

Use of Electronic Record Agreement

Contract Number : _____

Customer:

Principal place of business:

Contact Person:

Title:

Facsimile:

Email:

Telephone:

Extension:

Supplier:

Principal place of business:

Contact Person:

Title:

Facsimile:

Email:

Telephone:

Extension:

The parties have installed rules with regard to the use of Electronic Record and Electronic Signature, and agreed as follows:

(1) Definitions

- 1.1 "Electronic Record" or "Data Message" means i) a record in electronic form, which is made of any text, sound, picture, image, symbol, or other information generated by electronic or other means not directly recognizable by human perceptions, and which is capable of conveying its intended information and ii) the message generated, dispatched, received or stored by electronic, optical, magnetic or similar means.
- 1.2 "Electronic Signature" means i) data attached to and associated with an Electronic Record, and executed with the intention of identifying and verifying the identity or qualification of the signatory of the Electronic Record and authenticating the Electronic Record; or ii) data in electronic form contained in and attached to a data message to be used for identifying the identity of the signatory and for showing that the signatory recognizes what is in the message.
- 1.3 "Digital Signature", a.k.a. "safe digital signature" or "reliable electronic signature", means an Electronic Signature generated by the use of mathematic algorithm or other means to create a certain length of digital data encrypted by the signatory's private key, and capable of being verified by the public key.
- 1.4 "Certification Service Provider" means an agency or a juristic person obtaining government's permit to issue Certificates.
- 1.5 "Certificate", a.k.a. "digital certificate" or "certificate of the electronic signature", means an electronic attestation which links signature-verification data to a person and confirms the

identity and credentials of that person.

(2) Use of Electronic Record

- 2.1 Each Party agrees to express its intent through Electronic Records. The Electronic Records shall be exchanged via designated electronics means such as EDI, RosettaNet, Web etc. Such Electronic Records shall include, but not limit to, contracts, forecasts, pricing enquiries, quotations, purchase orders, shipping notices, shipping schedules, customs documents and invoices.
- 2.2 Supplier shall comply with this Agreement while it use the Electronic Records. Otherwise, Supplier shall be responsible for all loss and damages incurred by the Customer as a result.
- 2.3 Each Party may engage a third party for internet service. The Parties agree to engage Certification Service Provider for verifying the Digital Signature. Each Party shall provide a 60 day prior written notice to the other Party for any changes to such internet service vendor, Certification Service Provider or the contents of services.
- 2.4 Unless otherwise agreed by the Parties, each Party shall bear i) its costs and expenses of acquiring the equipments, appliances, software etc., which are necessary or required for carrying out its obligations herein and ii) the service fees charged by the internet service vendor and Certification Service Provider.
- 2.5 In the event that Supplier refuses or delays its payment under Article 2.4, Customer may restrict Supplier's use of electronic information exchange system.

(3) Purpose and Scope

- 3.1 The purpose of this Agreement is to establish the terms and conditions for use of Electronic Records and Electronic Signature. This Agreement does not change the legal relationship of the Parties or any rights and liabilities of their business dealings.
- 3.2 With regard to the matters under this Agreement, including but not limited to the delivery, validity, security and confidentiality of Electronic Records, if there is any discrepancies or conflicts between this Agreement and any previous contracts or documents, this Agreement shall prevail.

(4) Delivery and Acceptance of Electronic Records

- 4.1 Supplier agrees to deliver and accept the Electronic Records according to the requirements of the Customer. Customer is entitled to amend the requirements and such amended requirements shall be indicated by the automated reminder and definition from the electronic information exchange system. If Supplier does not object to amended requirements and comply with such amended requirements, such amended requirements become effective. The Parties guarantee the timeliness, validity, completeness and accuracy of all Electronic Records delivered according to this Agreement.

