

## Swifter Merchant Services Addendum

This Swifter Services Addendum to the Treez [Terms of Service](#) (this “**Agreement**”) is entered into as of the date executed by you (the “**Effective Date**”) by and between Treez Inc. (“**Swifter**”, “**us**” or “**we**”) and the legal entity indicated below (“**you**”, “**your**”, or “**Merchant**”).

### RECITALS

A. We provide merchants with certain payment processing, data, technology and analytics services, including those that allow you to accept payments from purchasers of your goods or services (your “**Customers**”), and such other business services that we or our affiliates may offer from time to time (each, a “**Service**”). **You acknowledge and agree that you accept the risk of using the Services in connection with the operation of your marijuana-related business (“MRB”) and Swifter will have no liability or responsibility to you regarding your use of the Services as relates to the underlying legality of your business.**

B. We provide you with a more detailed description of the Services through published software libraries and application programming interfaces that may be used to access the Services (the “**API**”) and additional resources we make available to you on our website.

C. You may not access or use any Services unless you agree to abide by all of the terms and conditions in this Agreement. **Swifter is not a depository institution or a money transmitter and does not provide money transmission or funds transfer services. All regulated financial products and services are provided by our financial institution partners, in particular the depository institution that will open and hold a transaction account for you in order to provide the regulated component of the Services (the “Sponsor Bank”).**

### AGREEMENT

#### Section A: General Terms

##### 1. Addendum.

(a) For the purposes of this Agreement, the parties adopt the specific terms and conditions of the Treez Terms of Service set forth in Section A.1(b) below, which terms may be accessed at <https://www.treez.io/terms> (the “**TOS**”). To the extent of any inconsistency between the terms of the TOS and the express terms of this Agreement, this Agreement shall prevail. Following the Effective Date, any amendment to any incorporated terms of the TOS will modify the rights and obligations of the parties under this Agreement unless such amendment to the TOS expressly provides that it does not amend this Agreement. If you have previously entered into, or subsequently enter into, the TOS, termination of the TOS shall not terminate this Agreement or otherwise modify each party’s respective rights or obligations under this Agreement, and termination of this Agreement shall not terminate the TOS or otherwise modify each party’s respective rights or obligations under the TOS.

(b) The following Sections of the TOS are hereby incorporated into and made part of this Agreement: Section 2 (Use of the Software), Section 3.2 (Software Updates), Section 3.3 (Your IT Infrastructure Responsibilities), Section 7 (Confidentiality), Section 9 (Representations and Warranties), Section 10.1 (Disclaimer), Section 11 (Indemnification) and

Section 12 (General).

(c) Solely for purposes of interpreting the terms of the TOS incorporated into this Agreement pursuant to Section A.1(b), each reference to the below terms in any such sections of the TOS that are incorporated into this Agreement shall be replaced with the following references:

(i) References to “**Software**” shall be deemed to be references to the Swifter Account.

(ii) References to “**Subscription Term**” shall be deemed to be references to the term of this Agreement.

## 2. Your Swifter Account and Your Transaction Account

### (a) Registration and Permitted Activities.

(i) Before using the Services, you must register with Swifter and create an account (a “**Swifter Account**”). You also must open and agree to the terms applicable to a commercial demand deposit account (a “**Transaction Account**”) with the Sponsor Bank, facilitated by us, and acknowledge receipt of disclosures from the Sponsor Bank delivered by us on its behalf.

(ii) You represent and warrant that you are located in the United States.

(iii) To register for a Swifter Account and open a Transaction Account, you (or the person submitting the application on your behalf) (your “**Representative**”) must provide us with your business or trade name, physical address, email, phone number, employer and/or tax identification number, URL, the nature of your business or activities (including the types of products sold and customers served), proof of license to sell cannabis, and certain other information about you that we or the Sponsor Bank require. You must maintain a minimum balance of not less than Five Hundred Dollars (\$500) in the Transaction Account at any time, or such other amount as we may notify you of from time to time in our discretion.

(iv) We may also collect personal information (including name, birthdate, and government-issued identification number) about your beneficial owners, principals, and your account administrator both for Swifter’s purposes and on behalf of our Sponsor Bank. You acknowledge and agree that Swifter and the Sponsor Bank shall be authorized to use such information in connection with the Services and other transactions contemplated by this Agreement. Until such time as you have submitted, and we have reviewed and approved, all required information (as determined in our sole discretion), the Services will be available to you on a preliminary basis only, and we may terminate it at any time, for any reason, with or without notice.

(v) Your name (or the name used to identify you) and URL may appear on your Customers’ bank or other statements. You may only use Services to facilitate Transactions (as defined below) with your Customers. You may not use Services to send money to others, to conduct any personal transactions, or for any other purpose not expressly authorized by this Agreement.

(b) Business Representative: You hereby represent and warrant that (i) your Representative is authorized to provide the information described in this Section A.2 on your behalf and to bind you to this Agreement and (ii) your Representative is an executive officer, senior manager or otherwise has significant responsibility for the control, management or direction of your business.

(c) Validation and Underwriting:

(i) At any time during the term of this Agreement and your use of the Services, we and the Sponsor Bank may require additional information from you to verify beneficial ownership or control of the business, validate information you provided, verify you or your Representative's identity, and assess your financial condition and the risk associated with your business. This additional information may include business invoices, copies of government-issued identification, business licenses, board resolutions relating to the Services, Swifter Account or Transaction Account, or other information related to your business, its beneficial owners or principals. We may also require that you provide copies of financial statements, reporting and validating documentation to calculate outstanding credit exposure/risk of loss (for example, your refund and shipping policies, data on captured but unfulfilled charges, the time between charge capture and fulfillment of your Customer orders), or other records pertaining to your compliance with this Agreement. In order to evaluate such compliance, we may also elect to perform, on reasonable notice to you, a site visit of your business during regular business hours. We may also require you to provide a personal or company guarantee. Your failure to provide this information or material may result in suspension or termination of your Swifter Account as determined by us in our sole discretion, at any time, with or without notice.

(ii) You authorize us to retrieve information about you from our service providers and other third parties, including credit reporting agencies and information bureaus, and you authorize and direct such third parties to compile and provide such information to us. You acknowledge that this may include your name, addresses, credit history, and other data about you, your beneficial owners, principals and/or your Representative. You acknowledge that we may use your information to verify any other information you provide to us, and that any information we collect may affect our assessment of your business. You acknowledge that in some cases, such information may lead to suspension or termination of your Swifter Account as determined by us in our sole discretion, at any time, with or without notice. Swifter may periodically update this information as part of our underwriting criteria and risk analysis procedures. You acknowledge that the Sponsor Bank may suspend or terminate your Transaction Account for any reason permitted by your agreement with the Sponsor Bank or applicable law.

