any and all Updates. Front-line support includes call receipt, entitlement verification, call screening, installation assistance, problem identification and diagnosis, Error determination, efforts to create a repeatable demonstration of the Error and, if applicable, the distribution of any Updates or replacements for defective media. Licensee agrees to inform its Users to call appropriate Licensee personnel for technical support for the Licensed Software.

3. **Updates.** In response to a reported Error, and in accordance with the prioritization procedures below: (1) Swift will make commercially reasonable efforts to provide Hot Patch that is designed to resolve or bypass the reported Error on a temporary basis. Licensee must install and implement the Hot Patch to redress the Error; and (2) Swift will provide a more permanent resolution or work-around in a Maintenance Pack. Licensee must install and implement the Maintenance Pack (or such other Update as may be provided) to redress the Error. Swift will reasonably determine the priority level of Errors, pursuant to the following protocols and take the following actions during the Customer Support Center hours:

    a. **Priority 1 Errors:** A Priority 1 Production Error means the (a) production system is severely impacted or completely shut down, or (b) system operations or mission-critical applications are down. A Priority One Development Error means (a) an application is in final testing, facing a critical time frame of going into production use or (b) entire development efforts are blocked. Swift will provide an initial response to Priority 1 Errors within one (1) Business Day of issue receipt, and promptly initiate the following procedures:

        i. confirm the Error;
        ii. assign personnel to correct the Error on an expedited basis;
        iii. provide ongoing communication on the status of a Hot Patch;
        iv. initiate work to provide the Hot Patch; and
        v. use commercially reasonable efforts to fix the Error or provide a workaround via a Hot Patch.

    b. **Priority 2 Errors:** A Priority Two Production Error means (a) the production system is functioning with limited capabilities, or (b) is unstable with periodic interruptions, or (c) mission critical applications or business processes, while not being affected, have experienced system interruptions. A Priority Two Development Error means (a) there is a time sensitive question impacting performance or deliverables, or (b) a major subsystem or business process under development is blocked. Swift will provide an initial response within three (3) Business Days of issue receipt, and will:

        i. assign personnel to begin to address the Error in a Maintenance Pack or other Update;

        ii.   provide additional escalated procedures as Swift reasonably determines is necessary; and

        iii.   use commercially reasonable efforts to fix the Error or provide a workaround in the next Maintenance Pack.

c. **Priority 3 Errors:** A Priority 3 Production Error means there (i) are errors with workaround solutions in fully operational production systems, or (ii) there are errors in non-critical functions. A Priority 3 Development Error means there are errors workaround solutions in system development. Swift will triage the request and may include a resolution in the next Maintenance Pack. Swift will provide an initial response to Priority 3 issues within Five (5) Business Days of issue receipt and will use reasonable efforts to address the Error in the next Maintenance Pack or Release.

d. **Priority 4 Errors:** A Priority 4 Production Error means there (i) is a need to clarify procedures or information in documentation or (ii) is a request for a product enhancement. A Priority 4 Development Error means (i) there is a need to clarify procedures or information in documentation or (ii) a request for product enhancement. Swift will provide an initial response within Ten (10) Business Days of issue receipt. Swift will triage the request and may include a resolution in the next Maintenance Release.

Priority	Initial Response Time
1	No later than 1 business day
2	No later than 3 business days
3	No later than 5 business days
4	No later than 10 business days

4. **Response Definition.** Swift will respond to customer reports of a problem based on the priority set forth above. A response is an initial reply to the reported issue and may not constitute a resolution. There is no commitment to provide product enhancements as part of Support Services.

4. **CONDITIONS FOR PROVIDING SUPPORT.**

Swift's obligation to provide Support Services is conditioned upon the following: (a) the customer makes reasonable efforts to solve the problem after consulting with Swift; (b) the customer provides Swift with sufficient information and resources to correct the problem either at Swift's Customer Support Center or via dial-up access at the customer's site, as well as access to the personnel, hardware, and any additional software involved in discovering the problem; (c) the customer promptly installs all Updates; and (d) the customer procures, installs and maintains all equipment, telephone lines, communication interfaces and other hardware necessary to operate the Licensed Software.

