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# Evolution terms and conditions

Copia di Cortesia

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## 1. General Terms and Conditions

### 1.1. Introduction

These general terms and conditions (the "**General Terms and Conditions**" or "**Agreement**") together with the following documents which form an integral and substantial part thereof constitute the agreement between the Parties (as defined below) relating to the sale by the Company to the User (as defined below) of Hashing Power and the related BTC Extraction (as defined below) as well as the sale of the Digital Product (as defined below), namely (the "**Annexes**"):

- (a) The order form (the "**Order Form**");
- (b) The summary of the Order Form (the "**Order Summary**");
- (c) The information regarding the processing of personal data (the "**Privacy Policy**");
- (d) The general product terms and conditions of sale (the "**Terms of Sale**");
- (e) the conditions of the so-called HLT *token* incorporated in the so-called **White Paper** (the "**White Paper**").

In case of conflict between the General Conditions and the Order Form, the provisions contained in the Order Form shall prevail.

### 1.2. Identification code

The Order Form, General Conditions and Order Summary, are each marked with the same identification code.

## 2. Method of signing the Contract

### 2.1. Effectiveness of the Order Form

The Order Form contains a summary of the main information regarding Hashing Power, the Digital Product and its payment method as well as the duration of the Contract. The User declares that, prior to transmitting and signing the Order Form, he/she has fully read the Annexes and fully accepts their contents. A copy of the Attachments and the Contract will be stored in the User's private area on the domain site [www.swagyourlife.com](http://www.swagyourlife.com). The User also acknowledges and accepts that the conclusion of the Contract is subject to SWAG OÜ's express acceptance of the Order Form. Following the signing of the Contract, SWAG OÜ will transmit to the e-mail address provided by the User the Order Summary aimed at summarizing the main information contained in the Order Form.

## 2.2. Means of exchange of consent to enter into the Contract

For the purpose of the completion of the Contract, the Parties (as defined below) agree that the transmission of the Order Form and the General Conditions may be by electronic means. Therefore, the Parties (as defined below) waive their right to dispute and/or raise exceptions as to the authenticity and legal and evidentiary validity of the means of transmission used to exchange the Order Form as well as the General Conditions.

## 3. Definitions

In addition to terms and expressions that may be defined in other clauses of the General Terms and Conditions and/or the Order Form, the terms and expressions listed below shall have the meanings set forth below, terms defined in the singular shall also be understood to be defined in the plural, and vice versa:

**Accreditation of Mining** Has the meaning given in Article 4 of the General Conditions

**BTC** Denotes the virtual currency called Bitcoin, for more extensive information in relation to it and the functions of the technology please see <http://bitcoin.org>

**Fee** Has the meaning given in Article 6.2 of the General Conditions

**Date of Withdrawal** has the meaning given in Article 6.3 of the General Conditions

**EEAS** European External Action Service, which manages the EU's diplomatic relations with countries outside the EU and conducts the EU's foreign and security policy

**Extraction of BTC** the activity carried out by a Miner or a Mining Pool aimed at mining BTC or portions thereof as a reward resulting from the discovery of the hash that becomes header of a new Bitcoin blockchain block in order to link the latter to the former

**Force Majeure Event** any act or event beyond Swag's reasonable control, including, without limitation, strikes, lockouts or other labor actions by third parties, civil disturbances, riots, invasions, terrorist attacks or threats of terrorist attacks, war (whether or not



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declared) or threat or preparation for war, fires, explosions, storms floods, earthquakes, subsidence, epidemics or other natural disasters, failure of public or private telecommunications or electricity networks or providers of telecommunications and electricity services, material change in applicable law or change in industry self-regulation related to BTC, Mining or associated services

