

## TRADING PARTNER AGREEMENT - General Legal Provisions

### 1. Effective Date

The effective date of this Trading Partner Agreement is: \_\_\_\_\_.

### 2. Parties

This Trading Partner Agreement (hereinafter the "Agreement") is entered into by and between:

\_\_\_\_\_(Company name),  
a company incorporated in \_\_\_\_\_ (Country/State)  
and organised and existing under the laws of \_\_\_\_\_  
(Country/State), having its principal place of business at \_\_\_\_\_  
\_\_\_\_\_. (Address)

(hereinafter "\_\_\_\_\_", or Party),

and

\_\_\_\_\_(Company name),  
a company incorporated in \_\_\_\_\_ (Country/State)  
and organised and existing under the laws of \_\_\_\_\_  
(Country/State), having its principal place of business at \_\_\_\_\_  
\_\_\_\_\_. (Address)

(hereinafter "\_\_\_\_\_", or Party).

Hereinafter collectively referred to as the Parties.

### 3. Definition of Terms

**Adopted Format:** The accepted method for the Electronic Information Exchange according to the applicable Specifications and Appendices, or such other format that may be agreed in writing by the Parties.

**Confirmation of Acceptance:** Electronic Information returned to a requesting Party to confirm the business acceptance of a request.

**Confirmation of Receipt:** Electronic Information returned to a requesting Party to confirm the business receipt of a request.

**Data Log:** The Data Log is the complete Record of data interchanged between the Parties.

**Digital Signature:** A Digital Signature is an Electronic Signature that can be used to authenticate the identity of the sender of a message or the signer of a document, and possibly to ensure that the original content of the message or document that has been sent is unchanged.

**Electronic Information Exchange:** Means of Electronic Commerce defined to include, but not limited to, the exchange of messages, documents

and data using Information exchange technologies like Electronic Data Interchange, Facsimile,

Electronic Mail, and Internet-based Transactions making use of Extensible Markup Language and Portal technology.

**Electronic Signature:** An Electronic Signature means an electronic sound, code, symbol, or process, attached to or logically associated with a contract or other document and executed or adopted by a person with the intent to sign the document.

**Encryption:** Encryption is the conversion of data by means of mathematical algorithms into a form (secret code) that cannot be easily understood by unauthorized people.

**Information:** Information means data, text, images, sounds, codes, computer programs, software, databases, or the like.

**Record:** Record means Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

**Service:** A Service is a software module deployed on network accessible platforms provided by the Service Provider. Its interface is described by a Service description. It exists to be invoked by or to interact with a Service requestor. It may also function as a requestor, using other Services in its implementation.

**Service Provider:** A company that provides to its Trading Partner Electronic Information Exchange Services that would otherwise have to be located in their own company computers. The Service Provider is the owner of the Services offered.

**Specifications:** The set of standards, protocols and documents describing business and technical procedures and rules and other requirements applicable to the Electronic Information Exchange agreed using the Adopted Format identified in the Appendices to this Agreement.

**Trading Partner:** A company using Electronic Information Exchanges under this Agreement.

**Transaction:** A Transaction means an action or set of actions relating to the conduct of business, consumer, or commercial affairs between two or more Trading Partners, including any of the following types of conduct: (a) the sale, lease, exchange, licensing, or other disposition of (i) personal property, including goods and intangibles, (ii) Services, and (iii) any combination thereof; and (b) the sale, lease, exchange, or other disposition of any interest in real property, or any combination thereof.

### 4. Object and Scope

These provisions shall govern the terms and conditions of the Agreement between the Parties in respect to the exchange and processing of Information by electronically transmitting and receiving data with the Adopted Format.

Because the Parties have agreed to use Electronic Information Exchange as a substitution for

conventional paper-based documents, this Agreement is to ensure that such Transactions are not legally invalid or unenforceable as a result of the use of available electronic technologies for the mutual benefit of the Parties.

The Parties agree that any portion of this Agreement which aims to determine contract formation or otherwise change, cancel or modify any other legal rights or remedies (a) is inapplicable; (b) does not form a part of this or any other Agreement between the Parties; (c) does not create any agency, partnership, joint venture relationship or other business relationship between the Parties.

### 5. General Terms and Conditions

This Agreement adopts and incorporates by reference all of the terms and conditions of the \_\_\_\_\_ (title of the referenced contracts / documents) signed between the Parties dated as of \_\_\_\_\_ (effective dates) and attached hereto as \_\_\_\_\_ (name of the attachments) and all of its Annexes. The terms and conditions of this Agreement shall only prevail in the event of any conflict related to electronic Transactions.

