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Licence and Terms of Use for Smill

A. Terms of use

§ 1 General provisions

§ 1.1

Koenig & Bauer Banknote Solutions (DE) GmbH (hereinafter "Koenig & Bauer") offers the User the mobile application Smill (hereinafter "App") for the use of physical banknotes as digital data carriers for message transmission. Insofar as the App is distributed via an app store, the General Terms and Conditions of the respective app store shall additionally apply to the purchase of the App.

§ 1.2.

During the installation process of the App, the User confirms by clicking the "Accept" button (iOS, Android) that he/she agrees to these terms of use (hereinafter "Terms") and declares that the consent of the legal representative has been obtained if he/she is not yet of age due to applicable law. Koenig & Bauer may add to, modify or replace this agreement with further terms at any time without requiring individual communication to the User. By continuing to use the App, the User agrees to the respective version of the terms of use.

Koenig & Bauer also reserves the right to modify, interrupt or discontinue the App at any time, temporarily or permanently, with or without notice to the User. Koenig & Bauer shall not be liable to the User or third parties for any modification, interruption or discontinuation of the App. In the event of a change, these Terms of Use shall also apply to the changed app.

These Terms of Use shall also apply to updates due if and to the extent that the update is not governed by a separate agreement.

§ 2 Rights of use

Koenig & Bauer grants the User the non-exclusive, revocable, non-sublicensable, royalty-free and non-transferable right to use the App, including all digital content contained therein, in accordance with these Terms of Use for private purposes only.

§ 3 Duties of the User and prohibitions

§ 3.1

The User is obliged to use the App only lawfully in accordance with these Terms of Use and in compliance with applicable law. The User undertakes to procure and maintain at their own expense technical equipment and related ancillary services required for the User's connection to, access to or other use of the Services.

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§ 3.2

The User has the possibility to upload their own content. The User undertakes not to upload any content that violates applicable law or infringes the rights of third parties. In particular, the User shall not publish any content that is racist, pornographic, obscene or vulgar, glorifies violence, or is otherwise immoral, offensive or injurious. The User shall also not publish any links referring to websites on which the above-mentioned content is published. Koenig & Bauer accepts no responsibility for the content posted by the User and reserves the right to delete content in breach of contract or to block access.

§ 3.3

It is not permitted to provide, publish, license, sell or otherwise commercially exploit the App to third parties, whether in return for payment or free of charge. No rights to the App may be rented, leased or otherwise transferred. The User may not distribute the App or reproduce the App in whole or in part. The modification or editing of images or information and the commercial or industrial exploitation of the information is not permitted. The offering of services using the App is also excluded.

Furthermore, any use of the App that has a negative impact on the App itself or websites connected to it or on software accessed through the App is prohibited. In particular, any manipulation of the App or the program code, for example by means of viruses, Trojans or other harmful program codes or other actions or tools, that could lead to damage to the App and the digital content, is prohibited.

§ 4 Technical requirements

For iOS devices, the App requires an iOS operating system version of 11 or higher. For Android devices, an operating system version that supports ARCore is required. Although Koenig & Bauer endeavours, without any legal obligation to do so, to adapt the App to modified operating system versions and new mobile end device variants and to make the App available on these end devices, the User has no entitlement to such an update. The User is responsible for checking and ensuring the suitability of the end device intended by them for the installation of the App with regard to the aforementioned technical requirements.

§ 5 Warranty

Koenig & Bauer is committed to providing high availability of the App and regular updating of the information that can be accessed.

Koenig & Bauer makes no representation or warranty that the App will be uninterrupted or error-free or that the information is always accurate or complete.

Koenig & Bauer makes no warranties or representations of any kind, express or implied, including, but not limited to, implied warranties with respect to the App and the information made available.

Furthermore, Koenig & Bauer makes no warranty as to the merchantability, satisfactory

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quality, fitness for a particular purpose, accuracy, completeness, timeliness or uninterrupted use of the App.

§ 6 Liability and indemnification

§ 6.1

Any liability on the part of Koenig & Bauer for any damage, irrespective of when such damage occurred or arises and on what legal grounds it results, in particular compensation for consequential damage, is excluded.

In this context, Koenig & Bauer shall not be liable - to the extent permitted by law - for any loss or damage that may be caused to the hardware and software as a result of using and querying the App or as a result of links to other websites. The exclusion of liability applies in particular to the quality, up-to-dateness, correctness, validity, completeness and availability of the content and functions offered on the App.