<b>Hashing Power</b>	The actual nominal computing power generated and used by the Miner/s in order to perform mathematical calculations aimed at validating transactions recorded in a new block on the Bitcoin blockchain
<b>Miner</b>	the IT hardware and equipment that generates the Hashing Power used by the Company in the Mining Pool
<b>Mining</b>	means the process by which new BTCs are created by solving the mathematical algorithms required to certify the validity and unalterability of the information contained in a new block on the Bitcoin blockchain
<b>Mining Pool</b>	means the site at which the Hashing Power or third party extraction activity takes place as specified in the Order Summary
<b>Transfer Request</b>	Has the meaning given in Article 8 of the General Conditions
<b>OFAC</b>	Office of Foreign Asset Control of the U.S. Department of the Treasury means the body that administers and enforces economic and trade sanctions based on U.S. foreign policy and national security objectives against foreign countries and regimes, terrorists, international drug traffickers, individuals involved in activities related to the proliferation of weapons of mass destruction, and other threats to U.S. national security, foreign policy, or economy
<b>OFSI</b>	Office of Financial Sanctions Implementation means the office that is responsible, <i>inter alia</i> , for imposing financial sanctions in the UK
<b>Parts</b>	means, collectively, the User and Swag



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<b>Lock period</b>	has the meaning given in Article 6.4 of the General Conditions
<b>Digital Product or SWA Token</b>	means the digital product or so-called SWA <i>token</i> developed by the Company, as further described in the Terms of Sale
<b>Refund</b>	has the meaning given in Article 6.3 of the General Conditions
<b>Full Service Maintenance</b>	has the meaning given in Article 7 of the General Conditions
<b>Swag or the Society</b>	SWAG OÜ, a company under Estonian law, located at Tartu Mnt 14 IV floor, 10117 Tallinn, Estonia, registration number 14762080 and VAT number EE102318205
<b>Technology</b>	hardware and its characteristics and modes of operation, trade secrets, know-how, inventions (whether patentable or not), techniques, processes, programs, ideas, algorithms, schematics, test procedures, software design and architecture, computer code, internal documentation, design and function specifications, product requirements, problem reports, analysis and performance information, benchmarks, software documents, and other information technical, commercial, product, marketing and financial plans and data, methods, apparatus and processes subject to publication, distribution and exploitation to facilitate the Company's Mining activities and include without limitation software/hardware and other mining infrastructure, software tools, user interface designs and any derivatives, enhancements, extensions developed or used by Swag including through third parties
<b>Term</b>	Has the meaning given in Article 5 of the General Conditions
<b>HLT token</b>	means the digital product or so-called HLT <i>token</i> developed by the Company, as further described in the White Paper
<b>User</b>	means the natural or legal person signing the Contract, as better identified in the Order Form



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- User Wallet** the User's digital wallet, other than the Swaggy Wallet, offered by third parties and linked to the Swag site by the User via indication of the public key only pursuant to the procedure adopted by the Company, aimed at enabling the User to deposit and/or transfer BTC
- Wallet Swaggy** the BTC digital wallet offered by the Company to the User aimed at enabling the User to register BTC and safeguard the private key needed to use the digital wallet

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#### 4. Subject of the Contract

This Agreement is for the purpose of the assignment for consideration by the Company to the User of an amount of Hashing Power so-called Tera-Hash, the collection and transfer of an amount of BTC resulting from the BTC Extraction produced by the aforesaid Hashing Power from the date of signing of the Agreement to the Term as well as the sale of the Digital Product and HLT Token created by the Company (the "**Assignment**").

Pursuant to this Contract:

- (a) The Society:
  - (i) does not transfer to the User any ownership rights with respect to the Miner or any right, title or interest in the Technology;
  - (ii) does not grant the User any license, express or implied, or any copyright, patent or any other intellectual property right relating to the Technology;
  - (iii) will transfer to the User an amount of BTC resulting from the Extraction of BTC time by time varying and dependent on the amount of Hashing Power possessed by the User;
  - (iv) will not transfer possession of the Hashing Power and Miner to the User in any way;
  - (v) may determine, at its discretion, the allocation and use of the Hashing Power subject to Assignment reserving the right, at any time, to determine at which Miners to use the Hashing Power;
- (b) The User:
  - (i) mandates the Company to manage on its own behalf the Hashing Power subject to Assignment;
  - (ii) acknowledges that it will have no rights in connection with the management and use of the Miner and/or the Mining Pool at which it allocates Hashing Power.