(d) Changes to Your Business. Keeping your Swifter Account Current: You agree to keep the information relating to your Swifter Account and your Transaction Account current. You must promptly update your information with any changes affecting you, the nature of your business activities, your Representatives, beneficial owners, principals, or any other pertinent information. We may suspend your Swifter Account or terminate this Agreement if you fail to keep this information current. You also agree to promptly notify us in writing no more than three days after any of the following occur: you are the subject of any voluntary or involuntary bankruptcy or insolvency application, petition or proceeding, receivership, or similar action (any of the foregoing, a "**Bankruptcy Proceeding**"); there is an adverse change in your financial condition; there is a planned or anticipated liquidation or substantial change in the basic nature of your business; you transfer or sell 25% or more of your total assets, or there is any change in

25% or more of the equity, ownership or control interests in Merchant or your parent entity; or you receive a judgment, writ or warrant of attachment or execution, lien or levy against 25% or more of your total assets.

### **3. Your Relationship with Your Customers**

(a) You may only use the Services for legitimate Transactions with your Customers. You shall be solely responsible for, and Swifter shall have no liability for, the products and/or services you publicize or sell, or that your Customers purchase using the Services. You affirm that you are solely responsible for the nature and quality of the products or services you provide, and for delivery, support, refunds, returns, and for any other ancillary services you provide to your Customers.

(b) You acknowledge and agree that Swifter have no way of knowing if any particular purchase, sale, order, or other transaction (each a “**Transaction**”) is accurate or complete, or typical for your business. You shall be responsible for determining whether a Transaction initiated by your Customer is erroneous (such as a Customer purchasing one item when they meant to order another) or suspicious (such as unusual or large purchases, or a request for delivery to a foreign country where this typically does not occur). If you are unsure if a Transaction is erroneous or suspicious, you shall adequately and appropriately research the Transaction and, if necessary, contact your Customer before fulfilling or completing the Transaction. You are solely responsible for any losses you incur in connection with your use of the Services (including without limitation due to erroneous or fraudulent Transactions).

### **4. Fees and Fines**

(a) Swifter will provide the Services to you at the rates and for the fees (“**Fees**”) described in the Pricing Schedule set forth in the Order form, which will be sent to your registered email for signature and acknowledgment. The Fees include charges for Transactions (such as processing a payment) and for other events connected with your Swifter Account (such as handling a disputed charge). We may revise the Fees at any time, upon at least 30 days’ advance notice before revisions become applicable to you (or such longer period as is required by applicable Law). Your continued use of the Service following such revision constitutes your consent thereto.

(b) In addition to the Fees, you are also responsible for any assessments, penalties or fines imposed in relation to your use of the Services on you, Swifter or the Sponsor Bank by the National Automated Clearing House Association under its rules and regulations or applicable Law.

### **5. Services Support**

(a) We will provide you with support to resolve general issues relating to your use of the Services. This support includes resources and Documentation that we make available to you through our website.

(b) You are solely responsible for providing support to Customers regarding Transaction receipts, product or service delivery, support, returns, refunds, and any other issues related to your products and services and business activities. We are not responsible for providing support for the Services to your Customers.

## 6. Taxes and Other Expenses

(a) Our Fees are exclusive of all applicable taxes, customs, duties, fees and other charges imposed by any governmental authority, including any value added tax, goods and services tax, sales tax and/or withholding tax on the Services provided under this Agreement (collectively, "**Taxes**"). You shall pay all such Taxes whenever charged by us or assessed by any governmental authority, and shall indemnify us and hold us harmless from all such Taxes and any related penalties and interest. If we are required to withhold any Taxes, or we are unable to validate any tax-related identification information you provide to us, we may deduct such Taxes from amounts otherwise owed and pay them to the appropriate taxing authority. If you are exempt from payment of such Taxes, you must provide us with an original certificate that satisfies applicable legal requirements attesting to your tax-exempt status.

(b) You shall have sole responsibility and liability for (i) determining what, if any, taxes apply to the sale of your products and services, or payments you make or receive in connection with your use of the Services; and (ii) assessing, collecting, reporting, and remitting taxes for your business to the appropriate tax and revenue authorities.

(c) We may send documents to you and tax authorities for Transactions processed using the Services. Specifically, pursuant to applicable Law (including the Internal Revenue Code), we may be required to file periodic informational returns with taxing authorities in relation to your use of the Services. You acknowledge that we will report the total amount of payments you receive each calendar year as required by the Internal Revenue Service. We also may, but are not obliged to, electronically send you tax-related information (including, when you provide us your tax identification number, a Form 1099-K). Upon our reasonable request, you must provide us with information regarding your tax affairs.

## 7. Service Requirements, Limitations and Restrictions

(a) Compliance with Applicable Laws: You must use the Services in a lawful manner, and must obey all laws, rules, and regulations ("**Laws**") applicable to your use of the Services and to Transactions. As applicable, this may include compliance with domestic and international Laws related to the use or provision of financial services, notification and consumer protection, unfair competition, privacy, and false advertising, and any other Laws relevant to Transactions.

(b) Restricted Activities: You may not use the Services to enable any person (including you) to benefit from any activities that are illegal, including use of the Services in or for the benefit of a country, organization, entity, or person embargoed or blocked by any government, including those on sanctions lists identified by the United States Office of Foreign Asset Control (OFAC). We may, as determined by us in our sole discretion, add to such list of prohibited persons at any time.

(c) Other Restricted Activities: You may not use the Services to facilitate illegal Transactions or to permit others to use the Services for personal, family or household purposes. In addition, you may not allow, and may not allow others to: (i) access or attempt to access non-public Swifter systems, programs, data, or services; (ii) copy, reproduce, republish, upload, post, transmit, resell, or distribute in any way, any data, content, or any part of the Services, any documentation we provide ("**Documentation**"), or our website except as

expressly permitted by applicable Laws; (iii) act as service bureau or pass-through agent for the Services; (iv) transfer any rights granted to you under this Agreement; (v) work around any of the technical limitations of the Services or enable functionality that is disabled or prohibited; (vi) reverse engineer or attempt to reverse engineer the Services; (vii) perform or attempt to perform any actions that would interfere with the normal operation of the Services or affect use of the Services by our other users; or (viii) impose an unreasonable or disproportionately large load on the Service.

