

Version dated 30 April 2015

**PLEASE READ CAREFULLY BEFORE DOWNLOADING OR STREAMING THIS APP.**

This end-user licence agreement (**EULA**) is a legal agreement between you (**End-user** or **you**) and The West Midlands Passenger Transport Executive (Centro) of Centro House, 16 Summer Lane, Birmingham, B19 3SD (**Licensor, us** or **we**) for the SWIFT Card App mobile application software, the data supplied with the software, and the associated media (**App**).

We license use of the App to you on the basis of this EULA and subject to any rules or policies applied by any appstore provider or operator from whose site, located at <https://play.google.com/store> (**Appstore**), the End-user downloaded the App (**Appstore Rules**). We do not sell the App to you. We remain the owners of the App at all times.

**Operating system requirements:**

This app requires an Android-enabled device running Ice Cream Sandwich (version 4.0.x) or later, capable of using Near Field Communication (NFC).

**Important notice:**

- By downloading the App you agree to the terms of the licence which will bind you. The terms of the licence include, in particular the limitations on liability as set out in condition 7.
- If you do not agree to the terms of this licence, we will not license the App to you and you must stop the downloading process now. In this event, the downloading process will terminate.
- The App is not a ticket and it does not give you the right to travel. A SWIFT Card loaded with a valid product or credit must be carried at all times in accordance with the appropriate Conditions of Carriage of the Transport Operator.

**You should print a copy of this EULA for future reference.**

**AGREED TERMS**

**1. ACKNOWLEDGEMENTS**

- 1.1 The terms of this EULA apply to the App or any of the services accessible through the App (**Services**), including any updates or supplements to the App unless they come with separate terms, in which case those terms apply. If any open-source software is included in the App or any Service, the terms of an open-source licence may override some of the terms of this EULA.

- 1.2 We reserve the right to change these terms at any time and a copy of the latest version will be available at [myswiftcard.com](http://myswiftcard.com).
- 1.3 From time to time updates to the App may be issued through the Appstore. Depending on the update, you may not be able to use the Services until you have downloaded or streamed the latest version of the App and accepted any new terms.
- 1.4 You will be assumed to have obtained permission from the owners of the mobile telephone or handheld devices that are controlled, but not owned, by you and described in condition 2.2 (**Devices**) and to download or stream a copy of the App onto the Devices. You and they may be charged by your and their service providers for internet access on the Devices. We will not be liable or responsible for any network charges charged by a service provider for using the App. You accept responsibility in accordance with the terms of this EULA for the use of the App or any Service on or in relation to any Device, whether or not it is owned by you.
- 1.5 By using the App or any Service, you acknowledge and agree that internet transmissions are never completely private or secure. You understand that any message or information you send using the App or any Service may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.
- 1.6 The following Services will be governed by the following terms of use and subject to the following terms, incorporated into this EULA by reference and set out at the following web addresses respectively:

<b>Service</b>	<b>Web address of terms of use</b>
<p>The SWIFT Card App allows you:</p> <ul style="list-style-type: none"> <li>• to read the balance and/or products loaded to a SWIFT Card</li> <li>• to collect and load credit and/or products you have purchased online to a SWIFT Card.</li> </ul>	<p><a href="http://www.myswiftcard.com">www.myswiftcard.com</a></p>

- 1.7 By using the App or any of the Services, you consent to us collecting and using technical information about the Devices and related software, hardware and peripherals for Services that are internet-based or wireless to improve our products and to provide any Services to you.

- 1.8 The App or any Service may contain links to other independent third-party websites (**Third-party Sites**). Third-party Sites are not under our control, and we are not responsible for and do not endorse their content or their privacy policies (if any). You will need to make your own independent judgement regarding your interaction with any Third-party Sites, including the purchase and use of any products or services accessible through them.
- 1.9 Any words following the terms **including, include, in particular** or **for example** or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

## **2. GRANT AND SCOPE OF LICENCE**

- 2.1 In consideration of you agreeing to abide by the terms of this EULA, we grant you a non-transferable, non-exclusive licence to use the App on the Devices, subject to these terms and the Appstore Rules, incorporated into this EULA by reference. We reserve all other rights.
- 2.2 You may download or stream a copy of the App onto an Anroid-enabled device running Ice Cream Sandwich (version 4.0.x) or later, capable of using Near Field Communication (NFC) and to view, use and display the App on the Devices for your personal purposes and use only.

## **3. LICENCE RESTRICTIONS**

Except as expressly set out in this EULA or as permitted by any local law, you agree:

- (a) not to copy the App except where such copying is incidental to normal use of the App, or where it is necessary for the purpose of back-up or operational security;
- (b) not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the App ;
- (c) not to make alterations to, or modifications of, the whole or any part of the App, or permit the App or any part of it to be combined with, or become incorporated in, any other programs;
- (d) not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the App or attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the App with another software program, and provided that the information obtained by you during such activities:

- (i) is used only for the purpose of achieving inter-operability of the App with another software program;
  - (ii) is not unnecessarily disclosed or communicated without our prior written consent to any third party; and
  - (iii) is not used to create any software that is substantially similar to the App;
- (e) to keep all copies of the App secure
  - (f) not to provide or otherwise make available the App in whole or in part (including object and source code), in any form to any person without prior written consent from us; and
  - (g) to comply with all technology control or export laws and regulations that apply to the technology used or supported by the App or any Service (**Technology**).