5. **TECHNICAL SUPPORT CONTACTS.**

The Swift Customer Support Center will provide support to two (2) contacts mutually agreed upon by the parties ("Technical Support Contacts"). They will be the only interface to the Swift Customer Support Center. In an emergency, a Swift Customer Support Engineer will begin working on a problem for an unauthorized contact on an exception basis subject to later verification and involvement of a named Technical Support Contact. Additional Technical Support Contacts may be permitted for an additional fee.

6. **EXCLUSIONS FROM SWIFT'S SUPPORT SERVICES.**

Swift is not obligated to provide Support Services in the following situations: (a) the Licensed Software has been changed, modified, damaged, or misused by the customer (or its agents); (b) the problem is caused by a customer's negligence, hardware malfunction, transportation of the Licensed Software, or other causes beyond

the reasonable control of Swift; (c) the problem is with third-party software not licensed through Swift; (d) the customer has not installed and implemented all available Updates; (e) the customer has not paid the Support Services fees when due; (f) the customer is using the Licensed Software outside of the use case for which the Licensed Software was provided; (g) the problem is related to customer-specific environment or code; or (h) the customer is using the support session for training, rather than support. Maintenance and Support Services are not provided for beta, pilot, or evaluation licenses, or the like. Any time spent in diagnosing an asserted Error that is determined to fall within any one or more conditions described in this paragraph will be charged to, and payable by, the customer at Swift's time and materials rates.

7. **SUSPENSION AND CHANGES.**

Swift reserves the right to suspend performance of the Support Services if Licensee fails to pay any amount that is payable to Swift under the Agreement when due. If support is suspended or terminated, and provided the Agreement remains in effect, customers may elect to reinstate its receipt of Maintenance and Support Services pursuant to these Starling Maintenance and Support Services terms, provided that the fees applicable to any period during which such services have lapsed are paid in full (at Swift's then-current rates (i.e. at the point of reinstatement) plus a reinstatement fee of five percent (5%) of the applicable maintenance fees (i.e., for the lapse period, plus the reinstatement period). Further, Swift reserves the right to modify or change these Starling Maintenance and Support Services terms at any time and in its sole discretion.

Skylark Maintenance and Service Support and SLA Terms

1. **SWIFT SUPPORT RESPONSE COMMITMENT**

Swift offers support during the following days and hours. Support is offered through the Swift support site, and by email:

Business Days: 8:00 a.m. to 5:00 p.m. Pacific Standard Time

Please note that Swift supports only in the area currently covered by Skylark.

All issues must be reported to the Swift support team ("Swift Support") to ensure timely support. Once a case is created, Swift will respond to or notify Customer as explained in Table 1. Swift's ability to replicate and resolve Customer issues will depend on accurate and detailed information supplied by Customer.

2. **ENTITLEMENT**

Support is available to up to three (3) Customer's administrative users or technical personnel ("Authorized Personnel") only. Authorized Personnel are responsible for coordinating all communications with Swift and acting as liaisons with Swift regarding support issues.

3. **SUPPORT METHODOLOGY**

Customer will contact Swift Support via https://support.swiftnav.com/. A ticket will be opened, and an issue number will be assigned (the "Issue Number"). In all communications between the parties, both Swift and Customer will identify each issue by the applicable Issue Number. Swift will communicate status updates ("Follow Ups") to the original requester.

4. **MAINTENANCE**

4.1   Scheduled Maintenance
Scheduled maintenance may be performed during weekend hours. Customer will be notified of the regularly scheduled maintenance and exceptions. For exceptions to the schedule in Exhibit A to these Support and SLA Terms, Swift will use commercially reasonable efforts to notify the Customer at least two (2) business days in advance. The above provisions apply to the production environment ("Production") only.