## **8. Suspicion of Unauthorized or Illegal Use**

We may refuse, condition, or suspend any Transactions and/or the use of any Services that we determine in our sole discretion: (a) may violate this Agreement or other agreements you may have with Swifter; (b) are unauthorized, fraudulent or illegal; or (c) expose you, Swifter, the Sponsor Bank, or others to unacceptable risks as determined in our sole discretion. If we suspect or know that you are using or have used the Services for unauthorized, fraudulent, or illegal purposes, we may share any information related to such activity with the appropriate financial institution, regulatory authority, or law enforcement agency consistent with our legal obligations. This information may include information about you, your Swifter Account, your Transaction Account, your Customers, and Transactions made through your use of the Services.

## **9. Disclosures and Notices; Electronic Signature Consent**

(a) Consent to Electronic Disclosures and Notices: By registering for a Swifter Account, you agree that such registration constitutes your electronic signature, and you consent to electronic provision of all disclosures and notices from Swifter and the Sponsor Bank ("**Notices**"), including those required by Law. You also agree that your electronic consent will have the same legal effect as a physical signature.

(b) Methods of Delivery: You agree that Swifter can provide Notices regarding the Services to you through our website or through the Dashboard (as defined below), or by mailing Notices to the email or physical addresses identified in your Swifter Account. Notices may include notifications about your Swifter Account, your Transaction Account, changes to the Services, or other information we or the Sponsor Bank are required to provide to you. You also agree that electronic delivery of a Notice has the same legal effect as if we provided you with a physical copy. We will consider a Notice to have been received by you within 24 hours of the time a Notice is either posted to our website or emailed to you.

(c) SMS and Text Messages: You authorize us to provide Notices to you via text message to allow us to verify your or your Representative's control over your Swifter Account (such as through two-step verification), and to provide you with other critical information about your Swifter Account. Standard text or data charges may apply to such Notices. Where offered, you may disable text message notifications in the Dashboard by responding to any such message with "STOP", or by following instructions provided in the message. However, by disabling text messaging, you may be disabling important Security Controls (as defined below) on your Swifter Account and may increase the risk of loss to your business.

(d) Requirements for Delivery: You shall maintain a computer or mobile device, Internet connectivity, and an updated browser sufficient to readily access your Dashboard and review the Notices provided to you.

(e) Withdrawing Consent: If you withdraw your consent to receive Notices electronically, we may terminate your Swifter Account at any time in our sole discretion.

## 10. Termination

(a) Term and Termination: This Agreement is effective upon the Effective Date and continues until terminated by you or Swifter. You may terminate this Agreement upon thirty (30) days' prior written notice to us. We may terminate this Agreement or close your Swifter Account at any time for any reason, including, without limitation, for any activity that may create harm or loss to the goodwill to Swifter by providing you Notice. We may suspend your Swifter Account or terminate this Agreement, if (i) we determine in our sole discretion that you are ineligible for the Services because of material fraud or credit risk, or any other risks associated with your Swifter Account; (ii) you use the Services in a prohibited manner or otherwise do not comply with any of the provisions of this Agreement; (iii) any Law, rule or guideline of Nacha, regulation, or the Sponsor Bank or any regulator with jurisdiction over the Sponsor Bank, requires us to do so, as determined by us in our sole discretion; or (iv) we are otherwise entitled to do so under this Agreement.

(b) Effects of Termination: Termination shall not relieve you of any obligations incurred by you under this Agreement. Upon termination, you agree to (i) complete all pending Transactions, (ii) stop accepting new Transactions, and (iii) immediately remove all Swifter logos from your website. If you terminate this Agreement, your subsequent continued or renewed use of the Services after all pending Transactions have been processed serves to renew your consent to the terms of this Agreement. If you terminate this Agreement, any funds remaining in your Transaction Account will be subject to the terms applicable to such account.

(c) Upon termination you understand and agree that (i) all licenses granted to you by Swifter under this Agreement will immediately end; (ii) subject to Section D.6, we reserve the right (but have no obligation) to delete all of your information and account data stored on our servers; (iii) we will not be liable to you for compensation, reimbursement, or damages related to your use of the Services, or any termination or suspension of the Services or deletion of your information or account data; and (iv) you are still liable to us for any Fees or fines, or other financial obligation incurred by you or through your use of the Services prior to termination.

## Section B: Swifter Technology

### 1. API and Dashboard

(a) Swifter has developed and provides access to the API that may be used to access the Services. You may use the API solely as described in the Documentation to use the Services on websites and through the applications identified in your Swifter Account. You may manage your Swifter Account, connect with other service providers, and enable additional features through the Swifter dashboard ("**Dashboard**").

(b) You may not use the API for any purpose, function, or feature not described in the Documentation or otherwise communicated to you by us. Due to the nature of the Services, we will update the API and Documentation from time to time, and may add or remove functionality. We will provide you Notice in the event of material changes, deprecations, or removal of functionality from the API.

(c) We will make publishable and secret API keys for live and test

Transactions available to you through the Dashboard. Publishable keys identify Transactions with your Customers, and secret keys permit any API call to your Swifter Account. You are responsible for securing your secret keys, and you hereby agree that you will not publish or share them with any unauthorized persons. Failure to secure your secret keys will increase the likelihood of fraud on your Swifter Account and potential losses to you or your Customers, which you will solely be liable for. You should contact us immediately if you become aware of any unauthorized use of your secret key or any other breach of security regarding the Services. We provide more details on proper use of publishable and secret API keys in the Documentation.

## 2. Ownership of Swifter IP

(a) As between you and Swifter, Swifter and its licensors exclusively own all rights, title, and interest in the patents, copyrights (including rights in derivative works), moral rights, rights of publicity, trademarks or service marks, logos and designs, trade secrets, and other intellectual property embodied by, or contained in the API, Services, Dashboard, and Documentation (collectively, "**Swifter IP**") or any copies thereof. Swifter IP is protected by copyright, trade secret, patent, and other intellectual property Laws, and all rights in Swifter IP not expressly granted to you in this Agreement are reserved.

(b) You may choose to or we may invite you to submit comments or ideas about improvements to the Service, our API, our platform, or any other component of our products or services ("**Ideas**"). If you submit an Idea to us, such submission shall be deemed voluntary, unsolicited by us, and delivered to us without any restrictions on our use of such Idea. You also agree that Swifter has no fiduciary or any other obligation to you in connection with any Idea you submit to us, and that we are free to use your Ideas without any attribution or compensation to you.

## 3. License

(a) You are granted a nonexclusive, nonsublicensable and nontransferable license to electronically access and use the Swifter IP only in the manner described in this Agreement. Swifter does not sell to you, and you do not have the right to sublicense, the Swifter IP. We may make updates to the Swifter IP or new Services available to you automatically as electronically published by Swifter, but we may require action on your part before you may use the Swifter IP or new Services (including activation through the Dashboard, or acceptance of new or additional terms). Swifter may revoke or terminate this license at any time if Swifter determines in its sole discretion that you are using, or have used, Swifter IP in a manner prohibited by this Agreement.