- 4.2 In order to ensure timeliness, the recipient shall, according to the agreement of the parties, verify (whether or not on regular basis) the efficiency of delivery and receipt of the Electronic Records. In the event that Supplier fails to timely receive and accept the Electronic Records, the acceptance time of the Electronic Records should be the time of i) the notice mail of the said Electronic Records arrivals at Supplier's mail system, or ii) the Customer successfully uploads the said Electronic Records.
- 4.3 Except where it is impossible to identify the sender, if the Electronic Records received are unintelligible in part or in whole, the recipient shall immediately inform the sender about the same. In the event the recipient does not inform the sender, the contents of such Electronic Records in sender's system shall prevail.
- 4.4 If the Electronic Records cannot be delivered or received due to any mechanical, electronic or communication break-down, default or failure, the Party experiencing such failure should immediately inform the other Party of the same. Both parties shall take all reasonable steps to complete the transaction on time via any appropriate means such as facsimile, telephone, emails etc.
- 4.5 In the event that Supplier finds any errors in the transmitted information, Supplier shall inform Customer of the same and provide corrections.
- 4.6 Supplier shall be at its own risk to download documents, files and other information in electronic information exchange system. Customer is not liable for any losses or damages to Supplier's computer system caused by such downloads,

(5) Validity of Electronic Record and Electronic Signature

- 5.1 Both Parties agree to implement Electronic Signature and Digital Signature to all Electronic Records transmitted in accordance with this Agreement.
- 5.2 The Parties agree that any Electronic Record transmitted in accordance with this Agreement and implemented with Digital Signature issued or approved by Certification Service Provider shall be deemed as a written document, and as the original when completely printed out.
- 5.3 The Party implementing Digital Signature in Electronic Records warrants that i) its Digital Signature uses the Certificate lawfully issued by Certification Service Provider; ii) the Certificate is still valid, not rescinded; iii) the Certificate is used rightfully under its limitations, and iv) its Digital Signature complies with applicable laws and regulations.
- 5.4 Regardless of whether any laws or regulations specifies a particular document shall be executed in writing or through a Certificate issued or approved by Certification Service Provider, the Parties hereby irrevocably acknowledge and shall not challenge/dispute that any Electronic Documents properly created according to this Agreement are binding for both parties and constitute good evidence.
- 5.5 Supplier shall contact Certification Service Provider in the event that Supplier's Digital Signature expires or is forgotten.

(6) Security and Confidentiality

- 6.1 The Parties shall take reasonable security protection precautions and avoid unauthorized access, use or modification of Electronic Documents. Each Party shall ensure its Digital Signature is exclusively titled to, kept, and controlled by signatory.
- 6.2 If a Party is aware of any breach of this security protection provision, including but not limited to a Electronic Document is created, certified, processed, transmitted, stored or managed without a valid authority, such Party shall immediately inform the other party of the said breach. At the same time, such Party shall immediately take the following measures: (1) investigate the cause, facts and effects of the said breach, and report to the other Party; (2) use reasonable efforts to mitigate any losses and damages that may be incurred due to the said breach.
- 6.3 Each Party is obliged to protect the Confidential Information of the other Party. A Party shall not disclose the Confidential Information of the other Party to any third party except to the Party's employees on a need to know basis and who are subject to confidentiality protection obligation no less strict than this Agreement. All Confidential Information shall not be disclosed or used for any purposes not contemplated by this Agreement without the prior consent of the disclosing Party.
- 6.4 The Parties agree that any actions rendered by Supplier's or Customer's employees, agent, user or representative (collectively "Personnel") in the electronic information exchange system, such actions shall bind Supplier or Customer. In the event that Supplier's Personnel resigns from work or his/her authority to the electronic information exchange system is revoked etc., Supplier shall inform Customer in writing and take reasonable security protection precautions to prevent such Personnel from accessing the system. If the Customer incurs any losses and damages as a result of Supplier's failure to take these precautions, Supplier and the responsible Personnel shall be jointly liable to Customer.
- 6.5 For the purpose of this Agreement, Confidential Information includes (i) any Digital Signatures, Electronic Documents and other information received due to or in relation to this Agreement; (ii) the existence and contents of this Agreement; and/or (iii) any information, disclosed by a Party during the discussion, negotiation or execution of this Agreement, which relates to that Party's customers, technology, quality control, inspection, sales, marketing, procurement, production, manufacturing, research and development, human resource, financial situation, credit risk management strategy and legal affairs.

