



ITSME® SIGNATURE CREATION SERVICE

TERMS AND CONDITIONS

1. SUBJECT MATTER OF THESE T&CS

Together with the Customer Agreement, these terms and conditions (T&Cs or Terms and Conditions) govern the provision, by Belgian Mobile ID (Belgian Mobile ID), of the itsme® Services (together, the Agreement), to its customers (Customer(s)) (both being individually referred to as their denomination above or as a Party and together as the Parties). By entering into the Customer Agreement or using the itsme® Sign Service, Customer confirms that it has received those T&Cs and acknowledges and agrees to be bound by them. These T&Cs supersede any other terms and conditions that could apply to the itsme® Services, among others the terms and conditions of Customer.

2. THE ITSME® SIGNATURE CREATION SERVICE

The itsme® Signature Creation Service is limited to Hash Signing, consisting in the delivery, by Belgian Mobile ID, of the electronic signature of an End User to the the Signature Creation Application Provider selected by the Customer (in this case **Adobe**), so that the Signature Creation Application Provider can link it to the hash of the data that the Customer wishes the End User to sign to finalise the creation of the signature of the document. Only the raw signature is returned. In order for the signature to become a Qualified Electronic Signature, Customer needs to create an AdES (XAdES, PAdES or CAdES) based on the user certificate (delivered by itsme® Signing Service) and the raw signature.

The electronic signature delivered by Belgian Mobile ID is based on a Qualified Certificate issued by a Qualified Trust Service Provider and is created with a Remote Qualified Signature Creation Device.

Belgian Mobile ID shall use its best endeavors to perform the itsme® Sign Service as described in the Agreement. All of Belgian itsme® Services will be performed on the basis of a best-efforts obligation, unless and in so far Belgian Mobile ID has explicitly promised a result in the Agreement, and the result has also been sufficiently defined. The provision of the itsme® Services under this Agreement is conditional upon Adobe offering the itsme® Services and functionality in its own solutions (Adobe Sign). Should Adobe suspend or terminate that possibility, Belgian Mobile ID will not be able to provide the itsme® Sign Service to Customer.

Without prejudice to the other provisions of the Agreement, Belgian Mobile ID shall during the term of Agreement maintain and provide to the End Users the itsme® App, by means of which the End Users will be able to have access to the itsme® Services.

As a consequence, Belgian Mobile ID's role will only include:

- (a) Delivering the certificate of the user to the SCA provided by the Signature Creation Application Provider
- (b) Showing the correct information about the signature (Customer, Transaction Context as communicated by the Customer, commitment type (optional), signer role (optional) and applicable signature policy) to the End-User in the itsme® App, based on the information provided by the Signature Creation Application Provider and the Customer
- (c) Delivering the raw signature back to the SCA (Adobe)

The Signature Creation Application Provider for which Belgian Mobile ID is not responsible, is responsible for:

- (a) showing the End User the document that will be signed in the state it will be signed
- (b) the selection of the correct signature policy for the use case concerned
- (c) redirecting the user to the itsme® sign page

- (d) requesting the signing certificate of the user via the itsme® Sign API
- (e) Calculating the hash of the data to be signed (which includes hash of the document, the certificate, reference to the signature policy, commitment type, signer role,...)
- (f) Requesting the raw signature of the hash of the data to be signed via the itsme® Sign API and retrieve the resulting raw signature
- (g) The creation of the AdES format (adding the TSTs, etc. to create a PAdES, XAdES or CAdES)

The itsme® Signature Creation Service is governed by the Agreement, including these terms and conditions. It will be performed in accordance with the itsme® Practice Statement and the applicable itsme® Sign Creation Service Policy, as published by Belgian Mobile ID on its website (<https://www.itsme.be/legal/document-repository>), as well as with the eIDAS Regulation and all standards applicable pursuant thereto.

3. OBLIGATIONS OF THE CUSTOMER AND LIMITATION TO THE USE OF THE ITSME® SIGNATURE CREATION SERVICE

3.1. Use of the itsme® Signature Creation Service

Customer shall use the itsme® Signature Creation Service in accordance with the Agreement and all restrictions, requirements, specifications and instructions in the itsme® Qualified Signature Creation Policy and the Belgian Mobile ID Practice statement. They will not use the service in relation with any unlawful or unethical activity.

The itsme® Signature Creation Services will only be available to Customers which entered into a Customer Agreement, confirmed that they want to use that service, and which are connected the **Belgian Mobile ID solution via Adobe Sign**, as further described in the functional and technical documentation provided to the Customer.

Belgian Mobile ID will not be liable towards the Customer or any third party for any use of the itsme® Signature Creation Service that would not be compliant with the limits and restrictions described in this Chapter 3 or, more generally, with the Agreement or the itsme® Sign Creation Service Policy.

3.2. Display of the itsme® Brand

The Customer shall at all times adequately display the itsme® Brand to inform its clients of the possibility to use the itsme® Services, as described in functional or technical documentation communicated by Belgian Mobile ID to Customer.