(b) You may not: (i) claim or register ownership of Swifter IP on your behalf or on behalf of others; (ii) sublicense any rights in Swifter IP granted by us; (iii) import or export any Swifter IP to a person or country in violation of any country's export control Laws; (iv) use Swifter IP in a manner that violates this Agreement or Laws; or (v) attempt to do any of the foregoing.

## 4. Swifter Marks; References to Our Relationship

(a) We may make certain Swifter logos or marks ("**Swifter Marks**") available for use by you and other users to allow you to identify Swifter as a service provider. Swifter may limit or revoke your ability to use Swifter Marks at any time. You may never use any Swifter Marks or Swifter IP consisting of trademarks or service marks without our express permission,

or in a manner that may lead people to confuse the origin of your products or services with ours.

(b) During the term of this Agreement, you may publicly identify us as the provider of the Services to you and we may publicly identify you as a Swifter user. If you do not want us to identify you as a user, please let us know. Neither you nor we will imply any untrue sponsorship, endorsement, or affiliation between you and Swifter. Upon termination of your Swifter Account, both you and Swifter will remove any public references to our relationship from our respective websites.

## 5. Content

You may use the Services to upload or publish text, images, and other content (collectively, “**Content**”) to your Swifter Account and to third-party sites or applications but only to the extent you obtain the appropriate permissions and, if required, licenses to upload or publish any such Content using the Services. You agree to hold Swifter harmless for, fully reimburse Swifter for, all fees, fines, losses, claims, and any other costs we may incur that arise from publishing illegal Content through the Services, or claims that Content you published infringes the intellectual property, privacy, or other proprietary rights of others.

## 6. Additional Services

From time to time we may offer you additional features or services that may be subject to additional or different terms of service. All such additional features and services form part of the Services, and you may not use these additional services unless you agree to the applicable agreement or terms (if any) for those services.

### Section C: Payment Processing Services

#### 1. Services Overview

(a) The Services enable you to submit ACH debits (each, a “**Debit**”) through the Sponsor Bank to debit your Customer’s bank account in connection with your sale of goods and services to such Customer and to submit ACH credits to your Payout Account (together with “**Debit**”, an “**ACH Entry**”). We may limit or refuse to process Debits for ACH Entries submitted in violation of this Agreement.

(b) The following terms used in this Agreement relate to your use of Services:

“**Dispute**” means any claim or request by the Customer for a Refund, whether communicated to you, the Sponsor Bank or the Customer’s Bank, or any dispute or disagreement relating to Debits or the goods and services with respect to which such Debits were initiated.

“**Fine**” means any assessments, fines, levies, or other charges imposed by the National Automated Clearing House Association (“**Nacha**”) in connection with ACH Entry or your use of the Services.

“**Nacha Operating Rules**” means the guidelines, bylaws, rules, and regulations imposed by Nacha that apply to ACH Entries.

“**Payout Account**” means a designated depository account in the United

States opened by or on behalf of you and owned by you.

**"Refund"** means an instruction initiated by you to return funds to a Customer as a credit for an existing Debit. A Refund may be carried out through an ACH credit to the Customer's transaction account.

**"Retry" or "Retries"** means a re-initiation of a prior ACH Entry which was a Return.

**"Return"** means an ACH Entry that fails to process.

## **2. Processing Transactions; Disputes, Refunds, Retries**

(a) You may only submit Debits through the Services that are authorized by your Customers. Each time you submit a Debit, you authorize and direct the Sponsor Bank to receive and settle any payment processing proceeds owed to you through the Services to your Transaction Account. You may not grant or assign any interest in payment processing proceeds to any third party until such time as the payment processing proceeds are deposited into your Transaction Account.

(b) You shall maintain the direct relationship with your Customers and are responsible for: (i) acquiring appropriate consent to submit Debits through the Services on their behalf; (ii) providing confirmation or receipts to Customers for each Debit; (iii) verifying Customers' identities; and (iv) determining a Customer's eligibility and authority to complete Transactions. However, even authorized Transactions may be subject to a Dispute. Swifter is not responsible for or liable to you for authorized and completed Debits that are later the subject of a Dispute or Refund, are submitted without authorization or in error, or violate any Laws.

(c) You are immediately responsible to us for all Disputes, Refunds, Retries, Returns, or Fines regardless of the reason or timing. We may decline to act upon a Refund instruction, or delay execution of the instruction, if: (i) it would cause your Transaction Account balance to become negative; (ii) you are the subject of Bankruptcy Proceedings; or (iii) where we otherwise believe that there is a risk that you will not meet your liabilities under this Agreement (including with respect to the Debit that is the subject of the Refund instruction).

(d) In many, but not all cases, you may have the ability to challenge a Dispute by submitting evidence through the API or the Dashboard. We may request additional information to assist you in contesting the Dispute, but we cannot guarantee that your challenge will be successful. The Sponsor Bank, Nacha, or the Customer's bank may deny your challenge for any reason they deem appropriate. Where a challenge is entirely or partially successful, your Transaction Account will, subject to our exercise of our rights as set forth herein, be credited with the funds associated with the Debit that is the subject of the Dispute (or a portion thereof). You may not submit a new Debit which duplicates a Transaction that is subject to a Dispute.

(e) You shall be liable for all losses you incur when lost or stolen payment credentials or accounts are used to purchase products or services from you. Swifter does not and will not insure you against losses caused by fraud under any circumstances. For example, if someone pretends to be a legitimate buyer but is a fraudster, you will be responsible for any resulting costs, including Disputes, even if you do not recover the fraudulently purchased product.

(f) A Refund for a Debit may be issued if the Debit is made without the account owner's authorization, violates the applicable Nacha Operating Rules, or for other applicable reasons. If a Refund is issued, we will provide you Notice and a description of the cause of the Refund.

(g) We may at any time require you to fund a reserve account established, owned and controlled by Swifter ("**Reserve Account**") in an amount reasonably determined by Swifter in proportion to your last three (3) months of processing history to cover Swifter's losses arising from or related to Swifter's providing the Services to you and/or to fund shortages within the program. We may commingle our operating funds or the funds of other merchants in the Reserve Account. Funds in the Reserve Account will not earn any interest. If we direct you to fund a Reserve Account or increase the amount of any existing Reserve Account, you will promptly (but no later than two (2) business days after receiving such notice) remit the required amount to the Reserve Account designated by us. If you do not timely fund the Reserve Account, Swifter may fund the such Reserve Account by debiting your Transaction Account or your Payout Account by ACH for the specified amount, and you hereby authorize us to do so. Swifter may, without notice to you, apply all or part of the balance of the Reserve Account against any outstanding amounts you owe under this Agreement or otherwise. Any amounts remaining in the Reserve Account upon termination or expiration of this Agreement shall be returned to you within one hundred eighty (180) days of such termination or expiration.