As part of the Assignment and at the end of each month of the term of the Agreement, the Company agrees to transfer to the User an amount of BTC resulting from the Mining of BTC equal to a certain percentage of the consideration paid in connection with the purchase of the Hashing Power as set forth below in the summary table in Article 6.2 of the Agreement (the "**Mining Credit**").

#### 5. Contract Duration

The Assignment shall be effective as of the date the Agreement is signed and for the following year (the "Term").

## 6. Obligations of the Parties

### 6.1. Miner installation and management

In order to enable the production and management of Hashing Power, the User delegates the activity of installing and managing the Miner or portions thereof to the Company.

The Company warrants that it will independently and at its own expense, through the use of qualified personnel, install the Miner in order to enable the Assignment on the terms and conditions set forth in the Order Form.

### 6.2. Divestiture Consideration

The Company will make the Assignment against payment by the User of a *one-time* fee, in Euro or virtual currency as from time to time indicated through the Platform on the relevant pages of the individual available products related to the Mining services offered (the "Fee")

Except as otherwise provided in the General Conditions, the Consideration includes all costs incurred by the Company as part of the Assignment relating to, but not limited to, hosting, repairs to the Miner, and the cost of electricity required to power the Mining activity.

### 6.3. Refund

On the Termination Date, the Company will transfer to the section called "MyBalance" of the User *account* an amount of Euros equal to the Hashing Power Consideration paid to the Company as part of the Assignment (the "Reimbursement").

### 6.4. Transfer, use and airdrop of the Digital Product

Within the scope of the Assignment and on the date of signing the Contract, the Company will grant the User the right to redeem an amount of SWA Token and HLT Token based on the relevant information indicated from time to time on the Platform on the relevant pages of the individual available products related to the offered Mining services, as well as the countervalue in Euro of the Token and HLT Token indicated on the Company's *exchange* platform on the date of signing the Contract.



Except as otherwise provided below, User's use of the aforesaid Digital Product and HLT Token shall be governed respectively by the Terms of Sale and White Paper attached to this Agreement as well as in each additional document referred to herein.

As of the effective date of the Contract:

- (a) Tokens allocated to the User under this Agreement may not be transferred from the User Wallet or Wallet Swaggy to another *wallet* for a period equal to 1 (one) year (the "**SWA Lock Period**"), from the date of signing this Agreement ;
- (b) HLT Tokens allocated to the User pursuant to this Agreement may not be transferred from the User Wallet or Wallet Swaggy to another *wallet* for a period equal to 10 (ten) months (the "**HLT Lock Period**") , as of the date of transfer of the HLT Token as set forth in the White Paper .

At the end of the HLT Lock Period and for the next 8 (eight) months, the User may freely dispose of the HLT Tokens *pro rata*.

Except as otherwise provided in relation to HLT Tokens, at the end of the respective SWA Lock Period and HLT Lock Period, the User may freely dispose of the SWA Tokens and HLT Tokens .

Beginning on the sixteenth day of the effective date of the Agreement and until the Term, the Company will transfer to the User free of charge on a weekly basis a *pro rata* amount of Tokens equal to 7% per annum of the Tokens held on the effective date of the Agreement ("**Airdrop**").

The User may freely dispose of Tokens received free of charge under the Airdrop.

#### **6.5. Miner's duty of care**

In order to enable the Assignment and up to the Term, the Company agrees:

- (a) To not use the Miner to pursue illegal purposes or commit illegal activities;
- (b) To use the Miner according to its specific intended use and in compliance with the requirements and technical/operational instructions in the manuals;
- (c) To place the Miner in suitable locations free from specific risks concerning safety and accident prevention;
- (d) Not to alter the original state of the Miner;
- (e) To carry out regular cleaning of all parts of the Miner through the use of specialized technical personnel from the Mining Pool.

#### **7. Full Service Maintenance**

#### **7.1. "Full Service" Maintenance Service**

Within the scope of the Contract, unless otherwise agreed between the Parties, the Company shall offer the so-called "**Full Service Maintenance Service**" referred to in this Article to the User free of charge.