3.3. Notification in case of dispute or claim by an End-User regarding an Operation

The Customer shall as soon as possible (and no later than five (5) Business Days as from becoming aware of such dispute or claim) notify to Belgian Mobile ID any dispute with, or claim from, an End User concerning, directly or indirectly, an Operation made by that End User at Security@belgianmobileID.be. Customer detects or suspects that at least one or several of its clients who are also itsme® End Users are the (actual or attempted) author or victim of a fraud, if such fraud (i) could potentially involve the use of the itsme® Services or (ii) raises doubts on the validity of an itsme® account.



4. DURATION, SUSPENSION AND TERMINATION OF THE AGREEMENT

4.1. Duration and entry into force of the Agreement

The Agreement has the duration as stated in the Customer Agreement.

The entry and remaining into force of the Agreement is under the condition precedent that Customer generally complies and continues to comply with the Data Protection Laws and Regulations and holds all necessary licenses, authorisations or registrations necessary for its activities.

4.2. Termination of the Agreement

Either Party may at any time, without specific indemnity, terminate the Customer Agreement for convenience by providing the other Party three (3) months' prior written notice.

In addition, either Party (the Terminating Party) may terminate the Agreement, with immediate effect and without prior intervention of a court as from the date of receipt of the notice of termination as sent by the Terminating Party to the other Party via registered mail or delivered by a courier, in case one or more of the following circumstances occurs:

in case of a material Breach by the other Party, which is not capable of remedy or, if capable of remedy, which has not been remedied for whatever reason by remedial actions within one (1) month from notification thereof;

in case the other Party is prevented from performing its obligations due to a Force Majeure Event during a period of more than sixty (60) Calendar Days, it being understood however that the Terminating Party will not be entitled to terminate the Agreement if the Force Majeure has only a minor impact on the situation of the Terminating Party;

if, due to any dishonest, fraudulent, criminal, malicious or materially negligent act or omission of the other Party or any person for which it is liable, in the Terminating Party's reasonable opinion based on tangible facts, (i) the reputation of the Terminating Party is materially harmed, threatened or put at risk or (ii) the performance of the other Party's obligations under the Agreement is prejudicially affected;

to the extent permitted by law, in case of Insolvency Event affecting the other Party;

upon injunction of a Competent Authority to do so or if there is a Regulatory Change materially affecting the ability of the Terminating Party to perform its obligations or exercise its rights under the Agreement.

it being understood however that a Party under this Agreement may terminate the Agreement based on the circumstances as described in this Clause 4.2 only if, prior to termination, the terminating Party referred the matter to the Escalation Committee in accordance with Clause 11.2.1 (*Escalation Committee*) and the Parties did not find an agreeable solution within the period as outlined in said Clause.

Customer may also terminate the Agreement with immediate effect and without indemnity in the event that Belgian Mobile ID makes a material change to the Agreement wherewith Customer does not agree, it being agreed however that Customer will only be entitled to do so after having notified its opposition to the change and the matter has been referred to the Escalation Committee in accordance with Clause 11.2.1 (*Escalation Committee*) and the Parties did not find an agreeable solution within the period as outlined in said Clause.

The Agreement will automatically lapse upon termination of the agreement between Belgian Mobile ID and Adobe under which Adobe agrees to make the itsme® functionalities available as part of its solutions (Adobe Sign).

Belgian Mobile ID may, without prejudice to its other rights and remedies under the Agreement or any applicable law, suspend, for as long as those circumstances last, the provision of the itsme® Services, in all circumstances listed above.

Suspension, expiration, termination or cancellation of the Agreement by law or in accordance with the Agreement shall be without prejudice to the rights and liabilities of Belgian Mobile ID and Customer which have accrued prior to the date of termination by law or under the Agreement, and shall not affect the coming into force or the continuance in force of the provisions of the Agreement which are expressly or by implication intended to come into or continue to be in force on or after such termination. All such provisions shall be deemed to survive the expiration or termination of the Agreement for as long as necessary to fulfil their purposes.

5. FEES, COSTS AND CHARGES

The Customer shall pay to Belgian Mobile ID the Fees as set forth in the Agreement. Notwithstanding anything provided to the contrary, the Fees set forth in the Agreement shall, on the 1st of January of each year, be automatically increased in accordance with the following formula:

$$P1 = P0 \times [0.2 + (0.8 \times (S1 / S0))],$$

where P0 = base rate and P1 = revised rate

P0 = The charges as set forth in the Agreement

S1 = last published monthly value of the Agoria index preceding the adjustment date

S0 = last published monthly value of the Agoria index preceding the date of signature

Agoria Index: means the Agoria index for reference wages (country average) as is published on the website of Agoria: <https://www.agoria.be/nl/Refertelonen-overzichtstabellen>

All Fees and any other charges or costs mentioned in the Agreement are exclusive of any kind of taxes applicable in any competent jurisdiction. To the extent taxes, other than corporate income tax due by Belgian Mobile ID in its country of incorporation or in any country in which it operates a permanent establishment recognised as such under the laws of its country of incorporation, are due on the Fees, such taxes shall be immediately paid in full (or, where relevant, reimbursed in full to Belgian Mobile ID) and borne by the Customer so that Belgian Mobile ID effectively receives the full amount agreed under the Agreement.