### **3. Responsibilities and Disclosures to Your Customers**

(a) It is very important to us that your Customers understand the purpose, amount, and conditions of Debits you submit to us. With that in mind, when using the Services you agree to: (i) accurately communicate, and not misrepresent, the nature of the Transaction, and the amount of the Debit in the appropriate currency prior to submitting it to the API; (ii) provide a receipt that accurately describes each Transaction to Customers; (iii) provide Customers an easy-to-use way to contact you in the event that the product or service is not provided as described; (iv) not use Services to sell products or services in a manner that is unfair or deceptive, exposes Customers to unreasonable risks, or does not disclose material terms of a purchase in advance; and (v) inform Customers that Swifter and its affiliates process Transactions (including Debits) for you. You also agree to maintain and make available to your Customers a fair and neutral return, refund, cancellation, or adjustment policy, and clearly explain the process by which Customers can receive a Refund.

(b) The Services may include functionality that enables you to receive recurring or subscription payments from your Customers, and to issue invoices to your Customers. If you use the Services to submit recurring or subscription Debits, you agree to comply with applicable Laws and Nacha Operating Rules, including clearly and conspicuously informing Customers in advance of submitting the initial Debit that they will be charged on an ongoing basis, obtaining their electronic signature, explaining the method for unsubscribing or cancelling their recurring billing or subscription, providing a copy of the subscription terms, providing advance notice of renewal, and providing them with a copy of their authorization. If you use the Services to issue invoices to your Customers, you understand and agree that it is your responsibility to ensure that the form and content of the invoices comply with applicable Laws, and are sufficient to achieve any legal or tax effect that you are trying to achieve.

(c) You specifically agree to provide consumers disclosures required by Law, and to not engage in unfair, deceptive, or abusive acts or practices ("**UDAAP**").

#### **4. Automated Clearinghouse (ACH)**

(a) The ACH network is controlled and managed by Nacha and its member organizations. As an Originator, you are required to comply with the Nacha Operating Rules. Nacha may amend the Nacha Operating Rules at any time, and we may amend this Agreement or make changes to the Services as necessary to comply with the Nacha Operating Rules, with or without notice to you.

(b) You understand and accept your role as the Originator (as defined in the Nacha Operating Rules), and to assume all responsibilities of an Originator under the Nacha Operating Rules. You agree to obtain your Customer's consent to debit or credit their bank account and initiate a Debit over the ACH network. Such consent must be in a form and manner that complies with the Nacha Operating Rules and the Documentation for ACH Transactions. As with other Services, you may not, and may not attempt to send or receive funds to or from a person, entity, or state where such Transactions are prohibited by applicable Law. You also agree to maintain the security and integrity of all information you collect as part of an ACH Transaction. If you violate any of the applicable Nacha Operating Rules and Nacha imposes a Fine on the Sponsor Bank because of such violation(s), the Sponsor Bank may charge a Fine to Swifter, in which case you agree to immediately reimburse Swifter upon written notice thereof. If you fail to do so, Swifter may in its sole discretion debit your Transaction Account or any Reserve Account for the amount of such Fine. You acknowledge and agree that the Sponsor Bank is the Originating Depository Financial Institution for all Debits or other ACH Entries you originate under this Agreement as governed by your agreement with the Sponsor Bank.

(c) By engaging in the Services, you also agree to abide by the terms set forth in the ACH origination agreement between you and the Sponsor Bank.

(d) You authorize Swifter, as a Third-Party Service Provider (as defined in the Nacha Operating Rules) and the Sponsor Bank to format, submit and process ACH Entries on your behalf.

(e) Any violations of the Nacha Operating Rules, Disputes or unauthorized ACH Entries using the ACH network may result in you becoming unable to use the Services.

#### **5. Settlement and Payout Schedule**

(a) Swifter will not hold, possess or control any of your funds or your Customer's funds at any time, but will instead upload ACH files that enable Customer payments to directly settle into your Transaction Account and will retain the right to debit your Transaction Account subject to the terms set forth in this Agreement. You acknowledge that the Nacha Operating Rules will apply to any ACH Entry or activity and you agree to be bound by these rules. You acknowledge that the Sponsor Bank may delay settlement to your Transaction Account for any reason. We are not responsible for any action taken by the Sponsor Bank to not credit your Transaction Account or to otherwise not make funds available to you as you expected.

(b) Incorrect Settlement: The information required for settlement will depend on the financial institution holding the Payout Account. You will ensure that any information about the Payout Accounts that you provide to us is accurate and complete. If you provide us with incorrect information (i) you understand that funds may be settled to the wrong account and that we may not be able to recover the funds from such incorrect transactions and (ii) you agree

that (A) you are solely responsible for any losses you or third parties incur due to erroneous settlement transactions, (B) you will not make any claims against us related to such erroneous settlement transactions, and (C) you will fully reimburse us for any losses we incur.

(c) **Collection and Set-Off Rights:** You agree to pay all amounts owed to us and to our affiliates on demand. Your failure to pay amounts owed to us or to our affiliates under this Agreement is a breach and you will be liable for any costs we incur during collection in addition to the amount you owe. Collection costs may include, attorneys' fees and expenses, costs of any arbitration or court proceeding, collection agency fees, any applicable interest, and any other related cost.

(d) In certain circumstances, we may require a personal, parent or other guarantee (a "**Guarantee**") from a your principal, owner, or other guarantor. A Guarantee consists of a legally binding promise by an individual or an entity to pay any amounts you owe in the event that you are unable to pay. If we require you to provide us with a Guarantee, we will specifically inform you of the amount of, and the reasons for the Guarantee. If you are unable to provide such a Guarantee when required, you will not be permitted to use the Services.

## **6. Reconciliation and Error Notification**

The Dashboard contains details of ACH Entries, ACH Entry history, and other activity on your Swifter Account. Except as otherwise required by Law, you are solely responsible for reconciling the information in the Dashboard generated by your use of Services with your records of Customer Transactions and for identifying any errors. You agree to review your Swifter Account and your Transaction Account regularly and frequently and immediately notify us of any errors. We will investigate any reported errors, including any alleged errors made by Swifter or the Sponsor Bank, and, when appropriate, attempt to rectify them. However, you should be aware that your ability to recover funds you have lost due to an error may be very limited or even impossible, particularly if we did not cause the error, or if funds are no longer available. For Transaction errors, we will work with you and the Sponsor Bank to correct a Transaction error in accordance with the applicable Nacha Operating Rules. If you fail to communicate an error to us for our review without undue delay and, in any event, within 60 days after you discovered it and flagged it in the Dashboard, you waive your right to make any claim against us or the Sponsor Bank for any amounts associated with the error.