#### **7.2. Contents, conditions and limits of usability of Full Service Maintenance Service.**

Full Service Maintenance includes any ordinary and extraordinary maintenance work carried out by the Company, whatever the origin and cause of the failure, aimed at restoring the normal functionality of the Miner such as, for example, in the event that as a result of the failure (or theft), it is necessary to proceed to the replacement of one or more of the components listed below: transformer, boards, UPS batteries, PC board, touch screen.

#### **7.3. Deliverability of Full Service Maintenance Service through other group companies and timing of delivery**

The User acknowledges and agrees that the Company may, in its sole discretion, provide the Full Service Maintenance Service through other group companies or third parties.

The Company undertakes to carry out the interventions related to the Full Service Maintenance within a maximum period of 30 (thirty) working days starting from the date of the Company's knowledge of the malfunction of the Miner.

#### **7.4. Full Service Maintenance Exclusion Cases.**

The Company shall have the right not to provide Full Service Maintenance Service in case of:

- (a) failure related to components other than those constituting original Miner equipment;
- (b) destruction of the Miner (meaning the serious failure extended to the major components of the Miner that are not repairable by preserving the Miner's original identity).

Upon the occurrence of one or more of the cases of exclusion of Full Service Maintenance Service referred to in this Article, the Company, in its sole discretion, shall have the right not to provide Full Service Maintenance Service and give written notice to the User.

#### **8. Theft, loss and destruction of the Miner**

In the event of theft, loss or destruction of the Miner, the Company shall send written notice by email to the User aimed at informing the User in relation to the event (the "**Negative Event**").

If the Negative Event is due to the wrongful act of the Mining Pool or a third party, together with the aforementioned notice, the Company shall forward a copy of the complaint filed with the competent authorities.

## 9. BTC Extraction Credit

Through his or her *account* on the Company's website, the User will be able to:

- (a) View the Mining Credit generated at the end of each Contract effective month via the "*My Balance*" section of the website;
- (b) through the "*Transfer*" function, transmit to the Company a request to transfer the aforesaid amount of BTC, or part thereof, to its own *wallet* in accordance with the provisions under the General Conditions (the "**Transfer Request**").

As of the first accounting date of the Mining Crediting, the User shall have the option at any time to notify the Company of the Transfer Request to their Swaggy Wallet or User Wallet.

### Swaggy Wallet Holders

From the first accounting date of the Mining Accreditation pursuant to the General Conditions, the User holding the Swaggy Wallet may transmit the Transfer Request to the Company in order to receive, at no cost or charge, the relevant BTC.

It is prohibited for the User who owns the Swaggy Wallet to transmit the Transfer Request in favor of a *wallet* other than the Swaggy Wallet.

The general terms of service of the Swaggy Wallet signed between the Parties shall apply to the use of the Swaggy Wallet.

### User Wallet Holders

From the first accounting date of the Mining Accreditation under the General Conditions, the User Wallet holder may transmit the Transfer Request to the Company in order to receive the relevant BTC.

In order to execute the aforementioned Transfer Request, the Company will apply to the transfer of BTCs to the User Wallet the fees provided for the execution of *Bitcoin blockchain* transactions as well as a *fee* for the execution of the transaction according to the Company's fee schedule (available in the "*Fees and Limits*" section on the Company's website).

The terms of service signed between the User and the third party provider apply to the use of the User Wallet.

## 10. Prohibition of Contract Assignment

### 10.1. Prohibition of Contract Assignment

The User may not assign the Contract and/or the rights and/or obligations arising therefrom to third parties, except with the prior written authorization of the Company, including through corporate transactions such as, but not limited to, assignment, lease, usufruct, transfer of business and/or business unit, spin-off, merger.

### 10.2. Hashing Power Prohibition.

The User is not authorized to assign the Hashing Power to any third party and shall continue until the Term to assume full and exclusive responsibility to the Company for the proper performance of its obligations under this Agreement.

The User is also not authorized to sublet to third parties or otherwise alienate or lease or assign the rights relating (in whole or in part) to Hashing Power.