Each invoice shall become final to the extent it has not been disputed in writing within fifteen (15) Calendar Days from receipt.

In the hypothesis where the Customer disputes an invoice in good faith within the above mentioned timeframe, the Customer shall pay the undisputed part in accordance with this Clause 5 (*Fees, costs and charges*).

All payments of Fees and all other charges or costs shall be made in Euro.

Without prejudice to any other rights and remedies of Belgian Mobile ID, any overdue amount will automatically and without prior notice bear interest at the statutory rate as per the Act of 2 August 2002 on combating late payment in commercial transactions, as from the due date until the date of actual payment (whether or not after any judgment).

6. SECURE COMMUNICATIONS BETWEEN CUSTOMERS AND BELGIAN MOBILE ID

Belgian Mobile ID and Customer will respectively be responsible for ensuring the integrity and the confidentiality of all data that they communicate to each other until those data are effectively delivered to the other Party. They shall use their best efforts ("obligation de moyen/inspanningsverplichting") to prevent any unauthorized access, interference or attack during their communications to each other. They shall at least use generally accepted standards to that purpose.



7. DATA PROTECTION

7.1. General commitment

Belgian Mobile ID and Customer shall at all times comply with the relevant Data Protection Laws and Regulations and they shall not consciously take any action, or permit any action to be done, that may lead to a breach of the Data Protection Laws and Regulations.

Each Party, acting independently, shall develop, implement, maintain and adhere to a comprehensive written information security program that complies with all applicable Data Protection Laws and Regulations. Without limitation, the Parties' information security program shall include technical, physical, and administrative/organizational safeguards designed to (1) ensure the security and confidentiality of the Personal Data under their control or the control of their (sub)processors; (2) protect against any anticipated threats or hazards to the security and integrity of data under their control or the control of their (sub)processors; and (3) protect against any actual unauthorized processing, loss, use, disclosure or acquisition of or access to any Personal Data under their control or the control of their (sub)processors. Each Party, acting independently, shall take information security guidelines and recommendations issued by regulatory authorities into consideration in the design of their information security program.

The Parties acknowledge and agree that, whenever they act as Data Controller, they will each be solely responsible for (i) their compliance with Data Protection Laws, (ii) complying with any request, including but not limited to any access request or rectification request from a data subject and (iii) performing any notices (i) to the Competent Authorities and (ii) the data subjects as a result of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed (hereinafter a Data Breach). The Parties will provide reasonable mutual assistance to each other if such mutual assistance is required for complying with a data subject's request as regards its personal data.

7.2. Roles of the Parties in the context of the Customer Agreement

In respect of the Personal Data processed in the context of the Customer Agreement, Belgian Mobile ID will act as Data Controller, and Customer will act as Data Controller: when it communicates elements of personal data relating to an End User, Belgian Mobile ID act as Data Controller, it being understood that as soon as the Identity Data has been communicated to the Customer, the Customer shall be considered as the Data Controller of all Personal Data so communicated to it (without prejudice to Belgian Mobile ID's right to continue using the same Personal Data for its own activities).

7.3. Survival of undertakings

The obligations set forth in this Clause 7 (*Data Protection*) shall survive the expiration or termination (for whatever reason) of the Agreement.

8. INTELLECTUAL PROPERTY RIGHTS AND BRANDING GUIDELINES

8.1. itsme® Brand

Belgian Mobile ID or its licensors have the sole and exclusive property, right, title and interest in the itsme® Brand, including all Intellectual Property Rights. All Intellectual Property Rights of Belgian Mobile ID shall be vested in and shall remain the exclusive property of Belgian Mobile ID. No right, title or interest in intellectual property of any kind shall be deemed to have been granted by Belgian Mobile ID to Customer, except as otherwise expressly authorized herein.

Belgian Mobile ID grants to Customer, and Customer hereby accepts from Belgian Mobile ID, a non-exclusive, non-assignable, non-transferable right (without the right to sub-license other than as expressly agreed in writing between the Parties (*Sub-Licenses*) to use, for the duration of the Agreement and in the territory/ies mentioned in the relevant Agreement(s), the itsme® Brand(s) for the

sole purpose of Customer's exercise of its rights or performance of its obligations under the Agreement.

Customer shall at all times comply with the requirements and guidelines regarding the presentation of the itsme® Brand(s) as communicated by Belgian Mobile ID from time to time.

Upon notification by Belgian Mobile ID of changes to the guidelines that Belgian Mobile ID may issue from time to time in connection with the Belgian Mobile Brand, the Customer agrees that all use, advertising, promotion and display of the itsme® Brand in whatever form or way shall be amended to reflect such changes.

Customer shall not be entitled to assign or sub-license its rights under the License to any third parties other than with the express prior written consent from Belgian Mobile ID. Such express prior written consent may be given by Belgian Mobile ID to Customer in the Agreement.