## **Section D: Data Usage, Privacy, and Security**

### **1. Data Usage Overview**

(a) Protecting, securing, and maintaining the information processed and handled through the Services is one of our top priorities, and it should be yours too. This section describes our respective obligations when handling and storing information connected with the Services. The following terms used in this section relate to certain data provided to Swifter by you or your Customers, or received or accessed by you through your use of the Services:

**"Customer Personal Data"** means data that is transmitted to or accessible through the Services, and which identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with an individual who is your Customer or the household of one of your Customers. Customer Personal Data includes without limitation Payment Account Details (as defined below). Customer Personal Data does not include any deidentified, aggregated or anonymized data.

**“Merchant Data”** means information that identifies your business and describes its operations, your products or services, and orders placed by Customers. Merchant Data includes Customer Personal Data and Payment Data.

**“Payment Account Details”** means the bank account details for a Customer.

**“Payment Data”** means Payment Account Details and other information used with the Services to complete a Transaction for one of your Customers.

**“Swifter Data”** means details of the API transactions over Swifter infrastructure, information used in fraud detection and analysis, aggregated or anonymized information generated from Merchant Data, and any other information created by or originating from Swifter or the Services that does not meet the definition of Merchant Data.

## **2. Use and Confidentiality of Data**

(a) You are the exclusive owner of and retain all rights, title and interest to Merchant Data. You are responsible for the accuracy, quality, integrity, and legality of your Merchant Data. You hereby grant Swifter a nonexclusive, worldwide, sublicensable, assignable, fully paid-up and royalty-free right and license to collect, process, use, transmit, and store the Merchant Data for the purpose of providing the Services.

(b) You agree to comply with all applicable Laws and Nacha Operating Rules in your use of the Services, including with respect to any Merchant Data or Swifter Data.

(c) Swifter processes, analyzes, and manages Merchant Data to: (i) provide Services to you, other Swifter users, and Customers; (ii) mitigate fraud, financial loss, or other harm to users, Customers and Swifter; and (iii) analyze, develop and improve our products, systems, and tools. Swifter provides Merchant Data to third-party service providers as well as to Swifter’s affiliates, to allow us to provide Services to you and other users. Swifter will only use Merchant Data as permitted by this Agreement, by other agreements between you and us, or as otherwise directed or authorized by you. You understand and consent to Swifter’s use of Merchant Data for the purposes and in a manner consistent with this Section D.

(d) You will protect all Swifter Data you receive through the Services, you may not disclose or distribute any such Swifter Data, and you will only use such Swifter Data in conjunction with the Services and as permitted by this Agreement or by other agreements between you and us.

## **3. Data Protection and Privacy**

(a) Privacy: Protection of Personal Data is very important to us. You agree to the terms of our Privacy Policy, posted at <https://www.treez.io/privacy-policy>, and which we may update from time to time.

(b) With respect to Customer Personal Data, we do not: sell or share Customer Personal Information; retain, use or disclose Customer Personal Information for any purpose, including any commercial purpose, other than for the specific purpose of performing the Services; retain, use or disclose the information outside of the direct business relationship between us and you; combine Customer Personal Data that we receive from you with personal

information we receive from other sources, except as permitted by applicable privacy laws; or provide Customer Personal Data to unaffiliated parties for marketing purposes. We certify that we understand and comply with these restrictions on our use of Customer Personal Information.

(c) You affirm that you are now and will continue to be compliant with all applicable Laws governing the privacy, protection, and your use of Customer Personal Data and any other data that you provide to us or access through your use of the Services. You also affirm that you have obtained all necessary rights and consents under applicable Laws to disclose to Swifter – or allow Swifter to collect, use, retain, and disclose – any Customer Personal Data that you provide to us or authorize us to collect, including any Customer Personal Data that we may collect directly from Customers using cookies or other similar means. As may be required by Law and in connection with this Agreement, you are solely responsible for disclosing to Customers that Swifter processes Transactions (including payment Transactions) for you and may receive Customer Personal Data from you. Additionally, where required by Law or Nacha Operating Rules, we may delete or disconnect Customer Personal Data from your Swifter Account when requested to do so by the Customer.

(d) If we become aware of an unauthorized acquisition, disclosure or loss of Customer Personal Data on our systems, we will notify you consistent with our obligations under applicable Law. We will also notify you and provide you sufficient information regarding the unauthorized acquisition, disclosure or loss to help you mitigate any negative impact on the Customer.

#### **4. Security and Fraud Controls**

(a) Swifter's Security: Swifter will maintain commercially reasonable and appropriate administrative, physical, and technical safeguards for the protection of the security, confidentiality, and integrity of

(b) Merchant Data. We will comply with applicable Laws and Nacha Operating Rules when we handle Merchant Data.

(c) You are responsible for securing your Swifter Account, any Swifter Data that you access or that is your possession or control, and your use of any Swifter systems you use in connection with the Services, including without limitation the API. You agree to implement commercially reasonable and appropriate administrative, physical, and technical safeguards with respect to your use of the Services.

(d) We may provide certain security features or recommendations ("**Security Controls**") in connection with your use of the Services. We do not warrant that any Security Controls, individually or taken together, are sufficient to secure your use of the Services, and our provision of any Security Controls in no way diminishes your security responsibilities set forth in this section D.

(e) In our sole discretion, we may take any action, including suspension of your Swifter Account, to maintain the integrity and security of the Services and any data stored or processed through the Services, or otherwise to prevent harm to you, us, Customers, or others. You waive any right to make a claim against us for losses you incur that may result from such actions.

(f) Your Security: You are solely responsible for the security of any Swifter

Data or Merchant Data in your possession, or that you are otherwise authorized to access or handle, and will provide evidence of your compliance to us upon our request. If you do not provide evidence of such compliance to our satisfaction, we may suspend your Swifter Account or terminate this Agreement.

(g) **Fraud Risk:** You are solely responsible for losses you incur from the use of lost or stolen payment credentials or accounts by fraudsters who engage in fraudulent Transactions with you. We may assist you with recovering lost funds, but you are solely responsible for losses due to lost or stolen credentials or accounts, compromise of your username or password, changes to your Payout Account, and any other unauthorized use or modification of your Swifter Account. Swifter is not liable or responsible to you and you waive any right to bring a claim against us for any losses that result from the use of lost or stolen credentials or unauthorized use or modification of your Swifter Account, unless such losses result from Swifter's willful or intentional actions. Further, you will fully reimburse us for any losses we incur that result from the use of lost or stolen credentials or accounts.