Each Party represents and warrants that (a) it has obtained all necessary approvals, consents, and authorizations of third Parties and governmental authorities to enter into this Agreement and to perform and carry out its obligations hereunder; (b) the persons executing this Agreement on its behalf have express authority to do so, and in so doing, to bind the Party thereto; and (c) this Agreement is a valid and binding obligation of such Party, enforceable in accordance with its terms.

Except as expressly stated above or otherwise specifically agreed neither Party makes any representation or warranties and each Party hereby expressly disclaims all representations and warranties express or implied related to this Agreement.

This Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party.

### 6. Recording and Storage

All Electronic Information shall be transmitted in a form that is capable of being recorded, stored and accurately reproduced for later reference by all the Parties.

The Records of the Information exchanged electronically will be stored unaltered and securely in order to maintain trade Data Log of all transmissions as they were sent and received, in accordance with the time limits and Specifications prescribed by legislative requirements that may apply in either of the respective countries of the Parties, and, in any event, for a period of \_\_\_\_ (\_\_) years unless otherwise specified in the applicable Appendix.

Each Party shall comply with all relevant local and national laws or regulations relating to the data

protection, and in particular shall maintain and use any personal data it may have access to in the course of the business relationship exclusively for the intended purpose.

### 7. Confidentiality and Third Party

Unless otherwise specifically agreed, all Electronic Information transmitted hereunder, and the electronic and Digital Signatures used as security measures for the exchanges, shall be deemed the confidential property of the originating Party, covered by and subject to the terms of the Non-Disclosure Agreement between the Parties.

Electronic Information may be exchanged either directly or through a Service Provider with whom either Party may contract. The Party contracting with a Service Provider must require that such Service Provider use confidential Information disclosed to or learned by such Service Provider only in connection with providing Services in accordance with an agreement signed by such Service Provider containing terms no less protective of such confidential Information than the terms of the Non-Disclosure Agreement between the Parties.

Either Party may modify its election to use or may change a Service Provider upon 30 days prior written notice to the other Party.

### 8. Security

Each Party shall properly implement the security procedures and infrastructure detailed in the applicable Specifications and Appendices, or if security procedures are not specified, shall properly implement security procedures that are sufficient to ensure that all Information exchanges are authorized and secure and to protect the Information transmitted, its business Records, and data from improper access and use, alteration, false denial, destruction, or loss.

For all Electronic Information Exchanges requiring Encryption as specified in the applicable Specifications and Appendices, each Party shall encrypt the Information accordingly.

Each Party shall comply with all local and international regulations related to the import, export and use of cryptographic products. As several countries have restrictions on such products, and their laws tightly control their use, each Party shall agree to comply with applicable laws governing the obligation to obtain a license for export, import or industrial use of any cryptographic product in the country in which such requirements are in effect.

### 9. Electronic Signatures

In order to exchange Electronic Information, each Party shall adopt an Electronic Signature, which shall be affixed to or contained in each message transmitted by such Party. Each Party agrees that any Electronic Signature of a Party affixed to or contained in any transmitted message shall be

deemed signed, duly given, and legally sufficient to verify that said Party originated the message.

The Parties agree that the exchange of Information pursuant to the applicable Specifications and Appendices will create valid and enforceable obligations, which will, in all respects other than the means of their transmission and receipt, be governed by the terms and conditions of the applicable agreements between the Parties.

Where particular Specifications require that the receiving Party issue a notice to the other confirming receipt, such notice will not constitute a binding acceptance or confirmation of anything more than mere receipt.

Any message or document properly signed to which is affixed a valid Electronic Signature and transmitted pursuant to this Agreement, or in connection with any Transaction or any other agreement described in Section 5, shall be considered to be a "writing" or "in writing" and to constitute an "original" when printed from electronic files or Records established and maintained in the normal course of business, admissible as between the Parties in a forum of any competent judicial, arbitration, mediation, or administrative proceeding to the same extent and under the same conditions as any other business Records originated and maintained in documentary form.

The Parties agree not to contest the validity or enforceability of signed documents under the provisions of any applicable law relating to whether certain agreements are to be in writing or signed by the Party to be bound thereby.

### 10. Digital Signatures

For each document, for which a Digital Signature is required to be used as the Electronic Signature as specified in the applicable Specifications or Appendices, each Party shall digitally sign such documents prior to transmitting them to the other Party. Each Party shall verify the authenticity and integrity of each such digitally signed documents that it receives from the other Party, according to the Digital Signature infrastructure detailed in the applicable Appendix.

### 11. Processing

Information exchanged electronically shall not be deemed to have been properly received, and no document shall give rise to any obligation, until accessible to the receiving Party at such Party's receipt computer designated in the applicable Appendices.