Provided that the right to sub-license is granted, Customer guarantees that any sub-licensee, which uses or displays the itsme® Scheme and/or the itsme® Brand shall do so only in accordance with this Agreement and the instructions and guidelines Belgian Mobile ID may issue from time to time. Any act or omission of any such sub-licensee in relation to the itsme® Scheme and/or the itsme® Brand shall be treated as an act or omission of Customer under the Agreement, including any act or omission in breach of the Agreement.

In the event that, by operation of law or otherwise, the Customer acquires or obtains after Effective Date any rights (including Intellectual Property Rights) with respect to the itsme® Brand or any other trademark or trade name, an element of which is, and/or which is confusingly similar to or derived from the itsme® Brand, Customer hereby irrevocably, at no charge, unconditionally and without limitation, assigns and transfers to Belgian Mobile ID all such rights, which assignment and transfer is hereby accepted (in advance) by Belgian Mobile ID. This paragraph is without prejudice to all rights vested to Customer prior to the Effective Date.

8.2. Customers' Brand

Customer hereby grants Belgian Mobile ID a limited, worldwide, non-exclusive, non-transferable, non-(sub)licensable right to, for the duration of the Agreement, use, display Customer's Brand to the extent such use or display relates to the provision and promotion of the itsme® Services contemplated under this Agreement.

Customer represents and warrants that it has sufficient rights to grant such license regarding Customer's Brand, and shall indemnify and hold Belgian Mobile ID harmless against any and all claims by third parties alleging infringement by Belgian Mobile ID of such parties' intellectual property rights through use by Belgian Mobile ID of Customer's Brand.

8.3. Obligations common to the Brand Licenses

No right, license, title or interest in intellectual property of any kind shall be deemed to have been granted by a Party to the other Party, except as otherwise expressly authorized herein.

Either Party (the "Licensee") is only allowed to use the other Party's Brand (the "Licensing Party" or "Licensor") in accordance with the Licensing Party's guidelines and instructions (including the branding guidelines) expressly communicated by the Licensing Party to the Licensee, as they may be amended from time to time by the Licensor.

The Licensee shall not display the Licensor's Brand in any manner that could jeopardise the validity, distinctiveness or reputation, of Licensor's Brand or that could be detrimental to the Licensor or its products and services. The Licensee shall not, either during the term of the Agreement or after termination thereof, (seek to) register or use any trademark, logo, trade name, other distinctive sign or design or other artwork that is identical or similar to or derived from Licensor's Brand. Licensor's Brand may not be used in connection with any illegal activity, or in connection with any other activity as may be notified by the Licensor from time to time.

Any and all goodwill associated with Licensor's Brand shall inure to the benefit of the Licensor unless otherwise provided.



If at any time during the Agreement, Licensee is or becomes aware of any (i) infringement, unauthorized use or act of unfair competition in relation to, or (ii) challenge to the validity of, proceedings opposing or for rectification in respect of, or (iii) application for registration of any sign the use of which would infringe Licensor's Brand is occurring, threatened or likely, then Licensee shall promptly notify so to Licensor.

Licensee shall not start any legal proceedings or assume defence relating to the Licensor's Brand without obtaining the prior written consent of the Licensor.

Where the Licensor elects to commence proceedings, the Licensee shall to the extent permitted by law be entitled to be joined as a party in the proceedings, it being understood that the Licensee shall share the costs of such proceedings in proportion to its financial interest in such proceedings.

The Licensee shall give the Licensor reasonable assistance in respect of any proceedings. The Licensee undertakes to follow any and all instructions from the Licensor in any proceedings relating to the Licensor's Brand in which Licensee is a party (unless the proceeding concerns a dispute between Licensee and Licensor) and that it shall not agree to any settlement or compromise of such proceedings without Licensor's written consent.

9. CONFIDENTIALITY

9.1. Confidential Information

For the purpose of this Agreement, Confidential Information means any information which is disclosed by a Party (the Disclosing Party) to the other Party (the Receiving Party) or which either Party otherwise obtains knowledge of through or as a result of its relationship with the Disclosing Party, access to the Disclosing Party's premises, or communication with the Disclosing Party's employees or independent contractors, in whichever form, relating to (i) the current or future activities, strategies, products, objectives, affairs and/or finances of the Parties and confidential to them or treated by them as such and trade secrets (including, without limitation, technical data and know-how) relating to their activities or of any of their suppliers, clients, distributors or customers, or (ii) the Agreement or any of the agreements or transactions contemplated hereby, provided that Confidential Information shall however not include (a) information or material which at the time of its disclosure, or thereafter becomes (through no fault of a Party, any of its affiliates (as defined in the Belgian Code of Companies and Associations) or its Authorized Recipient) part of the public domain, or (b) for a certain Party, information or material which was known to this Party, its affiliates or its Authorized Recipient at the time of disclosure and was not obtained, directly or indirectly, under a confidentiality obligation.