4.2   Unscheduled Emergency Maintenance
Swift Support will use commercially reasonable efforts to notify Customer of any unscheduled (i.e., emergency) maintenance in Production within 1 hour of starting the maintenance.

4.3   Maintenance Services
Maintenance Services means all activities Swift deems necessary, in its sole discretion, to provide the Hosted Services to Customer in accordance with the Agreement, including but not limited to code changes, system configuration changes, etc. Specifically, Swift commits to a minimum uptime availability of 99.9% per month, exclusive of scheduled and unscheduled maintenance. For more information on the uptime guarantee, please refer to Exhibit A.

4.4   Changes
Swift reserves the right to modify or change these Support and SLA Terms at any time and in its sole discretion.

TABLE 1: SWIFT ISSUE RESPONSE TYPES AND TIMES

Response	Definition	Response Time Objective
Acknowledge / Notify	Acknowledgement / Notification of issue and assignment of issue tracking number (Response)	1 Business Day
Follow-Up	Time interval between Status updates (Based upon the last communication on an issue)	2 Business Days

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Exhibit A

Service Level Agreement

1. Service uptime commitment: For the purpose of measuring hosted service availability, provides the following commitment: Swift will maintain a minimum of 99.9% availability for the Skylark production SaaS corrections on a 365 day, twenty-four hour, seven days a week (365x24x7) basis ("SaaS Services Uptime Metric"). The SaaS Services Uptime Metric commences when the applicable Hosted Service is made available to Customer for use.

2. Measurement method: On a quarterly basis, the SaaS Services Uptime Metric will be measured using the measurable hours in the quarter (total time minus planned downtime, including maintenance, upgrades, etc.) as the denominator. The numerator is the denominator value minus the time of any outages in the quarter (duration of all outages combined) to give the percentage of available uptime (2,090 actual hours available / 2,200 possible available hours = 95% availability). An "outage" is defined as two consecutive health check failures within a five-minute period, lasting until the condition has cleared.

3. Exclusions. The SaaS Services Uptime Metric shall not apply to downtime caused by any of the following:

    a) Suspension or termination of Customer's right to use the services pursuant to the terms of the applicable agreement;
    b) Overall Internet congestion, slowdown, or unavailability;
    c) Unavailability or performance degradation of publicly accessed internet infrastructure or services (e.g. DNS servers or public cloud hosting providers) due to malicious actors, power outages, or equipment/service failures;
    d) Force majeure events;
    e) Actions or inactions of Customer (unless undertaken at the express direction of Swift) or third parties beyond Swift's control;
    f) A result of Customer equipment or third-party computer hardware, software, or network infrastructure; and/or
    g) Scheduled SaaS infrastructure maintenance. In addition to scheduled SaaS infrastructure maintenance, upgrades and patches that occur approximately eight times per year may require downtime in addition to the scheduled maintenance. Swift will endeavor to provide advance notice to customers regarding any scheduled downtime.

4. If Swift does not achieve the service levels stated in this Exhibit A, Swift will, upon request, provide Customer a credit as described below as Customer's sole and exclusive remedy.

5. To claim a remedy under this Section, Customer is required to notify Swift, via email, within 15 days following the close of a particular calendar quarter. Such notification must include the dates, times, and conditions regarding the missed uptime metric.

6. Quarterly SaaS service credits:

    ● Below 99.9% to 95%: Three (3) day extension of the Service Term, at no cost to Customer
    ● Below 95%-90%: Five (5) day extension of the Service Term, at no cost to Customer
    ● Below 90% Ten (10) day extension of the Service Term, at no cost to Customer

SaaS Ratings below 90% for a quarter shall be escalated by both parties to senior leadership levels. The SaaS Service Credits shall be cumulative and extend the initial term of the SaaS agreements as set out in the SaaS agreement at no cost to Customer. Therefore, any renewal of SaaS agreement shall be effective after SaaS Service Credits have been fully utilized. Annual Service Credits shall be capped at thirty (30) days per annum.