

THIS END USER LICENSE AGREEMENT (THIS “AGREEMENT”) IS INCORPORATED AND MADE PART OF THE SWIFTLY ORDER FORM BETWEEN YOU (THE “USER”) AND SWIFTLY, INC. (THE “COMPANY”). ACCEPTANCE OF THIS AGREEMENT IS REQUIRED AS A CONDITION TO PROCEEDING WITH THE USE OF THE SERVICE (AS DEFINED BELOW). BY EXECUTING THE SWIFTLY ORDER FORM, YOU SHALL BE DEEMED TO HAVE FULLY ACCEPTED AND AGREED TO THE TERMS OF THIS AGREEMENT.

**SWIFTLY, INC.
End User License Agreement**

1. Grant of Rights; Reservation of Rights

The Company grants the User a non-exclusive, non-transferable, non-sublicensable license to use the Swiftly Platform (the “Service”) solely for personal, non-commercial use. The Company reserves any rights not expressly granted in this Section 1.

2. Proprietary Rights

The User understands that the Company has disclosed or may disclose business, technical or other information relating to the Company’s business (hereinafter referred to as “Proprietary Information” of the Company). Proprietary Information includes non-public information regarding features, functionality and performance of the Service. The User agrees (a) to take reasonable precautions to protect such Proprietary Information, and (b) not to use or divulge to any third person any such Proprietary Information. The Company agrees that the foregoing shall not apply with respect to any information that (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the User, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information or (e) is required to be disclosed by law.

3. Restrictions

- a. The User will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Service or any software, documentation or data related to the Service (the “Software”); modify, translate, or create derivative works based on the Service or any Software (except to the extent expressly permitted by the Company or authorized within the Service); use the Service or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third; or remove any proprietary notices or labels.
- b. The User will not resell or distribute the Service, Software, documentation related thereto or any copy thereof, by transfer, lease, loan or any other means, or make it available for use by others in any time-sharing, service bureau or similar arrangement.
- c. The User represents, covenants, and warrants that the User will use the Service only in compliance with the Company’s standard published policies and terms and conditions then in effect and all applicable laws and regulations. The User hereby agrees to indemnify and hold harmless the Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys’ fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from the User’s use of the Service. Although the Company has no obligation to monitor End User’s use of the Service, the Company may do so and may prohibit any use of the Service it believes may be (or alleged to be) in violation of the foregoing.
- d. The User shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Service, including, without limitation, modems, hardware, server, software, operating system, networking, web servers, long distance and local telephone service (collectively, “Equipment”). The User shall also be responsible for maintaining the security of the Equipment, the User’s account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of the User account or the Equipment with or without the User’s knowledge or consent.

4. Term

This Agreement shall be effective until terminated by either the User or the Company by providing at least fifteen (15) days' prior written notice to the other party. The Agreement and the User's right to use the Service and documentation related thereto will automatically terminate without notice in the event of any failure by the User to comply with any of the above restrictions or any term of this Agreement. Upon termination, the User will cease using the Service and destroy all copies of the documentation related thereto in the User's possession. All provisions of Sections 2, 3, 5, 7 and 8 of this Agreement will survive termination.

5. Warranty Disclaimer

The User acknowledges and agrees that the Service is provided "AS IS" without warranty of any kind. THE COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT OF THIRD PARTIES' INTELLECTUAL PROPERTY RIGHTS.

6. Limitation of Liability

NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE COMPANY AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF PROFITS OR BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND THE COMPANY'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY THE USER TO THE COMPANY FOR THE SERVICE UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Some states do not allow exclusion of implied warranties or limitation of liability for incidental, special, punitive, or other indirect or consequential damages, so the limitations or exclusions of Sections 5 and 6 of this Agreement may not apply to the User. IN SUCH STATES, THE LIABILITY OF THE COMPANY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

7. Government Matters

The User may not remove or export from the United States or allow the export or re-export of the Service, the Software or any documentation related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Service is a "commercial item" and according to DFAR section 252.227-7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

8. Miscellaneous

This Agreement does not create any agency or partnership relationship between the Company and the User. This Agreement shall be governed by and construed in accordance with the laws of the State of California governing such agreements, without regard to conflicts-of-law principles. The sole and exclusive jurisdiction and venue for any litigation arising out of this Agreement shall be an appropriate federal or state court located in the State of California, and the parties agree not to raise, and waive, any objections or defenses based upon venue or forum non conveniens. This Agreement contains the complete and

exclusive agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings whether written or oral, express or implied. This Agreement is not assignable, transferable or sublicensable by the User except with the Company's prior written consent. If any provision of this Agreement is held invalid, illegal or unenforceable by a court of competent jurisdiction, such shall not affect any other provision of this Agreement, which shall remain in full force and effect. No amendment or alteration of the terms of this Agreement shall be effective unless made in writing and executed by both parties hereto. A failure or delay in exercising any right in respect to this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right will not be presumed to preclude any subsequent or further exercise of that right or the exercise of any other right. Any modification or waiver of any provision of this Agreement shall not be effective unless made in writing. Any such waiver shall be effective only in the specific instance and for the purpose given.

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