9.2. Confidentiality obligation

The Receiving Party undertakes with respect to all Confidential Information to:

- (a) keep the Confidential Information secret and not disclose or copy any of it, in whole or in part, to any person other than (i) with the prior written consent of the Disclosing Party or (iii) to its directors, officers, employees, auditors or advisors or those of its Affiliates (together the Authorised Recipients), but then only on a strict need-to-know basis and on the basis that the Authorised Recipients themselves will not disclose or copy the Confidential Information to any person and are bound by confidentiality information at least as stringent as the ones under this Agreement;
- (b) solely use the Confidential Information for the purposes of exercising its rights or performing its obligations under the Agreement;
- (c) to the extent permitted by law, promptly and informatively notify the Disclosing Party if, pursuant to a legal obligation or further to an administrative or court order the Receiving Party appears likely to become compelled to disclose any of the Disclosing Party's Confidential Information;

- (d) treat any doubtful information as confidential until any doubts concerning its nature are resolved and could be reasonably evidenced, after reasonable enquiry; and
- (e) without prejudice to the Parties' record-keeping obligations under law, to forthwith and promptly return or, at the direction of the Disclosing Party, destroy, any and all Confidential Information, together with any copies derivative works, whether or not authorized, that may have been made, and provide the Disclosing Party with written certification that all notes, memoranda, analyses, reports, presentations, plans, evaluations or other documents or data involving Confidential Information, have been destroyed, upon the written request of the Disclosing Party.

The paragraph (e) will not apply to Confidential Information stored in electronic back up(s), which will be destroyed according to the foreseen schedule of destruction for such back up.

The obligations and restrictions set forth in this section shall be in force for the term of the Agreement and shall, notwithstanding expiration or termination of the Agreement for any reason whatsoever, remain in effect for a time period of five (5) years thereafter.

9.3. Exceptions to the confidentiality obligation

Notwithstanding anything to the contrary in the Agreement, the Parties may, at any time, disclose Confidential Information (or permit the disclosure of Confidential Information):

- (a) as required by law, a court or any Competent Authority; and
- (b) in Court or arbitration proceedings to the extent necessary for a Party to enforce its rights towards the other Party;

provided that, to the extent legally possible, the recipient of Confidential Information undertakes/is under the obligation to keep the Confidential Information confidential subject to appropriate confidentiality undertakings, before any Confidential Information is communicated to it.

Unless expressly agreed otherwise, all rights, title and interest to and in Confidential Information shall vest and remain in the Disclosing Party.

10. LIABILITY AND INSURANCE

10.1. Liability

The duties and responsibilities of Belgian Mobile ID under the Agreement shall be limited to those expressly set forth and undertaken therein.

Belgian Mobile ID will not assume any liability for Losses resulting from an End-User's negligence or any Losses resulting from a fraudulent action of a third party (including hacking, identity theft, etc), unless such fraudulent action directly results from BMID's non-compliance with its obligations under the applicable laws or regulation, or this Agreement

10.2. Belgian Mobile ID's liability in relation to the Services and this Agreement is limited as follows:

- (a) Belgian Mobile ID shall not be liable when the default in the performance of the Agreement is caused by any action or omission of the Customer or of the Signature Creation Application Provider; and,
- (b) Notwithstanding anything provided herein to the contrary and to the extent permitted by law, under no circumstances shall Belgian Mobile ID be liable for any non-material or indirect Loss (indirect Loss being defined as loss of profits, loss of savings or anticipated savings and loss of business), arising out of or relating to the Agreement regardless of the cause of such losses; and
- (c) To the extent permitted by law, Belgian Mobile ID's aggregate liability towards the Customer for any Loss shall in any event not exceed:
 - i. in relation to each event or series of connected events, an amount equal to the fees paid to Belgian Mobile ID by the



Customer under the Agreement for the three complete months immediately prior to the month in which the relevant event (or first in a series of connected events) occurs;

- ii. in relation to all events occurring in any Calendar Year, an aggregate amount equal to the fees paid to Belgian Mobile ID by the Customer under the Agreement during the Calendar Year preceding that said Calendar Year. With any series of connected events, all such connected events will for the purposes of this condition be treated as occurring in the year in which the first event occurred. Given the absence of a preceding year during the first Calendar Year of the Agreement, Belgian Mobile ID's liability cap for that first year will amount Belgian Mobile ID's fees for that first Calendar Year.

Nothing in the Agreement limits or excludes any liability for a Party's fraudulent actions or for death or personal injury as a result of a Party's negligence.

10.3. Force majeure

The Parties shall not be liable for any Loss resulting from a delay or failure to comply with their non-monetary obligations under the Agreement due in whole or in part to any event of Force Majeure.

If a Party is, wholly or partially, prevented or delayed from or in performing any of its obligations under the Agreement by Force Majeure (the Affected Party), then the Affected Party's obligations hereunder shall be suspended for as long as such Force Majeure continues and the Affected Party is thus prevented or delayed from or in performing such obligations.

If such Force Majeure continues for more than fifteen (15) Calendar Days, the Parties commit to negotiate in good faith to agree on alternative contractual terms to restore the initial Agreement equilibrium as much as possible.