(h) We may also provide you with Data regarding the possibility or likelihood that a Transaction may be fraudulent. We may incorporate any subsequent action or inaction by you into our fraud model, for the purpose of identifying future potential fraud. You understand that we provide this Data to you for your consideration, but that you are ultimately responsible for any actions you choose to take or not take in relation to such Data.

## **5. Provision of Payment Account Details upon Termination**

Unless you have been terminated for cause or the Sponsor Bank has suspended or closed your Transaction Account, within 30 days after termination of this Agreement you may request in writing that we provide to an alternative payment services provider the Payment Account Details regarding Transactions between you and your Customers that you are entitled to receive. We may require you to provide evidence that the alternative payment services provider has appropriate systems and controls as a precondition to the provision of any Payment Account Details, and may condition any such provision on entering into a data transfer agreement with such alternative payment service provider on commercially reasonable terms. Our obligation to comply with a request under this section is limited to the extent commercially reasonable, and we may delay or refuse any request if we believe the payment services provider you have identified does not have systems or controls in place that are sufficient to protect Payment Account Details, that the integrity of Payment Account Details may be compromised, or if Laws or Nacha Operating Rules prohibit us from providing the Payment Account Details.

## **Section E: Additional Legal Terms**

### **1. Right to Amend**

We have the right to change or add to the terms of this Agreement at any time, including as set forth in Section A.4(a), solely with prospective effect, and to change, delete, discontinue, or impose conditions on use of the Services. We will provide you with Notice of any changes through the Dashboard, via email, or through other reasonable means. If you are an existing Swifter user, the changes will come into effect thirty (30) days after Notice of such change, unless our Sponsor Bank, applicable Law or a regulatory authority requires that a change occur in a shorter period, in which case we will provide as much advance notice as is reasonably practicable. Your use of the Services, API, or Data more than 10 days after you receive Notice of any such changes constitutes your acceptance of the terms of the modified Agreement. You

can access a copy of the current terms of this Agreement on our website at any time. You can find out when this Agreement was last changed by checking the “Last updated” date at the top of the Agreement.

## **2. Right to Audit**

If we believe that a security breach, leak, loss, or compromise of data has occurred on your systems, website, or app affecting your compliance with this Agreement, we may require you to permit a third-party auditor approved by us to conduct a security audit of your systems and facilities, and you must fully cooperate with any requests for information or assistance that the auditor makes to you as part of the security audit. The auditor will issue a report to us which we may share with the Sponsor Bank and/or other third parties involved in the provision of Services.

## **3. Third-Party Services**

We may reference or provide access to third-party services, products, and promotions that utilize, integrate, or provide ancillary services to the Services (“**Third-Party Services**”). These Third-Party Services are provided for your convenience only and our making such services available does not constitute our approval, endorsement, or recommendation of any such Third-Party Services for you. You access and use any Third-Party Service based on your own evaluation and at your own risk. You understand that your use of any Third-Party Service is not governed by this Agreement. If you decide to use a Third-Party Service, you will be responsible for reviewing, understanding and accepting the terms and conditions associated with its use. We expressly disclaim all responsibility and liability for your use of any Third-Party Service. If and to the extent you use a Third-Party Service, our Privacy Policy will no longer in effect. Your use of a Third-Party Service, including those that have a link on our website, is subject to that Third-Party Service’s own terms of use and privacy policies.

## **4. Your Liability For Third-Party Claims Against Us**

(a) Without limiting, and in addition to, any other obligation that you may owe under this Agreement, you are at all times responsible for the acts and omissions of your employees, contractors and agents, to the extent such persons are acting within the scope of their relationship with you.

(b) In addition to the terms of Section 11 of the TOS (incorporated herein pursuant to Section A.1(b) above), you agree to indemnify and defend Swifter, our affiliates, subsidiaries, parent entities, and their respective officers, directors, employees, agents, and service providers (each a “**Swifter Entity**”) against any claim, suit, demand, loss, liability, damage, action, or proceeding (each, a “**Claim**”) brought by a third party against a Swifter Entity, and you agree to fully reimburse the Swifter Entities for any Claims that arise or result from: (i) your breach of any provision of this Agreement; (ii) any Fees, Fines, Disputes, Refunds, Retries, Returns, or any other liability we incur that results from your use of the Services; (iii) the negligent or willful misconduct of you, your employees, contractors, or agents; or (iv) contractual or other relationships between you and Customers.

## **5. Representations, Warranties and Covenants**

By accepting the terms of this Agreement, you represent, warrant and covenant that: (a) you are eligible to register and use the Services and have the authority to execute and perform the obligations required by this Agreement; (b) any information you provide us about your business, products, or services is accurate and complete; (c) any Debits represent a Transaction for permitted products, or services, and any related information accurately describes the Transaction; (d) you will fulfill all of your obligations to Customers and will resolve all Disputes with them; (e) you will comply with all Laws applicable to your business and use of the Services; (f) your employees, contractors and agents will at all times act consistently with the terms of this Agreement; (g) you will not use Services for personal, family or household purposes, for peer-to-peer money transmission, or (except in the normal course of business) intercompany Transactions; and (h) you will not use the Services, directly or indirectly, for any fraudulent or illegal undertaking, or in any manner that interferes with the normal operation of the Services.

## **6. No Warranties**

WE PROVIDE THE SERVICES AND SWIFTER IP “AS IS” AND “AS AVAILABLE”, WITHOUT ANY EXPRESS, IMPLIED, OR STATUTORY WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR ANY OTHER TYPE OF WARRANTY OR GUARANTEE. NO DATA, DOCUMENTATION OR ANY OTHER INFORMATION PROVIDED BY SWIFTER OR OBTAINED BY YOU FROM OR THROUGH THE SERVICES – WHETHER FROM SWIFTER OR ANOTHER SWIFTER ENTITY, AND WHETHER ORAL OR WRITTEN – CREATES OR IMPLIES ANY WARRANTY FROM A SWIFTER ENTITY TO YOU.

YOU AFFIRM THAT NO SWIFTER ENTITY CONTROLS THE PRODUCTS OR SERVICES THAT YOU OFFER OR SELL OR THAT YOUR CUSTOMERS PURCHASE USING THE PAYMENT PROCESSING SERVICES. YOU UNDERSTAND THAT WE CANNOT GUARANTEE AND WE DISCLAIM ANY KNOWLEDGE THAT YOUR CUSTOMERS POSSESS THE AUTHORITY TO MAKE, OR WILL COMPLETE, ANY TRANSACTION.