#### **4. ACCEPTABLE USE RESTRICTIONS**

You must:

- (a) not use the App or any Service in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this EULA, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, or harmful data, into the App, any Service or any operating system;
- (b) not infringe our intellectual property rights or those of any third party in relation to your use of the App or any Service;
- (c) not transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the App or any Service;
- (d) not use the App or any Service in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users; and
- (e) not collect or harvest any information or data from any Service or our systems or attempt to decipher any transmissions to or from the servers running any Service.

#### **5. INTELLECTUAL PROPERTY RIGHTS**

- 5.1 You acknowledge that all intellectual property rights in the App, and the Technology anywhere in the world belong to us or our licensors, that rights in the App are licensed (not sold) to you, and that you have no rights in, or to, the App, or the Technology other than the right to use each of them in accordance with the terms of this EULA.

5.2 You acknowledge that you have no right to have access to the App in source-code form.

## **6. LIMITED WARRANTY**

6.1 To the extent permitted by law, the App is provided “as is” and “as available”, with all faults and without warranty of any kind, and we or our licensors hereby disclaim all warranties and conditions with respect to the App, either express or implied, including but not limited to, the implied warranties and or conditions of merchantability, satisfactory quality, fitness for a particular purpose, accuracy, quiet enjoyment, and non-infringement of third party rights.

6.2 We do not warrant against interference with your enjoyment of the App, that the functions contained within the App will meet your requirements, that the operation of the App will be error-free, that defects in the App will be corrected, or that the App will be compatible or work with any third party software, application or third party services. Installation of the App may affect the usability of third party software, applications or third party services.

## **7. LIMITATION OF LIABILITY**

7.1 You acknowledge that the App has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the App meet your requirements.

7.2 We only supply the App for domestic and private use. You agree not to use the App for any commercial, business or resale purposes. We shall not in any circumstances be liable whether in contract, tort (including negligence and breach of statutory duty howsoever arising) for any loss (whether direct or indirect) of profits, business, business opportunities, business interruption and/or any loss or corruption (whether direct or indirect) of data or information.

7.3 Our maximum aggregate liability under or in connection with this EULA (including your use of any Services) whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to the value paid for the App through the Appstore. This does not apply to the types of loss set out in condition 7.4.

7.4 Nothing in this EULA shall limit or exclude our liability for:

- (a) death or personal injury resulting from our negligence;
- (b) fraud or fraudulent misrepresentation; and

- (c) any other liability that cannot be excluded or limited by English law.

## 8. TERMINATION

- 8.1 We may terminate this EULA immediately without notice to you if you breach any of the term(s) of this EULA.
- 8.2 On termination for any reason:
  - (a) all rights granted to you under this EULA shall cease;
  - (b) you must immediately cease all activities authorised by this EULA, including your use of any Services; and
  - (c) you must immediately delete or remove the App from all Devices, and immediately destroy all copies of the App then in your possession, custody or control and certify to us that you have done so.

## 9. COMMUNICATION BETWEEN US

- 9.1 If you wish to contact us in writing, or if any condition in this EULA requires you to give us notice in writing, you can send this to us by e-mail or by prepaid post to Swift Support at Centro House, 16 Summer Lane, Birmingham, B19 3SD and [swiftsupport@centro.org.uk](mailto:swiftsupport@centro.org.uk). We will confirm receipt of this by contacting you in writing, normally by e-mail.
- 9.2 If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you provide to us in your request for the App.

## 10. EVENTS OUTSIDE OUR CONTROL

- 10.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this EULA that is caused by any act or event beyond our reasonable control, including failure of public or private telecommunications networks (**Event Outside Our Control**).
- 10.2 If an Event Outside Our Control takes place that affects the performance of our obligations under this EULA:
  - (a) our obligations under this EULA will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and

- (b) we will use our reasonable endeavours to find a solution by which our obligations under this EULA may be performed despite the Event Outside Our Control.

**11. OTHER IMPORTANT TERMS**

- 11.1 We may transfer our rights and obligations under this EULA to another organisation, but this will not affect your rights or our obligations under this EULA.
- 11.2 You may only transfer your rights or obligations under this EULA to another person if we agree in writing.
- 11.3 If we fail to insist that you perform any of your obligations under this EULA, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 11.4 Each of the conditions of this EULA operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 11.5 Please note that this EULA, its subject matter and its formation, are governed by English law. You and we both agree that the courts of England and Wales will have non-exclusive jurisdiction.