The Parties may terminate the Agreement in case of Force Majeure as described in Rule 4.2 (*Termination of the Agreement*).

10.4. Insurance

Belgian Mobile ID and Customer will take out all necessary insurance policies with a recognised insurance company in order to insure their pre- contractual, contractual and extra-contractual liabilities during the entire term of the Agreement. Belgian Mobile ID and Customer shall ensure that the sums insured are sufficient to cover their liabilities under the Agreement.

11. DISPUTE RESOLUTION, GOVERNING LAW AND JURISDICTION

11.1. Governing law

The Agreement is governed by and construed in accordance with Belgian law, with the exception of Belgian conflict of laws rules.

11.2. Dispute settlement

11.2.1. Escalation Committee

Any disagreement, dispute or claim arising of or in connection with the Agreement that has not been settled between the usual contacts of Belgian Mobile ID and Customer shall be referred to a joint committee comprised of representatives of Belgian Mobile ID and Customer concerned (the Escalation Committee).

The Escalation Committee will be set up by Customer and Belgian Mobile ID within five (5) Business Days as from the notification by one of the Parties, to the other, of the disagreement, dispute or claim. Belgian Mobile ID and Customer shall ensure that the representatives they appoint to participate to the Escalation Committee have, given the circumstances of the disagreement, the appropriate knowledge, experience and position within their own organization to ensure efficient and good faith discussions.

The Escalation Committee shall attempt to resolve the matter through good faith negotiations as soon as possible and no later than within ten (10) Business Days as from the setting up of the Escalation Committee.

This Clause 11.2.1 (*Escalation Committee*) is without prejudice to the Parties' right to seek interim relief (in Dutch: "in kort geding" or "zoals in kort geding"; in French "en référé" or "comme en référé") from a court of competent jurisdiction whenever necessary to prevent serious and irreparable harm to a Party.

11.2.2. Jurisdiction

Any dispute that has not been solved amicably in accordance with Clause 11.2.1 (*Escalation Committee*) shall be solved in accordance with this Clause 11.2.2 (*Jurisdiction*).

The Commercial Court of Brussels shall have exclusive jurisdiction with respect to all disputes relating to the validity, the interpretation, the performance or the termination of the Agreement.

12. GENERAL PROVISIONS

12.1. Representations and warranties

Each Party shall warrant on an on-going basis that:

- (a) it has all requisite corporate power, authority and all necessary consents to execute, deliver and perform its obligations under this Agreement;
- (b) the signing of this Agreement or any supplemental agreement thereto by each respective Party has been duly authorized by all requisite corporate authorizations; and
- (c) the obligations set forth in this Agreement are valid and binding obligations, enforceable against it in accordance with their terms (assuming the due authorization, execution, and delivery by the other).

Each Party has and shall continue to hold all regulatory approvals from regulatory authorities which are necessary in order for that Party to perform its obligations or enforce its rights hereunder.

12.2. Assignment of the Agreement

The Agreement may not be assigned, transferred or otherwise disposed of by any of the Parties and none of them may delegate their rights, obligations and/or duties hereunder in whole or in part, without the prior written consent of the other Party, which consent will not be unreasonably withheld, except to (i) any entity of its Group, (ii) a successor in interest or to (iii) a successor further to a transaction in which it is transferring all or substantially all of its assets (or of the assets of the business unit to which this Agreement primarily relates), together with the related liabilities.

12.3. Amendments

Any amendment to the Agreement shall only be valid if agreed upon in writing by both Parties.

Notwithstanding the above, Belgian Mobile ID may, at any time, modify these T&Cs, provided it uses this right in a reasonable and balanced way and the modification is based on justifiable reasons.

Any amendment to the T&Cs shall be communicated to the Customer at least two months prior to becoming into force, and shall become binding upon the expiry of the two months' notice period mentioned above, or at any other later date as provided in the notification.

Notwithstanding the above above, where the amendment to the T&Cs is

- non-material, or
- required for security or continuity-related reasons, or
- required to address a Legal or Regulatory Change entering into force within a shorter period of time than the period provided in the paragraph above,

Belgian Mobile ID may reduce the communication period to the Customer by providing for an earlier date of entry into force.

If the Customer does not agree with the amendment, it may refer the matter to the Escalation Committee and, if Belgian Mobile ID and the Customer do not find an agreed solution before the entry into force of the amendment, the Customer will be entitled to terminate the Agreement in accordance with Clause 4.2 (*Termination of the Agreement*).



12.4. Invalidity of a provision

The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision of the Agreement. Any such invalid or unenforceable provision shall be replaced or be deemed to be replaced by a provision that is considered to be valid and enforceable and which shall be as close as possible to the intent of the invalid or unenforceable provision.

12.5. Entire agreement, waiver, costs, translation of the agreement and form of documents

The Agreement constitutes the entire agreement between the Parties, and supersedes all prior agreements, written or oral, among the Parties, with respect to the subject matter hereof. Unless expressly specified otherwise in the Agreement, no representation, warranty, inducement, promise, understanding or condition not set forth in the Agreement has been made or relied on by any Party in entering into the Agreement. Nothing in the Agreement, expressed or implied, is intended to confer on any person, other than the Parties hereto or their respective successors, any rights, remedies, obligations or liabilities.