THE SWIFTER ENTITIES DISCLAIM ANY KNOWLEDGE OF, AND DO NOT GUARANTEE: (a) THE ACCURACY, RELIABILITY, OR CORRECTNESS OF ANY DATA PROVIDED THROUGH THE SERVICES; (b) THAT THE SERVICES WILL MEET YOUR SPECIFIC BUSINESS NEEDS OR REQUIREMENTS; (c) THAT THE SERVICES WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, OR WILL FUNCTION IN AN UNINTERRUPTED MANNER OR BE SECURE; (d) THAT SWIFTER WILL CORRECT ANY DEFECTS OR ERRORS IN THE SERVICES, API, DOCUMENTATION, OR DATA; OR (e) THAT THE SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL CODE. USE OF DATA YOU ACCESS OR DOWNLOAD THROUGH THE SERVICES IS DONE AT YOUR OWN RISK – YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY, LOSS OF DATA, OR ANY OTHER LOSS THAT RESULTS FROM SUCH ACCESS OR DOWNLOAD. YOU UNDERSTAND THAT THE SWIFTER ENTITIES MAKE NO GUARANTEES TO YOU REGARDING TRANSACTION PROCESSING TIMES OR PAYOUT SCHEDULES.

NOTHING IN THIS AGREEMENT OPERATES TO EXCLUDE, RESTRICT OR MODIFY THE APPLICATION OF ANY IMPLIED CONDITION, WARRANTY OR GUARANTEE, OR THE EXERCISE OF ANY RIGHT OR REMEDY, OR THE IMPOSITION OF ANY LIABILITY UNDER LAW WHERE TO DO SO WOULD: (A) CONTRAVENE THAT LAW; OR (B) CAUSE ANY TERM OF THIS AGREEMENT TO BE VOID.

## **7. Responding to Legal Process**

Swifter and the Sponsor Bank may respond to and comply with any writ of attachment, lien, levy, subpoena, warrant, or other legal order (“**Legal Process**”) that we or the Sponsor Bank believe to be valid. We or the Sponsor Bank may deliver or hold any funds or, subject to the terms of our Privacy Policy, any Data as required under such Legal Process, even if you are receiving funds or Data on behalf of other parties. Where permitted by Law, we will make reasonable efforts to provide you Notice of such Legal Process by sending a copy to the email address we have on file for you. Neither any Swifter Entity nor the Sponsor Bank is responsible for any losses, whether direct or indirect, that you may incur as a result of our response or compliance with a Legal Process.

## **8. Limitation of Liability.**

IN NO EVENT SHALL ANY SWIFTER ENTITY, SPONSOR BANK, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, OR EMPLOYEES, BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, YOUR ACCESS TO OR USE OF THE SERVICES OR OTHERWISE RELATED TO THIS AGREEMENT, WHETHER BASED ON A THEORY OF NEGLIGENCE, CONTRACTOR, TORT, STRICT LIABILITY, OR OTHERWISE, AND EVEN IF SWIFTER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF SWIFTER IS FOUND LIABLE FOR ANY LOSS OR DAMAGE THAT ARISES OUT OF OR IS IN ANY WAY CONNECTED WITH YOUR USE OF THE SERVICES OR THIS AGREEMENT, THEN IN NO EVENT WILL SUCH LIABILITIES EXCEED, IN THE AGGREGATE, THE FEES PAID TO SWIFTER IN THE TWELVE MONTHS PRIOR TO THE CLAIM.

## **9. Cumulative Rights, Construction, Waiver**

The rights and remedies of the parties under this Agreement are cumulative, and either party may enforce any of its rights or remedies under this Agreement, along with all other rights and remedies available to it at Law, in equity or under the Nacha Operating Rules. No provision of this Agreement will be construed against any party on the basis of that party being the drafter. Unless expressly stated otherwise, the use of the term “including” or “such as” is not to be interpreted as limiting the generality of the text preceding the term. The failure of either party to enforce any provision of this Agreement will not constitute a waiver of that party’s rights to subsequently enforce the provision.

## **10. Survival**

All provisions of this Agreement that give rise to a party’s ongoing obligation will survive termination of this Agreement, including Sections A.3 (“Your Relationship with Your Customers”), A.6 (“Taxes and Other Expenses”), A.7 (“Service Requirements, Limitations and Restrictions”), A.8 (“Suspicion of Unauthorized or Illegal Use”), A.9 (“Disclosures and Notices; Electronic Signature Consent”), A.10.b (“Effects of Termination”), B.2 (“Ownership of Swifter IP”), C.5 (“Settlement and Payout Schedule”), C.6 (“Reconciliation and Error Notification”), D.4 (“Security and Fraud Controls”), D.5 (“Provision of Payment Account Details upon Termination”), E.4 (“Your Liability for Third-Party Claims Against Us”), E.5 (“Representations and Warranties”), E.6 (“No Warranties”), E.7 (“Responding to Legal Process”), E.8 (“Limitation of Liability”), E.9 (“Cumulative Rights, Construction, Waiver”) and E.10 (“Survival”); and any related terms in the Agreement.

## Schedule 2

### Cole Memo Priorities and Additional Requirements

1. Cole Memo Priorities: You hereby represent, warrant and covenant that, as of the Effective Date you have are currently preventing and have prevented, and during the term of this Agreement you shall prevent:
  - (a) the distribution of marijuana to minors;
  - (b) revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels;
  - (c) the diversion of marijuana from states where it is legal under state law in some form to other states;
  - (d) state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
  - (e) violence and the use of firearms in the cultivation and distribution of marijuana;
  - (f) drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
  - (g) the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
  - (h) marijuana possession or use on federal property.
  
2. Additional Requirements. You hereby covenant that during the term of this Agreement you shall:
  - (a) not comingle funds between MRB and personal account(s), and each MRB entity/license shall maintain its own account unless otherwise approved by the Sponsor Bank;
  - (b) allow site visits with a Swifter representative on an as needed basis;
  - (c) notify Swifter within ten (10) business days and provide the necessary documents as requested if there are any updates with your business, including but not limited to a change in address for either the MRB or the entity owners and/or a change in company ownership;
  - (d) disclose to Swifter any enforcement action by the state marijuana authority or other government agency, along with any related remediation plans so that the Sponsor Bank may determine if the infraction warrants terminating the banking relationship;
  - (e) maintain the required distance of the MRB from schools as directed in state law;
  - (f) provide any additional documentation as requested by Swifter or our vendors, partners and affiliates during the account opening process;
  - (g) attest that you will file Form 8300 with the IRS as needed and will provide this documentation to the Sponsor Bank as requested; and
  - (h) not accept payments by credit card or cryptocurrency.