## 11. Right of withdrawal for Consumer Users

If the User qualifies as a "consumer" under the law applicable to it (the "**Consumer User**"), the Consumer User shall have the right to withdraw from the General Terms and Conditions, without charge or penalty, without specifying the reason, within 14 days after signing the Contract.

To exercise the right of withdrawal, the Consumer User must inform Swag of the exercise of this right by a specific statement (e.g., letter sent by mail or e-mail) regarding the decision to withdraw from the General Terms and Conditions to the following addresses:

Swag OÜ

Tartu Mnt 14 IV floor, 10117 Tallinn, Estonia

E-mail: [support@swagyourlife.com](mailto:support@swagyourlife.com)

For this purpose, the Consumer User may use the following withdrawal form *template*. The Consumer User may withdraw from the General Terms and Conditions by using the following form, which must be completed in its entirety and submitted to the e-mail address [support@swagyourlife.com](mailto:support@swagyourlife.com) before the expiration of the withdrawal period:



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**WITHDRAWAL FORM**

*I hereby give notice of withdrawal from the contract of sale or supply relating to the following product* \_\_\_\_\_

*Order No.* \_\_\_\_\_

*Date of Order* \_\_\_\_\_

*Name and Surname* \_\_\_\_\_

*Address* \_\_\_\_\_

*Email associated with the account from which the order was placed* \_\_\_\_\_

*Note* \_\_\_\_\_

**12. Termination of the Contract and penalty**

The Company may terminate the Contract by transmission to the User of email or registered letter with return receipt anticipated by email to the address indicated by the User during the procedure of proper identification of the User, in case of:

- (a) Violation of the prohibition of assignment of the Contract, as provided under Article 10 of the Contract;
- (b) Failure to comply with and/or violation of the warranty and indemnity provisions of Article 14 of the Contract;
- (c) Violation of the obligations under Article 16 of the Contract;
- (d) Breach of the obligation of confidentiality of Confidential Information, as provided under Article 18 of the Contract;
- (e) Force Majeure event whose effects on the Company persist for a period of more than three months;
- (f) within one month from the date of signing the Contract, failure of the User to complete and/or incorrectly carry out the customer identification procedure adopted by the Company.

The termination of the Contract in the aforementioned cases of termination shall be effective from the date of receipt by the User of the notice of termination transmitted by the Company pursuant to this Article.

In the event of termination of the Contract pursuant to the foregoing subparagraph (f), the User shall be entitled to the return of the Consideration reduced by a percentage equal to 3% of the Consideration owed by the User to the Company as penalty. The User agrees and acknowledges that the aforesaid penalty amount is fair and non-reducible, and hereby waives any and all actions, exceptions or claims aimed at obtaining its reduction.

### **13. Withdrawal of the Company**

The Company may terminate the Contract by sending written notice, sent by registered letter with return receipt or by email, which must be received by the User at least 15 (fifteen) days before the effective date of the notice of termination.

In this case, the User shall not be entitled to any refund of the Consideration and any consideration paid to the Company under the Agreement prior to the effective date of the withdrawal.

### **14. Warranties and Indemnities**

#### **14.1. User Guarantees**

The User represents and warrants that through the Assignment it intends to make the Mining Accreditation solely on its own behalf, at its own risk and solely for its own benefit. The User also agrees to transmit and provide Swag with the information requested by Swag from time to time in order to properly fulfill its AML/CFT obligations.

#### **14.2. Guarantee on the risks associated with Mining**

By signing the Agreement, you acknowledge, represent and warrant that you have sufficient technical information and understand the risks associated with BTC Mining and Extraction. You further acknowledge, represent and warrant that you have made an independent decision based on the information available to you after duly reviewing the section <https://www.swagyourlife.com/comunicati-autorita-di-vigilanza-riferimenti-normativi/>.

#### **14.3. Prohibition of Denigration**

Until the Contract Term and for a period of 12 months thereafter, the User agrees not to take any action that is intended to harm Swag as well as its reputation. Such actions include but are not limited to disparaging remarks, statements questioning the character, honesty, integrity, morality, or image of

Swag in relation to any aspect of the operation of its business. The obligations of this article extend to shareholders, directors, employees, representatives of Swag. For violation of the prohibition of disparagement, the User shall be liable to pay in favor of Swag a penalty of €10,000.00 (ten thousand/00 euros), without prejudice to compensation for greater damages. The User expressly acknowledges the fairness and adequacy of the amount of the penalty, waiving as of now any action, exception or claim aimed at obtaining its reduction.

#### **14.4. Restrictions on use**

User agrees not to use the content or information provided by Swag under this Agreement to conduct business or activity or solicit the performance of any activity for illegal, fraudulent, unauthorized or improper purposes. User agrees to comply with all applicable constitutions, laws, ordinances, codes, regulations, statutes, or treaties, orders, decisions, instructions, requirements, directives, or requests of any applicable court, regulatory body, or other governmental authority in connection with the use of the Rental Services.

#### **14.5. Additional Guarantees**

You warrant and represent (i) that you will use the Hashing Power solely in accordance with all applicable laws and regulations; (ii) that you are neither a director, agent, employee currently subject to sanction by OFAC, EEAS or OFSI; (iii) not to directly or indirectly use the Hashing Power, or lend, contribute, or otherwise make available the Hashing Power to any subsidiary, joint venture partner, or other person or entity, for the purpose of financing the activities of any person currently subject to U.S., U.K., or EU sanctions; (iv) not to sublease or resell or lease the Hashing Power to any person or entity subject to sanctions by OFAC, EEAS, or OFSI.

#### **14.6. Exclusion of warranty**

Swag makes no warranties of any kind, either express or implied, including through its shareholders, directors, officers, employees and representatives, as to merchantability, fitness of the service for a particular purpose, uninterrupted or error-free access, accuracy, reliability, capacity or security, freedom from delay, or failure to the fullest extent permitted by law. In no event shall Swag be liable for any unauthorized use of the service.

#### **14.7. Limitation of liability**

Swag is not and cannot be held liable to the User for:

- (a) direct, indirect, consequential, incidental, punitive, or special damages (including damages for loss of BTC Extraction, interruption of services, loss of information, errors or failures resulting from hardware or software malfunctions, operational blockage, damage, theft, and/or other tortious acts) attributable to the negligent conduct of Mining Pools or third parties;
- (b) Damages resulting from the User's failure to comply with the terms and conditions of the Contract;
- (c) damages resulting from any act or omission of any person acting not directly under the control of Swag;
- (d) Damage resulting from unauthorized access to the Swaggy Wallet or User Wallet;
- (e) damage resulting from a change in regulations or operating rules as well as in the value of BTC;
- (f) Damages resulting from the User's failure to declare for tax purposes;
- (g) Damages resulting from the failure and/or incomplete transmission of the Transfer Request
- (h) damages resulting from the use and/or non-use of SWA Tokens and HLT Tokens .

Swag shall also not be liable for any failure or delay in the performance of any of its obligations under this Contract caused by a Force Majeure Event.

#### **14.8. Manleva**

The User agrees to hold Swag and each shareholder, director, employee, and representative harmless and indemnified from any and all damages, burdens, costs, and/or expenses that may arise from litigation, administrative proceedings, or out-of-court disputes of any nature whatsoever, actions or claims brought by any interested party and/or any other person and/or Authority as a result of any non-compliance and/or in breach of the obligations undertaken under the Agreement or arising from illegal use, negligence, non-compliance with applicable legislation or misuse of the Mining and BTCs by the User himself and/or his assignees and/or third parties.

#### **15. Communications**

All written communications between the Parties, required or permitted under the Contract, unless individual clauses provide for specific modes of transmission, shall be deemed validly made where transmitted to the following addresses:

for Swag: e-mail [support@swagyourlife.com](mailto:support@swagyourlife.com);



for the User: refer to the references provided during registration by the User on domains owned by Swag.

## **16. Obligations of the User**

The User agrees to comply with all obligations regarding the traceability of financial flows within its competence in accordance with the regulations applicable to it.

To this end, the User agrees to notify Swag of each digital wallet in its possession by transmitting communication to the Company aimed at indicating the public key of the said digital wallets.

The User represents and warrants to indemnify as well as indemnify and/or hold harmless the Company from any liability and/or prejudice and/or claim of any third party directly or indirectly related to and/or resulting from the User's breach of the obligation set forth in this Article.

## **17. Processing of personal data**

Pursuant to the European Regulation No. 679/2016 (hereinafter "**Regulation**"), the User is informed that Swag acts as the Data Controller for the execution of the provisions of the Contract. The Parties acknowledge that the Contract has been executed, subject to the User's acceptance of the Privacy Policy.

The User assumes responsibility for the truthfulness and accuracy of personal data entered on sites or domains owned by Swag.

## **18. Confidentiality**

### **18.1. Scope of the duty of confidentiality**

The User agrees to keep the contents of this Agreement strictly confidential and to use them solely for the purpose of its execution. The User also undertakes to keep strictly confidential the information received from Swag concerning the Miner and/or the Hashing Power and/or the Digital Product, their functional and/or operational characteristics as well as the commercial projects related to them.

### **18.2. Definition of confidential information**

Confidential information means all news, knowledge, data, models, designs, prototypes, *know-how*, products technical and computer systems, acts, documents and any other information, of whatever kind and nature and without any limitation pertaining to the type of material medium, that the Company will disclose to the User (hereinafter "**Confidential Information**").

### **18.3. User's confidentiality obligations in relation to Confidential Information**

In relation to Confidential Information, the User agrees:

- (a) To take all necessary and appropriate measures in order to maintain and not impair the confidentiality of Confidential Information of which it will become aware;
- (b) not to disclose/transmit/disclose/communicate in any way to third parties-including any related/affiliated/affiliated/controlling legal entities-the Confidential Information;
- (c) To refrain from publishing Confidential Information in any way and in any capacity;
- (d) Not to copy and/or reproduce Confidential Information without prior written consent of the Company's Legal Representative;
- (e) to use the Confidential Information solely to assess its interest in entering into this Contract, to the exclusion of any other and different use;
- (f) to notify Swag without delay in writing and by certified electronic mail of any unauthorized use or disclosure of Confidential Information of which it becomes aware and to work by all means to bring about the cessation of the offending conduct as soon as possible;
- (g) To communicate in advance by certified e-mail, any circumstances under which they detect risks to the protection of the confidentiality of Confidential Information;
- (h) Not to engage, by virtue of and as a result of the Confidential Information received, in acts or conduct likely to generate to Swag's detriment diversion or hoarding of customers;
- (i) To not directly or indirectly use Confidential Information received from Swag in competition with it.

#### **18.4. Exclusions**

In connection with this obligation of confidentiality, it is understood that Confidential Information does not include information:

- (a) which, at the time they are communicated to the User, are already in the public domain, or become so for reasons that have nothing to do with a breach by the User of the obligations specified in this Agreement;
- (b) of which the User proves to be in possession already before the date of signing this Contract;
- (c) which shall be excluded by Swag in advance from the application of the secrecy constraints set forth in this Contract, by written notice signed by its legal representative;

- (d) that must be disclosed by order of the Judicial Authority; in such case, however, it will be the User's responsibility to inform the Company in advance of the request received, so that Swag can consider whether an opposition action is appropriate.

#### **18.5. Liability and burden of proof in case of breach of confidentiality obligation**

The User shall be liable in the event of a breach of the confidentiality obligations set forth in this Article; as well as agrees to indemnify and hold the Company harmless for any direct and/or indirect damages as well as expenses that Swag may incur as a result of a breach of the confidentiality obligations set forth in this Article.

In the event of litigation arising from the alleged violation of the obligations of confidentiality referred to in this article, the User acknowledges and accepts that the Company is as of now dispensed from the burden of providing evidence about the intentional or negligent act of the User and the imputability to the latter of the damage suffered; in the event, therefore, it will be the User who will have to exclude, if the conditions are met, its responsibility, demonstrating, among other things, the traceability of the damage to a fact not attributable to itself.

#### **18.6. Prohibition of Reproduction of Confidential Information and Burden of Return/Destruction**

All Confidential Information, in whatever form, is and remains the exclusive property of the Company.

The User shall not under any circumstances copy/reproduce the Confidential Information without prior written consent of the Company's legal representative, and if such consent is given, the copies/reproductions shall be marked with information pertaining to the relevant confidentiality and ownership.

Any copy/reproduction of the Confidential Information that Swag has permitted the User to make in the manner described herein shall nevertheless be deemed the exclusive property of the Company and shall be returned or destroyed to the Company, at Swag's option upon the occurrence of the first of the following events:

- (a) term of permitted use;
- (b) Upon simple written request.

The return or destruction of Confidential Information shall take place no later than 5 days after the aforementioned request or the end of the permitted use.

#### **19. Applicable law and jurisdiction**

These General Terms and Conditions shall be governed by and construed in accordance with Estonian law to the exclusion of the application of the United Nations Convention on Contracts for the International Sale of Goods.

In relation to Consumer Users, any dispute arising out of or in connection with these General Terms and Conditions (whether contractual or non-contractual) shall be subject to Estonian jurisdiction. This is without prejudice to the application to Consumer Users who do not ordinarily reside in Estonia of provisions that may be more favorable and mandatory as provided by the law of the country where the Consumer User resides, in particular in relation to the time limit for exercising the right of withdrawal. In the event that such rights are exercised, the manner and formalities for communicating the exercise of such rights shall be provided under the law of the Consumer User's residence.

Unless otherwise provided by law applicable to the Consumer User, for any dispute relating to the application, execution and interpretation of these General Terms and Conditions, the place of jurisdiction shall be the place where the Consumer User resides or has elected domicile (if in Estonia). Otherwise, the Court of Harju shall have jurisdiction.

The User Consumer residing in a member state of the European Union other than Estonia may also have access, for any dispute relating to the application, execution and interpretation of these General Terms and Conditions, to the European Small Claims Procedure, provided for in Regulation (EC) No. 861/2007 of the European Parliament and of the Council of 11 July 2007, provided that the value of the dispute does not exceed, excluding interest, fees and expenses, Euro 2,000.00.

Swag informs Consumer Users that a European platform for online consumer dispute resolution (so-called "**ODR Platform**") has been established. The ODR Platform can be accessed at the following link: [ec.europa.eu/consumers/odr](https://ec.europa.eu/consumers/odr). Through the ODR Platform, the Consumer User will be able to browse the list of ADR entities (e.g., alternative dispute resolution bodies such as mediation, arbitration, and other forms of dispute resolution bodies) and initiate an online dispute resolution procedure for the dispute in which he or she is involved.

This is without prejudice to the right of the Consumer User to bring the matter before the ordinary courts of competent jurisdiction, as well as the possibility, where applicable, to promote an out-of-court settlement of disputes relating to consumer relations through recourse to the applicable procedures provided for in its jurisdiction (if applicable).

## **20. Final Provisions**

### **20.1. Repeal of previous understandings between the Parties**

The Contract abrogates and supersedes any previous agreement, written or verbal, made between the Parties on the subject matter of the Contract.

#### **20.2. Changes in contract terms and conditions**

Any variations to these General Conditions shall be the subject, under penalty of nullity, of a specific written agreement between the Parties.

Should some clauses of the Contract or parts thereof be null and void and/or invalid, this fact will not affect the validity of the remaining clauses and/or parts, which will therefore remain fully valid and effective.

#### **20.3. Swag Tolerance**

Any forbearance on the part of the Company with respect to conduct of the User engaged in in violation of the provisions of the Contract shall not constitute a waiver of the rights arising out of the violated provisions nor of the right to demand exact performance of all obligations and compliance with all terms and conditions provided under the Contract.

#### **20.4. Prevalence of the English language**

The English language version of the Contract is legally binding between the Parties and prevails over any other translation.