Any provision of the Agreement may be waived, but only if the waiver is in writing and signed by the Party that would have benefited by the provision waived. In order to be effective, any consent required under the Agreement must be in writing and signed by the Party granting the consent.

No failure to exercise or delay in exercising any right, power or remedy by a Party operates as a waiver. A single or partial exercise of any right does not preclude any other or further exercise of that or any other right. A waiver is not valid or binding on the party granting that waiver unless made in writing.

Except as otherwise provided herein, each Party will bear all expenses incurred by it in connection with the Agreement and the performance of its obligations hereunder.

To the extent permitted by applicable law, any non-English version of the Agreement shall be provided for convenience only and the English version, which shall be made available to the Customer at no cost and at any time upon request, shall be the only binding version.

The Parties accept that data and documents provided by other means than paper format shall have the same legal value when presented as evidence in legal proceedings.

Belgian Mobile ID shall have the right to provide the Customer with documents in the form it deems appropriate, including the internet. The Parties shall not dispute the admissibility of data/documents for the mere reason that they were provided in electronic format.

12.6. Notices and other communications

Unless specifically otherwise provided in the Agreement, all notices, requests and other communications under the Agreement shall be:

- in writing in English, and optionally French or Dutch,
- made by personal delivery (directly or via a courier), with signature for acknowledgement of receipt, or by e-mail,
- to the addresses mentioned in the Customer Agreement.

Unless otherwise stated in the Agreement, all notices, requests and other communications under the Agreement shall be deemed given:

- in case of e-mail, on the Business Day following the date of sending, unless the sender received an out-of-office message (in which case the message will be deemed received on the Business Day following the sending to the substitute email address mentioned in the addressee's out-of-office message) or a notification of failed delivery;
- in case of delivery by hand, on the date on the acknowledgment of receipt or on the date of the attempted delivery as evidenced by standard documentation issued by the courier or the post office.

13. DEFINITIONS

- **Adobe:** means Adobe Systems Incorporated, a company incorporated in Delaware, U.S.A., with registered seat at 345

Park Avenue, San Jose, California 95110-2704, U.S.A. ("Adobe US") and/or Adobe Systems Software Ireland Limited, a company incorporated in Ireland, with registered seat at 4-6 Riverwalk, City West Business Campus, Saggart D24, Dublin, Ireland ("Adobe Ireland").

- **Agreement:** These Terms and Conditions together with the Customer Agreement.
- **Affected Party:** any Party prevented or delayed from or in performing any of its obligations under the Agreement by Force Majeure
- **Authorised Recipients:** The Disclosing Party's directors, officers, employees, consultants, auditors or advisors
- **Breach:** any non-compliance (whether in the form of an act or an omission) with an obligation under the Agreement
- **Business Day:** any Calendar Day from Monday through Friday, but excluding holidays in Belgium, beginning at midnight (Belgian time) and ending 24 hours later
- **Calendar Day:** any day of the month, including Business Days, weekends and public holiday days, beginning at midnight (Belgian time) and ending 24 hours later
- **Calendar Year:** a one-year period beginning on 1st January and ending on 31 December.
- **Competent Authority:** any local or national agency, authority, department, inspectorate, minister, ministry official or public or other entity or person (whether autonomous or not) of any government or country, including European agencies, the European Commission and the European Court of Justice
- **Confidential Information:** any information which is disclosed by a Party (the Disclosing Party) to the other Party (the Receiving Party) or which either Party otherwise obtains knowledge of through or as a result of its relationship with the Disclosing Party, access to the Disclosing Party's premises, or communication with the Disclosing Party's employees or independent contractors, in whichever form, relating to (i) the current or future activities, strategies, products, objectives, affairs and/or finances of the Parties and confidential to them or treated by them as such and trade secrets (including, without limitation, technical data and know-how) relating to their activities or of any of their suppliers, clients, distributors or customers, or (ii) the Rulebook and the Agreement(s) or any of the agreements or transactions contemplated hereby, provided that Confidential Information shall however not include (x) information or material which at the time of its disclosure, or thereafter becomes (through no fault of a Party, any of its affiliates (as defined in the Belgian Company code) or its Authorised Recipient) part of the public domain, or (y) for a certain Party, information or material which was known to this Party, its affiliates or its Authorised Recipient at the time of disclosure and was not obtained, directly or indirectly, under a confidentiality obligation
- **Customer:** The Party who entered into a Customer Agreement as Customer
- **Customer Agreement:** The Agreement signed by Belgian Mobile ID and Customer
- **Customer's Brand:** all word and figurative trademarks, names, logos, trade names, logotypes, trade designations, and other designations, symbols, and marks, that the Member and/or its Affiliates own, manage, license, or otherwise control now or in the future, anywhere in the world, whether registered or not
- **Data Breach:** any unauthorized processing, loss, use, disclosure or acquisition of or access to any Personal Data
- **Data Controller:** has the meaning as ascribed in the Data Protection Laws and Regulations
- **Data Protection Laws and Regulations:** all Laws applicable in Belgium relating in any way to the privacy, confidentiality, security and protection of Personal Data, including, without limitation, EU Regulation 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data



- **Disclosing Party:** see Confidential Information
- **Effective Date:** the date on which the Agreement takes effect as set out on the introduction page thereof
- **End User (or User):** any user of the itsme® Services.
- **Escalation Committee:** has the meaning as ascribed in Clause 11.2.1.
- **Fees:** Fees has the meaning described in Clause 5.
- **Force Majeure:** see Force Majeure Event
- **Force Majeure Event:** any event that was unforeseeable when the Agreement was made, arising out of circumstances other than a breach of the Agreement and that is beyond the control of the Affected Party and renders the performance of the Affected Party's obligations under the Agreement impossible
- **Group:** Group has the meaning described in Clause 12.2.
- **Hash Signing:** delivery, by Belgian Mobile ID, of the electronic signature of an End User to the Customer, so that the Customer can link it to the hash of the data that the Customer wishes the End User to sign to finalise the creation of the signature of the document
- **Initial Term:** has the meaning as ascribed in Clause 4.1 .
- **Insolvency Event:** for a Party, such Party becoming generally unable to pay its debts as they become due, or its creditworthiness being permanently impaired, or its financial situation deteriorating in such a manner that proper maintenance or orderly continuation of its business operations is jeopardized or no longer possible, or a resolution being passed for its administration, winding-up or dissolution (other than for a solvent amalgamation or reconstruction), or it becoming involved in negotiations with any one or more of its creditors with the view to the general readjustment or rescheduling of its debts or to make a general assignment, arrangement or composition
- **Intellectual Property Rights:** all patent rights, copyrights, neighbouring rights, database rights, design rights, trade mark rights, trade name rights and rights to know how and domain names, and all (other) (rights in respect of) (registered or unregistered) patents, inventions, works, writings, databases, designs, models, trademarks, trade names and domain names, concepts, processes/methods, technologies, systems and rights to know how, including any and all applications thereto and the right to file such applications
- **Interface:** data exchange solutions between two IT systems
- **itsme® App:** the software application designed to run on smartphones developed and offered by Belgian Mobile ID and which is put at the End Users' disposal to use the itsme® Services
- **itsme® Brand:** all word and figurative trademarks, names, logos, trade names, logotypes, trade designations, and other designations, symbols, and marks, that Belgian Mobile ID owns, manages, licenses, or otherwise controls now or in the future, anywhere in the world, whether registered or not
- **itsme® Services:** The services offered by Belgian Mobile ID as described in the Agreement
- **Loss:** any loss, liability, cost, claim, damages, third party claim, fees, charges and expenses including all legal and other professional fees and disbursements of any sort
- **Operation:** any operation made by the End User with the itsme® App (Identification, Authentication or Confirmation)
- **Party and/or Parties:** Belgian Mobile ID and/or Customer
- **Personal Data:** any information relating to an identified or identifiable person within the meaning of the Data Protection and Privacy Laws, including, without limitation, name, address, e-mail, telephone number, business contact information, data of birth, credit or debit card number, bank account number, and any other unique identifier or one or more factors specific to the individual's physical, physiological, mental, economic, cultural or social identity
- **Qualified Electronic Signature (QES):** Advanced Electronic Signature that meets the requirements as in Directive 1999/93/EC [i.19], article 5(1), i.e. is based on a Qualified Certificate (this ensures that the Certificate cannot be falsified) and is created by a Qualified Signature Creation Device (this ensures that the private key can only be activated by the subject of the Certificate)
- **Qualified Trust Service Provider:** A trust service provider who provides one or more qualified trust services and is granted the qualified status by the supervisory body
- **Qualified Signature Creation Device:** means an electronic signature creation device that meets the requirements laid down in Annex II of the eIDAS regulation.
- **Receiving Party:** see Confidential Information
- **Regulatory (or Legal) Change:** any change in any relevant law, enactment, order, regulation, regulatory policy, guideline, industry code or regulatory permit or license, as well as any injunction or decision of any Competent Authority which impacts the exercise of their rights or the performance of their obligations under the Agreement by Customer and/or Belgian Mobile ID
- **Signature Creation Application:** application that creates the signature data object
- **Signature Creation Service:** the signature creation service provided by Belgian Mobile ID
- **Signature Creation Application Provider:** any person (legal or physical) operating a Signature Creation Application, ensuring (a.o.) the exact correspondence between the document presented to the User and the one signed by the User and generating the data to be signed with itsme®
- **Sub-License:** has the meaning described in Clause 8.1
- **Terminating Party:** Terminating Party has the meaning described in Clause 4.2.
- **Transaction:** any transaction between an End User and a Customer for which the itsme® Services are used
- **Transaction Context:** the data communicated by the Customer to Belgian Mobile ID that the User has to visualize before approving a Transaction with such Customer