Upon proper receipt of any Electronic Information, the receiving Party shall promptly and properly transmit a Confirmation of Receipt in return, unless otherwise specified in the corresponding Appendix. The Confirmation of Receipt shall constitute conclusive evidence that the Electronic Information has been properly received.

If the receiving Party is obliged to provide a Confirmation of Receipt and the confirmation has not been received by the sender as specified in the applicable Specification or Appendix, the sender: (a) may give notice to the receiver stating that no confirmation has been received and specifying a reasonable time by which the confirmation must be received; and (b) if the confirmation is not received within the time specified in (a) above may, upon notice to the addressee, treat the Information exchanged as though it had never been sent, or exercise any other rights the sender may have.

Any Electronic Information, which has been properly received, shall not give rise to any obligations unless and until the Party initially transmitting such Information has properly received in return a Confirmation of Acceptance, where required, as specified in the applicable Appendix.

If any transmitted Information is received erroneously, or in an unintelligible, or corrupted, or duplicated form, the receiving Party shall promptly notify the originating Party (if identifiable from the received Information) in a timely manner. In the absence of such a notice, the originating Party's Record of the contents of such transmitted Information shall control.

### 12. Operational Requirements

Each Party shall use all commercially reasonable efforts to (a) provide, maintain and test its respective equipment, software, security procedures and Services as necessary to effectively, reliably and securely transmit and receive Electronic Information, and (b) to provide sufficient notice to the other of any changes in systems operations, hardware or software that might impair the mutual capabilities of the Parties to communicate in accordance with the applicable Specifications and Appendices.

Each Party shall bear all of its own costs associated with (a) the implementation, maintenance and use of these Specifications; (b) any Service Provider with which each Party may contract.

### 13. Liability

No Party shall be liable for any failure to perform its obligations in connection with any Transaction or any Information exchanged, where such failure results from any act of nature or other cause beyond such Party's reasonable control, including without limitation, any mechanical, electronic or communications failure, which prevents such Party from electronically transmitting or receiving any Information.

Neither Party shall be liable to the other for any indirect, special, incidental, exemplary or consequential damages arising from or as a result of any delay, omission or error in the electronic transmission or receipt of any Electronic Information pursuant to this Agreement, even if the Party has been advised of the possibility of such damages.

Each Party shall be liable for direct damages originated by the acts or omissions of its Service Provider while transmitting, receiving, storing, or handling Electronic Information, or performing related activities for such Party. If both Parties use the same Service Provider to exchange the Electronic Information, the originating Party shall be liable for the acts or omissions of such Service Provider as to such exchanged Information.

Each Party shall be responsible for the costs of any Service Provider with which it contracts, unless otherwise set forth in an Appendix.

an authorized representative of each. No obligation to enter into any Transaction or any further contractual relationship is to be implied from the execution or delivery of this Agreement.

This Agreement is for the benefit of, and shall be binding upon, the Parties and their respective successors and assigns.

This Agreement may be translated into other languages, but the English language version will be the official version and will control the construction and interpretation hereof.

#### 14. Applicable Law

This Agreement shall be construed and interpreted in accordance with the laws of \_\_\_\_\_ (Country/State), without prejudice to any mandatory legislative provision, which may apply to the Parties with regard to processing, recording and storage of Electronic Information, or confidentiality and protection of personal data.

#### 15. Termination

This Agreement shall remain in effect until terminated by either Party with not less than 30 days prior written notice, which notice shall specify the effective date of termination; provided, however, that any termination shall not affect the respective obligations or rights of the Parties arising under any exchanged Information or otherwise under this Agreement and any other agreement signed between the Parties prior to the effective date of termination. Those provisions that by their nature are continuing obligations shall survive any termination and remain binding upon the Parties.

#### 16. Severability

Any provisions of this Agreement, which are determined to be invalid or unenforceable, will be ineffective to the limited extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.

#### 17. Entire Agreement

This Agreement and the Appendices (\_\_\_\_\_, \_\_\_\_\_, Version \_\_\_\_\_, effective date \_\_\_\_\_; \_\_\_\_\_, Version \_\_\_\_\_, effective date \_\_\_\_\_; \_\_\_\_\_, Version \_\_\_\_\_, effective date \_\_\_\_\_) constitute the complete Agreement of the Parties relating to the matters specified in this Agreement and supersede all prior representations or agreements, whether oral or written, with respect to such matters.

No modification or waiver of any of the provisions of this Agreement shall be binding on either Party unless made in a paper-based writing and signed by

**IN WITNESS WHEREOF**, the Parties hereto execute this Agreement.

----- (Company name)

Signature: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date/Place: \_\_\_\_\_

----- (Company name)

Signature: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date/Place: \_\_\_\_\_