The above exclusion of liability does not apply

- in the event of intent and gross negligence,
- in the event of culpable injury to life, limb or health,
- in the case of defects which Koenig & Bauer has fraudulently concealed,
- within the framework of a guarantee commitment,
- in the event of liability under the Product Liability Act, insofar as liability is assumed hereunder for personal injury or property damage to privately used objects.

In the event of a proven culpable breach of material contractual obligations (i.e. obligations which characterise the contract and on which the User may reasonably rely), Koenig & Bauer shall also be liable for slight negligence, in the latter case limited to reasonably foreseeable damage typical of the contract.

Any exclusion or limitation of liability in favour of Koenig & Bauer shall also apply to employees, representatives, vicarious agents of Koenig & Bauer and of affiliated companies within the meaning of Section 15 of the German Stock Corporation Act (AktG).

§ 6.2

The User shall indemnify and hold Koenig & Bauer harmless from and against any and all claims, including attorneys' fees and court costs, asserted against Koenig & Bauer by third parties arising out of or in connection with the User's violation of any law or agreement.

§ 7 Data protection

Koenig & Bauer will at all times comply with the requirements of the applicable data protection law, in particular the GDPR.

The User grants Koenig & Bauer a simple, non-exclusive, non-transferable, sub-

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licensable right, unrestricted in terms of territory and content, to use the content and the data collected on an anonymous basis to the extent necessary, even after the termination of this agreement. Koenig & Bauer shall not be liable for the contents or data. Personal data will not be processed.

§ 8 External links

The App may contain links to third party websites. These links provide Users with access to information that may be useful or interesting to them.

If the User reaches external websites via these links in the App, the responsibility for the content of these websites lies with their providers.

Koenig & Bauer does not adopt the contents of these pages as its own. Any liability or warranty on the part of Koenig & Bauer for the content of the linked pages is excluded.

§ 9 Intellectual property

The contents of this App are protected by copyright. Koenig & Bauer retains ownership of all proprietary rights, including copyrights, patents, trademarks and all other intellectual property rights and technical solutions related to the App. The User acknowledges that the rights granted under this User Agreement do not give the User any ownership rights to the App.

All rights to the content and data which the User makes available to Koenig & Bauer remain with the User.

Koenig & Bauer will take reasonable steps to ensure that the security of the App meets market industry standards.

Koenig & Bauer reserves the right to make new versions and updates of the App, in particular changes to the design, operational procedure, technical specifications, systems and other functions of the App, at any time and without prior notice.

§ 10 Termination

If the User violates the Terms of Use or if their behaviour violates the law, the rights of third parties or morality, their rights of use according to § 2 will end automatically and Koenig & Bauer may prohibit their access to the App temporarily or permanently.

Any unlawful use, in particular reproduction, distribution or publication for commercial purposes, will be prosecuted by Koenig & Bauer under civil and/or criminal law.

§ 11 Final provisions for licensing and Terms of Use

§ 11.1

Should any provision of these Terms of Use be or become invalid or contain a loophole,

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the legal validity of the remaining provisions shall remain unaffected. In place of the missing or invalid provision, a provision shall be deemed agreed that comes closest to the originally intended, economic purpose.

Changes and additions to these Terms of Use must be made in writing. This also applies to the amendment of this written form requirement.

§ 11.2

All disputes arising out of or in connection with the use of the App pursuant to these Terms of Use shall be governed by the laws of the Federal Republic of Germany under exclusion of the provisions of the United Nations Convention on Contracts for the International Sale of Goods.

If the User is a consumer, any further rights for consumers under the law of the country in which the consumer has their permanent residence remain unaffected.

If the User is a merchant within the meaning of the German Commercial Code (Handelsgesetzbuch), a legal entity under public law or a special fund under public law, and

- a) has their registered office within the European Union at the time of the first procedural order, the registered office of Koenig & Bauer shall be the exclusive place of jurisdiction for all disputes arising in connection with these Terms of Use. Notwithstanding the foregoing, Koenig & Bauer shall also be entitled to bring an action before the court having jurisdiction over the User's registered office.
- b) has their registered office outside the European Union at the time of the first procedural order, all disputes arising in connection with these Terms of Use shall be finally settled in accordance with the Rules of Arbitration of the German Institution of Arbitration (Deutsche Institution für Schiedsgerichtsbarkeit e.V.). (DIS) to the exclusion of the ordinary course of law.
The arbitral tribunal shall consist of a sole arbitrator if the amount in dispute does not exceed 200,000 euros or of three arbitrators if the amount in dispute exceeds 200,000 euros. The place of arbitration shall be Würzburg. The language of the proceedings shall be German.

B. Licence terms

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§ 1 Scope of application and notes

§ 1.1

In addition to the Terms of Use, this License Agreement (hereinafter referred to as "EULA") applies to the application "Smill" (hereinafter referred to as "App") between Koenig & Bauer Banknote Solutions (DE) GmbH, Friedrich-Koenig-Straße 4, D-97080 Würzburg (hereinafter referred to as "Koenig & Bauer") and the User. This EULA does not establish any legal relationship between the User and the App Store / Play Store. The App provided by Koenig & Bauer is subject to the Terms of Use and [Privacy Policy of Koenig & Bauer](#).

By downloading, accessing and/or using the App, the User accepts and agrees to be bound by these Licence Terms and confirms that they constitute a legally binding contract between Koenig & Bauer and the User. In addition, the User accepts these Terms of Use on their own behalf and on behalf of their employer or the organisation they represent when acting as a representative of another entity (such as a company, public authority or other legal entity).

Koenig & Bauer reserves the right to change these Terms of Use with or without notice to the User.

§ 1.2

As stated in the Terms of Use, the User may not distribute or make available the Licensed App over a network where the App could be used by many different devices simultaneously. The User may not transfer, redistribute or sublicense the Licensed App, and if the User sells their mobile device to a third party, the User must first remove the Licensed App from the mobile device before doing so. The User may not reproduce (except as permitted under these License Terms and the Terms of Use), reverse engineer, disassemble, attempt to derive, modify, or create derivative works from the source code from the Licensed App or any updates or any portion thereof (except to the extent, and only to the extent, that any of the foregoing restrictions are prohibited by applicable law or, if relevant, permitted under the Licence Terms applicable to the use of any open source components incorporated into the Licensed App).

§ 1.3

The User agrees that Koenig & Bauer may collect and use technical data and related information - in particular technical information about the device, system and application software and peripherals - which is collected at regular intervals to facilitate the provision of software updates, product support and other services (if any) provided to the User in connection with the Licensed App. Koenig & Bauer may use this information to improve its products or to provide services or technology to the User, as long as it is in a form that does not reveal the identity of the User.

§ 1.4

The rights under these Licence Terms will automatically terminate if the User does not

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comply with the terms.

§ 1.5

The Licensed App may provide access to services and websites of Koenig & Bauer and/or third parties (collectively and individually, "External Services"). The User agrees to use the External Services at his/her sole risk. Koenig & Bauer is not responsible for reviewing or evaluating the content or accuracy of any External Services provided by third parties and shall not be liable for any such External Services provided by third parties. Data displayed in any Licensed App or External Service, including but not limited to financial, health and location information, is for general informational purposes only and is not warranted by Koenig & Bauer or its representatives. The User warrants that he/she will not use the External Services in a manner that does not comply with the terms of this Licence Agreement or infringes the intellectual property rights of Koenig & Bauer or any third party. The User agrees not to use the External Services to harass, abuse, stalk, threaten or defame any person or entity and that Koenig & Bauer is not responsible for any such use. External Services may not be available in all languages or in the User's home country and may not be suitable or available for use in a particular location. To the extent that the User chooses to use such External Services, the User is solely responsible for compliance with all applicable laws. Koenig & Bauer reserves the right to change, block, remove, disable or impose access prohibitions or restrictions with respect to External Services at any time without notice or liability towards the User.

§ 1.6

Koenig & Bauer shall provide the Licensed App with reasonable care and exercise reasonable care with respect to the External Services provided or made available by means of the Licensed App. Koenig & Bauer makes no other promises or representations with respect to the External Services and in particular does not warrant that:

- a) the use of the External Services will be uninterrupted or error-free;
- b) the External Services will be free from loss, corruption, attack, virus, tampering, hacking or other security-related failures and Koenig & Bauer excludes all liability in this regard;
- c) the User is responsible for the backup of the User's system, including the backup of all Licensed Apps that are stored on their system.

§ 1.7

To the extent that no limitation of liability applies, Koenig & Bauer, its employees, representatives, vicarious agents and its affiliates within the meaning of § 15 of the German Stock Corporation Act (AktG) shall in no event be liable for any loss or damage caused by them if:

- a) a legal duty of care has been breached which is owed by Koenig & Bauer, its

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- employees, representatives, vicarious agents and its affiliated companies within the meaning of Section 15 of the German Stock Corporation Act (AktG);
- b) it is not a reasonably foreseeable consequence of such a breach;
 - c) any increase in loss or damage is due to a breach by the User of any provision of these Licence Terms;
 - d) it is due to a decision by Koenig & Bauer to warn the User, to suspend or terminate the User's access to the External Services or to take other action during the investigation of suspected violations or as a result of Koenig & Bauer concluding that a violation of this Agreement has occurred;
 - e) it is related to loss or corruption of data in connection with your use of the Licensed App.

In all other respects, the statements on liability, limitation of liability and exclusion of liability under Section A. § 6 of the Terms of Use apply accordingly.

§ 2 Additional terms and conditions of external platform providers

- a) If the User downloads the App on Apple's iOS operating system, then the following applies:

The App may only be accessed and used on a device that the User owns or controls and that uses Apple's iOS operating system of 14 or later and only in accordance with Apple's usage rules as published in the App Store Terms of Service. The licence granted to the User for the App must be limited to a non-transferable licence to use the licensed App on any iOS products.

The User agrees to the following:

- Apple is under no obligation to provide support or maintenance services for the App.
 - Unless expressly stated otherwise in these terms and conditions, legal claims in connection with the possession or use of the App are settled between the User and Koenig & Bauer.
 - If a third party claims that possession or use of the App (in accordance with these Terms) infringes any intellectual property rights, Apple will not be responsible or liable towards the User.
 - Koenig & Bauer, not Apple, shall be solely responsible for any claims by the User or any third party relating to the Licensed App or the User's possession and/or use thereof, including, without limitation, claims arising out of product liability, complaints of any kind that the Licensed App fails to comply with any applicable legal or regulatory requirements, and claims arising under consumer protection or similar laws.
 - Even if these Terms are agreed between the User and Koenig & Bauer, Apple is an external beneficiary of these Terms and as such is entitled to enforce these Terms against the User.
- b) If the User downloads the App on Google's Android operating system, then the

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following applies:

The App may only be accessed and used on a device that the User owns or controls and that uses an Android operating system with Google's ARCore and only in accordance with Google's usage rules as published in the Google Play Store Terms of Service. The licence granted to the User for the App must be limited to a non-transferable licence to use the licensed App on any Android Products.

The User agrees to the following:

- Google is under no obligation to provide support or maintenance services for the App.
- Unless expressly stated otherwise in these terms and conditions, legal claims in connection with the possession or use of the App are settled between the User and Koenig & Bauer.
- If a third party claims that possession or use of the App (in accordance with these Terms) infringes any intellectual property rights, Google will not be responsible or liable towards the User.
- Koenig & Bauer, not Google, shall be solely responsible for any claims by the User or any third party relating to the Licensed App or the User's possession and/or use thereof, including, without limitation, claims arising from product liability, complaints of any kind that the Licensed App does not comply with applicable legal or regulatory requirements, and claims arising from consumer protection or similar laws.
- Although these Terms are agreed between the User and Koenig & Bauer, Google is an external beneficiary of these Terms and as such is entitled to enforce these Terms against the User.

c) Furthermore, the User declares and guarantees the following:

- The User is not a resident, now or in the future, of any country on which the U.S. government has imposed an embargo or which the U.S. government has designated as a "terrorism-supporting" country.
- The User is not listed on any prohibited or restricted parties list of the United States government.
- The User complies with relevant third party contract terms when using the App, e.g. in the case of a VoIP app, the User must not breach their mobile data service contract, for example, when using this app.

d) Koenig & Bauer shall be solely responsible for product defects of any kind, whether expressly or implied by law, unless liability for defects has been excluded. In the event that the App is subject to an applicable Defect Liability, these Licence Terms provide that, to the maximum extent permitted by law, Apple or Google shall have no other Defect Liability with respect to the Licensed App and that Koenig & Bauer shall be solely responsible for any other claims, losses, liabilities, damages, costs or expenses attributable to the defect, unless liability is excluded.