(7) Liability for Breach of this Agreement

- 7.1 Supplier warrants that it will not:
- (1) steal, modify, destroy information of others;
 - (2) make copy/ies of others' information for sale or reference without its consent;
 - (3) intentionally destroy email box or communication device(s) of others;

- (4) disseminate computer viruses;
- (5) collect resources that are not officially opened or authorized by owners;
- (6) collect others' URL or personal information of without consent; or
- (7) conduct any actions which may jeopardize communications or violate laws or regulations.

In no event shall the aforementioned provisions constitute an obligation of Customer to conduct any examinations, whether in formality or substantial, to the contents transmitted by Supplier. Supplier shall take responsibility to its own actions. If Customer finds or is notified by others that Supplier violates any of the foregoing provisions, Customer may remove or delete inappropriate contents and terminate Supplier's qualification as a vendor and refuse its services.

- 7.2 In the event that Supplier violates any terms of this Agreement, and such violation results in losses or damages incurred by Customer, Supplier shall indemnify and hold harmless Customer from and against such losses and damages, including but not limited to attorneys fee and costs of litigation.
- 7.3 Each Party shall bear its own costs and losses if this Agreement or the Electronic Document created under or in relation to this Agreement is invalid and unenforceable under the relevant laws, unless such invalidity or unenforceability is attributable to the other Party's intents or negligence.
- 7.4 In the event that Supplier infringes rights of others due to Supplier embezzles Digital Signature, Supplier shall bear all consequences on its own.

(8) General Clauses

- 8.1 Term: This Agreement is effective upon the earliest of (i) the date Supplier commences to use Electronic Record/ Electronic Signature; (ii) _____ (yyyy/mm/dd); or (iii) the date both Parties duly execute this Agreement, and remain effective until terminated accordingly.
- 8.2 Termination: This Agreement may be terminated by either Party upon at least sixty (60) days prior written notice to the other Party. If a Party defaults and fails to remedy its violation(s) of any provisions of this Agreement within thirty (30) days after it received a notice from non-defaulting Party regarding such violation, the non-defaulting Party may terminate this Agreement immediately upon notice.
- 8.3 Force Majeure: Neither Party shall be liable for any failure or delay in performing its obligations under this Agreement if such failure is due to any cause beyond its reasonable control including, but not limited to, war, civil unrest, riots, fire, explosion, flood, acts of God, governmental actions etc..
- 8.4 Waiver: Failure or delay of either Party at any time to require or demand performance by the other Party of any provision hereof shall in no way affect the Party's full rights to require such performance. Except where there is an express waiver in this Agreement, either Party is

entitled to all remedies provided under law and equity.

8.5 Assignment: Neither Party shall assign any of its rights or obligations under this Agreement except with the prior written consent of the other Party.

8.6 Amendment: Unless otherwise provided in this Agreement, all changes and amendments to this Agreement shall be in writing and signed by the authorized representatives of both Parties.

8.7 Severability: If any provision hereof contravenes any laws or regulations, or is held invalid or unenforceable by a competent jurisdiction, this Agreement shall be considered divisible as to such provision and the same thereafter be inoperative, provided however, the remaining provisions of this Agreement shall remain valid and effective.

8.8 Governing laws and Jurisdiction: This Agreement, Electronic Record, and the use of Electronic Signature are governed by the laws of the jurisdiction of Customer's registered domicile. The parties hereby agree to submit any dispute relating to or arising out of this Agreement to the court of first instance in the jurisdiction of the Customer's registered domicile.

***Each Party fully understands the terms and conditions of this Agreement regarding the limitation and the relief of the other Party's liability, and confirms that the other Party has fully explained its obligations pertaining to such limitation or relief of liability.**

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives on the date set forth below.

Customer:

Supplier:

Name:

Name:

Title:

Title:

Date:

Date: