



EPC355-09
Version 1.1 Approved
2 October 2012
EPC

**Model Agreement for EPC Recognised Auditors
(e-Mandate Feature of the SEPA Direct Debit Schemes)**

Agreement Made Between

[REDACTED]

and

EUROPEAN PAYMENTS COUNCIL A.I.S.B.L

on [dd mmm yyyy]

WHEREAS:

- (1) European Payments Council A.I.S.B.L, a company incorporated in Belgium with enterprise number 0873.268.927 ("EPC"), is the decision-making and coordination body of the European banking industry in relation to payments, whose declared purpose is to support and promote the creation of the Single Euro Payments Area (SEPA).
- (2) Amongst EPC's duties is the duty to manage the SEPA Core Direct Debit Scheme in accordance with EPC016-06, the SEPA Core Direct Debit Scheme Rulebook (the "**Rulebook**").
- (3) Annex VII of the Rulebook (the "**e-Mandate Option**") establishes the framework for direct debit mandates created through the use of electronic channels ("**e-Mandates**"), and envisages the use of Certification Authorities ("**CAs**") to certify the Validation Service Providers and Routing Service Providers who will participate in the e-Mandate Service.
- (4) EPC requires that those Certification Authorities undergo periodic audits of their activities and demonstrate continued compliance with the requirements set out by EPC for Certification Authorities to be approved under the e-Mandates Service (see EPC292-09).
- (5) [redacted], a [company] incorporated in [redacted], whose registered office is at [redacted] and whose address for the service of notices is [redacted] (the "**Auditor**"), is a professional services firm and has been appointed by EPC to be on the list of recognised auditors who may from time to time be requested to perform audits of these Certification Authorities.
- (6) This Agreement sets out the terms on which the Auditor will perform those audit functions and services.

1. DEFINITIONS

a. In this Agreement:

"**Code of Conduct**" means the guiding principles, updated from time to time by EPC and notified to the Auditor, for the regulation of the conduct of EPC, its members and CA services providers operating CA services approved by EPC (see EPC292-09), the extant version being appended to this Agreement as Schedule B.

"Confidential Information" means any and all technical, financial, business or other sensitive information about one party, its group companies or their representatives, disclosed or made available to the other party, its group companies or their representatives, before or after conclusion of the Agreement, in whatever form or medium, including without limitation marketing plans, reports, analyses, compilations, statistics, summaries, source or object code, documentation, manuals, studies, product or service specifications, name of resources, proposals, audio or video materials, customer lists, business contacts, businesses plans, policies, procedures, standards, products and proprietary items, including any derivative works of the above, and any information which reasonably appears to have a confidential nature or constitute a competitive advantage for the holder thereof.

"Effective Date" means the date of signature of this Agreement by the last of the parties hereto.

"EPC-Approved CA" means each Certification Authority who is approved by EPC to issue certificates and perform related services to Validation Service Providers and Routing Service Providers.

"Insolvency Event" means, in respect of a person:

- (a) that that person passes a resolution for its winding up or a court makes a final order (not subject to any kind of appeal) for its winding up or dissolution (other than for the purpose of any *bona fide* amalgamation, merger or reconstruction);
- (b) if an administration order or seizure (whether a *saisie conservatoire / bewarend beslag* or a *saisie exécution / uitvoerend beslag*) is made in relation to that person that has not been set aside within a reasonable period of time, or if a receiver or liquidator is appointed over, or an encumbrancer takes possession of or sells, any material part of the assets or undertaking of that person, or an *administrateur judiciaire / gerechtelijk bestuurder, administrateur provisoire / voorlopige bewindvoerder* or *voorlopige bestuurder, mandataire de justice / gerechtsmandataris, séquestre / sekwester* or other similar officer is appointed in respect of that person or any of its assets;
- (c) that that person makes an arrangement or composition with its creditors generally or makes an application to a court for protection from its creditors generally (including a *gerechtelijke reorganisatie / reorganisation judiciaire* in Belgium or analogous proceedings in any other jurisdiction);
- (d) that that person ceases to carry on a material part of its business at any time or disposes of all its assets or a substantial part of its assets (other than for the purpose of any *bona fide* amalgamation, reconstruction or merger);

- (e) that that person commences or has commenced against it any bankruptcy, reorganisation, debt arrangement or other case or proceeding under any bankruptcy or insolvency law (including a *faillissement/faillite* or *gerechtelijke reorganisatie/reorganisation judiciaire* in Belgium or analogous proceedings in other jurisdictions, Chapter 11 proceedings in the United States or similar proceedings in any other jurisdiction), or any dissolution or liquidation proceedings and, if such case or proceeding is commenced against it, such case or proceeding is not dismissed within 30 calendar days thereafter;
- (f) that that person becomes insolvent or generally fails to pay or admits in writing its inability to pay, its debts as they become due (*est en état de cessation de paiement / is in staat van staking van betaling*).

"Intellectual Property Rights" means patents, copyright, designs, trade or service marks (whether or not registered), rights in inventions and confidential information, semiconductor topography rights, database rights or other similar rights in any country and any applications for registration of any of the foregoing.

"Marks" means the marks described in Schedule A, as they may be changed from time to time by EPC pursuant to clause 5 below.

"Routing Service Providers" means providers of routing services in agreement with and on behalf of creditor banks, giving creditors access to validation services made available by debtor banks in respect of debtors initiating e-Mandates through the electronic channels of creditors (see EPC 208-08).

"Services" means the services that the Auditor may from time to time be requested to perform in connection with the EPC-Approved CAs or Applicant EPC-Approved CAs.

"Validation Service Providers" means providers of validation services in agreement with and on behalf of debtor banks for validation of debtors initiating e-Mandate proposals through the electronic channels of creditors and the routing services offered by creditor banks (see EPC208-08).

- b. Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, digital representation and other modes of representing or reproducing words in an intelligible form.
- c. References to Schedules, Appendices and clauses are references to schedules, appendices and clauses of this Agreement.
- d. References to the Rulebook and the e-Mandate Option are references to those instruments as they may be modified from time to time.

- e. Words importing the singular number only shall include the plural number and vice versa.
- f. Words importing the masculine gender only shall include the feminine gender and words importing persons shall include corporations.
- g. A person includes a reference to a government, state, state agency, corporation, body corporate, company, association or partnership or other similar entity; and to that person's legal personal representatives, permitted successors and permitted assigns.
- h. The word "include" or "including" is to be construed without limitation.
- i. All words, terms and expressions used in this Agreement or in any translated version of this Agreement shall be construed and interpreted in accordance with Belgian law.
- j. The headings in this Agreement are for convenience and do not affect their interpretation.

2. APPOINTMENT

- a. EPC hereby appoints the Auditor to its list of Recognised Auditors who may from time to time be requested by EPC, EPC-Approved CAs or applicant EPC-Approved CAs to conduct audits into the functions, operations and/or activities of EPC-Approved CAs (including compliance of CA services provided by EPC-Approved CAs with EPC291-09 (Requirements and Specifications for EPC-Approved Server CAs for e-Mandate Services)).
- b. The Auditor acknowledges and agrees that:
 - i. its appointment under clause 2.a is non-exclusive, and that other auditors be recognised by EPC to provide services similar to the Services in connection with the e-Mandate Option;
 - ii. its appointment does not in any way guarantee that it will be requested, whether by EPC or EPC-Approved CAs, to perform any services in connection with the e-Mandate Option or at all;
 - iii. it will not be entitled to any fees, revenues, costs or other payments of whatever nature from or on behalf of EPC under this Agreement, and instead will be required to negotiate and agree its fees with each (Applicant) EPC-Approved CA that from time to time wishes to make use of its Services;

- iv. the relationship between the Auditor and any EPC-Approved CA which wishes to appoint the Auditor in connection with the e-Mandate Service will be subject to separate legal agreements, to be negotiated and agreed between the Auditor and those (Applicant) EPC-Approved CAs (subject to the terms of this Agreement), and that EPC will not have any responsibility or liability of whatever nature, and howsoever arising, under such agreements or for the actions or omissions of EPC-Approved CAs. The Auditor hereby indemnifies EPC against any and all claims made against EPC, and liabilities, losses, expenses or costs of whatever nature suffered or incurred by EPC, in connection with or arising from any such agreement; and
- v. its continued appointment as an EPC-recognised auditor is subject to and conditional on the Auditor's continued and full compliance with the terms of this Agreement and any additional requirements that EPC may from time to time notify to the Auditor and all other EPC-recognised auditors performing services similar to the Services.

3. GRANT OF LICENCE

- a. EPC hereby grants to the Auditor, with effect from the date of this Agreement and thereafter for the term of this Agreement only, and on and subject to the terms of this Agreement, a personal, non-transferable, non-exclusive, royalty-free right and licence to:
 - i. display the Marks in association with the Service only, including on the Auditor's website and sites relating to the Service; and
 - ii. describe the Services as "EPC-Recognised"; and
 - iii. describe the Auditor as an "EPC-Recognised Auditor" of the Services.
- b. Nothing in this Agreement shall prevent EPC or any person authorised by EPC from time to time to use any of the Marks, from using any of the Marks in any manner and in relation to any goods or services, whether in the European Union or elsewhere, including any use that may reduce or erode the quality of the Marks.
- c. The Auditor acknowledges and agrees that:
 - i. the licence granted to it in clause 3.a above is non-exclusive, and that other persons (including competitors of Auditor) may from time to time be granted the right to use the Marks or any of them;
 - ii. its continued right to use the Marks in accordance with this Agreement is subject to and conditional on the Auditor's continued and full compliance with the terms of this Agreement.

- d. The Auditor shall, whenever it wishes to use the Marks in any way, first obtain EPC's prior written approval for such use (such approval not to be unreasonably withheld or delayed). EPC may require the Auditor to produce "mock-ups" and other information relating to its proposed use of the Marks before it gives its approval. Any use of the Marks must always be in accordance with any instructions issued by EPC in that regard.

4. PERMISSIONS AND RESTRICTIONS REGARDING THE MARKS

- a. The Auditor may not use or display the Marks, or claim that the Services are "EPC-Recognised", or claim that the Auditor is an "EPC-Recognised Auditor" of the Services:
 - i. in association with any goods, services, products or otherwise howsoever, other than in connection with the Services; or
 - ii. in association with any marks or content of whatever nature, other than the Auditor's own trading marks or names; or
 - iii. in any way that is derogatory to the EPC or any of its members or that could or in any manner that does bring, or might reasonably be calculated to bring any of the Marks into disrepute; or
 - iv. in any way which would cause embarrassment for the EPC or any of its members; or
 - v. in any way that is not expressly authorised by this Agreement.
- b. The Auditor shall not in any way (whether alone or with others or support others to):
 - i. sub-license or grant any other person the right to use in any way any of the Marks;
 - ii. challenge EPC's title to any of the Marks; or
 - iii. claim ownership or any other rights (other than those that are granted to the Auditor under clause 3.a above) in any of the Marks; or
 - iv. apply for or obtain registration of any of the Marks or any marks that are similar to the Marks in any country; or
 - v. use any of the Marks or any marks similar to the Marks in any registered or trading name; or
 - vi. do anything which might prejudice or endanger the validity of any of the Marks; or
 - vii. alter, deface, obscure or make any changes of whatsoever nature to any of the Marks.

- c. The Auditor shall only use and display the Marks in strict compliance with EPC's instructions and guidelines that apply generally to users or classes of users of the Marks from time to time, as those may be changed or updated by EPC and advised to the Auditor from time to time.
- d. The Auditor hereby indemnifies EPC against any and all claims made against EPC, and liabilities, losses, expenses or costs of whatever nature suffered or incurred by EPC, in connection with or arising from any breach by the Auditor of this clause 4.

5. CHANGES TO THE MARKS

- a. EPC may, from time to time and in its sole discretion, make changes to any of the Marks or substitute any of the Marks with alternative Marks.
- b. If EPC makes any changes to any of the Marks or substitutes any of the Marks with alternative Marks, it shall provide copies thereof to the Auditor as soon as may be practicable in the circumstances, and the Auditor shall, within 5 days thereafter, replace the existing Marks with such new, changed or substituted Marks.
- c. The Auditor shall return to EPC or (at EPC's option) destroy all copies of the Marks so replaced or substituted by the new or changed Marks, and shall certify to EPC that it has complied with this clause 5.c within 5 days from the date on which such new or changed Marks have been provided to it.

6. INTELLECTUAL PROPERTY

- a. Save for the rights granted to the Auditor under clause 3.a above, all rights and other interests (including all Intellectual Property Rights and rights of goodwill) in, to and attaching to the Marks shall vest solely and exclusively in EPC or EPC's licensors.
- b. If and to the extent that any rights (including any Intellectual Property Rights or rights of goodwill) in any of the Marks should vest in the Auditor, the Auditor shall, at EPC's request, do (and ensure that each other relevant person do), all things (including the execution of any instruments) that may be required to give effect to clause 6.a above.
- c. The Auditor shall also at EPC's request and cost from time to time do (and ensure that each other relevant person do), all things (including the execution of any instruments) that may be required to protect EPC's rights in the Marks in any country from time to time.
- d. The Auditor shall report immediately to EPC if it becomes aware of any claim that any of the Marks infringes the rights of third parties, or if third parties infringe the rights of EPC in the Marks, and shall co-operate fully with EPC in taking all steps reasonably required by EPC in connection with any claimed or suspected infringement.



7. EPC DUTIES

- a. EPC shall:
 - i. provide one copy of each of the Marks in digital format to the Auditor as soon as may be reasonably practicable after the date of this Agreement; and
 - ii. inform the Auditor from time to time of the Marks are about to change or have changed, in which case those changes shall be managed through clause 5;
 - iii. at the Auditor's reasonable request from time to time, and at its cost, provide reasonable access to EPC technical material and expertise necessary for the Auditor to provide the Services.

8. PROVISION OF THE SERVICES

- a. If the Auditor is from time to time requested by any EPC-Approved CA or Applicant EPC-Approved CA to conduct an audit into the functions, operations and/or activities of that CA (including compliance by CAs with EPC291-09 (Requirements and Specifications for EPC-Approved Server CAs for e-Mandate Services)), the Auditor shall notify the CA whether or not it is willing and able to conduct such an audit.
- b. The scope and proposed timing of the requested audit shall be notified to the Auditor by the CA at the time. The Auditor acknowledges that the scope of the audit may have been communicated by EPC to the CA.
- c. The Auditor shall be under no obligation to accept a request from an EPC-Approved CA or Applicant EPC-Approved CA to conduct an audit, but shall not discriminate against any EPC-Approved CA or applicant EPC-Approved CA or treat any of them unfairly in its decision whether or not to accept their requests.
- d. If the Auditor is willing in principle to conduct the requested audit, it shall inform the CA in question of the terms and conditions on which it is prepared to conduct that audit and the fees it will charge for carrying out the requested Services. The Auditor and the CA in question may then enter into negotiations regarding the terms and conditions and/or the fees proposed by the Auditor and/or the proposed timing of the audit. The Auditor shall not agree a different scope of audit with the CA in question unless EPC has approved the same. If the Auditor and the CA in question are able to agree the terms of the Auditor's appointment to conduct the audit in question, the Auditor shall do so on the terms that they have agreed and shall notify EPC that agreement had been reached between them.

- e. The Auditor shall not stop the Services before they are completed in respect of any EPC-Approved CA or applicant EPC-Approved CA, unless the Auditor is prevented from continuing to perform those Services by applicable law or its binding professional duties, or unless circumstances exist which (under the terms of the agreement between the Auditor and an EPC-Approved CA or applicant EPC-Approved CA) allows the Auditor to stop providing Services in relation to an EPC-Approved CA or applicant EPC-Approved CAs, in which case the Auditor shall:
 - i. notify the CA and EPC of the same;
 - ii. deliver the work product of the Services to the CA in question; and
 - iii. only charge the CA in question a fair proportion of the agreed fees for work already carried out or as otherwise allowed for under the terms of the agreement between the Auditor and an EPC-Approved CA or applicant EPC-Approved CA.
- f. The Auditor shall carry out the Services in accordance with the terms, fees, timetable and scope agreed with each CA and shall produce its report in materially the format set out in EPC 354-09. The Auditor acknowledges that each EPC-Approved CA or applicant EPC-Approved CA is required to produce a copy of this report to EPC and that EPC will rely on the content and accuracy thereof in connection with EPC's operation of the e-Mandate Option. Accordingly, the Auditor hereby indemnifies EPC against any and all claims made against EPC, and liabilities, losses, expenses or costs of whatever nature suffered or incurred by EPC, in connection with or arising from any incorrect, false, misleading or incomplete statements contained in any such report.
- g. If the Auditor is not willing or able to conduct the requested audit (whether in principle or after negotiations with the CA in question), it shall notify the CA in question and EPC of the reasons why it is not able to conduct such audit.
- h. The Auditor shall further notify EPC whenever it is requested to conduct an audit by an EPC-Approved CA or Applicant EPC-Approved CA.

9. AUDITOR'S UNDERTAKINGS

- a. The Auditor:
 - i. shall from time to time inform EPC of the standard terms and conditions on which it is prepared to conduct audits of EPC-Approved CAs or Applicant EPC-Approved CAs under this Agreement, and its standard fees which it intends to charge to EPC-Approved CAs or Applicant EPC-Approved CAs which request the Services, as well as any changes to those terms and conditions and/or the fees from time to time;

- ii. may agree different terms and conditions and/or fees with EPC-Approved CAs or Applicant EPC-Approved CAs on a case-by-case basis, but shall treat all EPC-Approved CAs or Applicant EPC-Approved CAs which request its Services in a fair and non-discriminatory way;
- iii. shall set its fees for the performance of the Services at a level that reasonably reflects the work required to complete the requested audits in a professional and efficient manner;
- iv. limit its use of any EPC marks licensed to it under this Agreement, to use in connection with the Services and always subject to the provision of this Agreement;
- v. shall notify EPC if and when, for whatever reason, the Auditor intends to cease to offer the Services to EPC-Approved CAs or Applicant EPC-Approved CAs;
- vi. shall take into account the Code of Conduct in performing the Services;
- vii. shall comply with all other requirements identified by EPC from time to time in relation to its participation as a provider of Services in connection with the e-Mandate Option and/or the Rulebook (provided those requirements apply generally to other providers of services similar to the Services);
- viii. shall comply with all laws, regulations and similar instruments applicable to it from time to time;
- ix. shall provide the Services in a prompt and professional manner and with reasonable care and skill;
- x. shall remain a reputable organisation of good standing;
- xi. shall immediately inform EPC on becoming aware of any actual or potential conflict of interest and shall abide by any resulting ruling from EPC;
- xii. shall respond in an open, truthful and comprehensive way to any queries that EPC may from time to time have in relation to the Services and/or its business operations, attend any meetings that EPC may reasonably require in that regard, and provide all reasonable information and assistance that EPC may from time to time require from it;
- xiii. shall immediately inform EPC if it becomes aware of any breach of this Agreement or by any person of the Rulebook or the e-Mandate Option;
- xiv. shall maintain continuous liability insurance commensurate with the potential liabilities for which it may be liable under or in connection with the Service or otherwise to ensure that such liabilities will be met;

- xv. shall provide the means for promptly and fairly resolving reasonable complaints from all those who rely on the Service;
- xvi. shall co-operate expeditiously and openly with EPC in any investigation that EPC may conduct into complaints received by EPC relating to the Service;
- xvii. shall as soon as may be reasonably practicable in the circumstances after it has received a request from EPC to do so (and without prejudice to any other rights or remedies that EPC may have under this Agreement or at law), take any required action (including modifications to the Services) which is necessary or desirable to ensure the reliability and/or trustworthiness of the Services and/or to protect the reputation and integrity of EPC and/or the Marks;
- xviii. shall at all times ensure that the Services are provided in accordance with, all applicable laws and professional rules and guidelines applicable to it from time to time;
- xix. shall remain accredited for the performance of EPC-related audits by one or more of the accreditation bodies which EPC may notify from time to time.

10. AUDITS OF THE AUDITOR

- a. EPC shall be entitled from time to time to carry out its own investigations of the Auditor (either itself or through its nominated agents) for the purpose of ensuring continuing compliance with this Agreement. The Auditor agrees and undertakes to make available to EPC such information, access and records as EPC or its nominated agents may require in support of any investigations carried out by EPC or its nominated agents from time to time and shall allow EPC or its nominated agents reasonable access and co-operation on reasonable notice and at reasonable times of its normal working day to premises, staff and documents, subject to reasonable consideration for security, confidentiality and the legal requirements of the Auditor.
- b. If EPC's investigation pursuant to clause 10.a above identifies any shortcomings, areas of non-compliance or areas for improvement, the Auditor shall (without EPC's other rights and remedies) immediately take such steps as may be necessary, at its own cost and expense, to give effect to those findings.

11. AUDITOR'S WARRANTIES

- a. The Auditor hereby warrants and represents to EPC as follows:
 - i. that the Auditor has all requisite power, authority and licences to enter into the Agreement and fulfil all of other obligations under the Agreement;
 - ii. that the execution, delivery and performance of the Agreement does not and will not violate any judgment, order, or decree and does not and will not constitute a material default or breach under any of the Auditor's existing or future

obligations, and that it will not enter into any agreements in future which may impede the Auditor's ability to perform under the Agreement;

- iii. that the Auditor is not insolvent, in any form of administration, receivership, court initiated restructuring or similar event causing it to be restricted in its actions;
 - iv. that there is no material suit, cause of action, proceeding, application, claim or investigation, whether current, pending, threatened or in prospect against the Auditor which will adversely affect its ability to comply with its obligations under the Agreement;
 - v. that all material matters relating to the commercial, technical or financial capacity of the Auditor have been disclosed to EPC;
 - vi. that the Auditor will not do or omit to do anything, which causes EPC to be in breach of any applicable law; and
 - vii. that the Auditor will not do anything (or permit anything to be done) which may cause EPC to suffer damage to its reputation.
- b. The Auditor hereby indemnifies EPC against any and all claims made against EPC, and liabilities, losses, expenses or costs of whatever nature suffered or incurred by EPC, in connection with or arising from any breach of any of the above warranties and representations

12. TERM AND TERMINATION

- a. This Agreement shall commence on the Effective Date and shall, subject to termination in accordance with its terms, thereafter continue until terminated in accordance with this clause 12.
- b. The Auditor may terminate this Agreement at any time by not less than 3 months' written notice to EPC.
- c. EPC may terminate this Agreement at any time by not less than 3 months' written notice to the Auditor.
- d. EPC may terminate this Agreement at any time on written notice to the Auditor in any of the following circumstances:
 - i. if the Auditor is in breach of any of its obligations under this Agreement and (if the breach can be remedied) has failed to remedy that breach within 10 days after having been notified in writing to do so; or
 - ii. if the Auditor is in breach of any of the restrictions or obligations in clause 4 (whether or not that breach is capable of remedy); or

- iii. if the Auditor becomes subject to an Insolvency Event; or
- iv. if an investigation pursuant to clause 10 has revealed shortcomings in the Auditor or the Services or breaches of this Agreement which: (1) are (in EPC's sole discretion) significant enough to merit termination of this Agreement; or (2) have not been corrected and addressed fully within a reasonable period of time pursuant to clause 10.b.

13. CONSEQUENCES OF TERMINATION

- a. Subject to the remainder of this clause, termination of this Agreement shall not affect any agreements between the Auditor and EPC-Approved CAs or Applicant EPC-Approved CAs for the provision of Services which had already been concluded at the time of termination of this Agreement, which shall continue in accordance with their terms. The Auditor shall cease providing the Services to EPC-Approved CAs and applicant EPC-Approved CAs immediately if this Agreement is terminated by EPC under clause 12.d above
- b. Each party shall immediately on termination or expiry of this Agreement return to the other party (or at the other party's option, destroy) all Confidential Information in its possession or under its control.
- c. The grant of the licences in clause 3.a above shall terminate immediately on termination or expiry of the Agreement for whatever reason. The Auditor shall as soon as is practicable (and in any event within 10 days) after the termination of this Agreement:
 - i. return or at EPC's option destroy forthwith all copies of the Marks; and
 - ii. remove all claims that the Services are "EPC-Recognised" or that the Auditor is an "EPC-recognised Auditor" from all of its publications (including web sites).
- d. Termination or expiry of this Agreement does not affect clauses 13 through 17, which shall remain in force.

14. LIABILITY

- a. Subject to clause 14.c below, neither EPC nor the Auditor shall be liable to the other party for any indirect, consequential or punitive losses, damages or claims of whatsoever nature, or for loss of profits, business interruption and loss of information, whether arising from negligence, breach of contract or otherwise, whether or not the other party notified the first party of the possibility of such loss.
- b. EPC shall have no liability for any loss, damage or cost suffered or incurred by the Auditor pursuant to an exercise by EPC of its rights under this Agreement.
- c. Nothing in this Agreement limits or excludes either party's liability for: (i) death or personal injury arising from its negligence; or (ii) fraud or fraudulent misrepresentation

of its agents or personnel; or (iii) indemnities given by it under this Agreement; or (iv) a breach by it of its obligations under clause 15 below.

15. CONFIDENTIALITY

- a. EPC and the Auditor shall each:
 - i. keep the Confidential Information of the other confidential;
 - ii. not disclose the Confidential Information of the other to any person, other than in accordance with this clause, unless it first obtains the other party's written consent; and
 - iii. not use the Confidential Information of the other party for any purpose other than the purpose for which the same had been disclosed to it.
- b. EPC may disclose Confidential Information of the Auditor to other participants in the e-Mandate Option or Rulebook to the extent reasonably necessary, and subject to EPC entering into a confidentiality agreement with such participants on terms no less onerous than the terms of this clause in connection with the Confidential Information of the Auditor.
- c. Each of the parties may disclose Confidential Information of the other:
 - i. to its professional advisors (provided that, in respect of professional advisors who are not already bound by obligations of professional confidence, EPC must first enter into a confidentiality agreement with such advisors on terms no less onerous than the terms of this clause in connection with the Confidential Information of the Auditor);
 - ii. where disclosure is required by applicable law, a court of competent jurisdiction or the rules of a securities exchange;
 - iii. where disclosure is required or requested by, or is otherwise made to and in the course of discussions with, any regulator (including a tax authority); and
 - iv. to the extent necessary to preserve or enforce its rights and remedies under or in connection with the Agreement in the context of court, arbitral or equivalent proceedings.
- d. The above obligations do not apply to any Confidential Information which:
 - i. is or comes into the public domain other than through breach of this Agreement by the party receiving the Confidential Information;

- ii. can be shown by the party receiving the Confidential Information to the reasonable satisfaction of the other party to have been known by the receiving party before disclosure by the other party to the receiving party;
- iii. can be shown by the receiving party to the reasonable satisfaction of the other party to have been developed by the receiving party independently, without reference to any information provided by or otherwise obtained from the other party, its group undertakings or sub contractors; or
- iv. subsequently comes lawfully in to the possession of the receiving party from a third party.

16. GENERAL

- a. This Agreement together with any documents to which it refers constitutes the whole agreement between the parties relating to its subject matter.
- b. No variation of this Agreement shall be effective unless made in writing and signed by authorised representatives of both parties.
- c. If any provision of this Agreement shall be held to be illegal, void, invalid or unenforceable under the laws of any competent jurisdiction then that provision shall be severed, and the legality, validity and enforceability of the remainder of this Agreement in that jurisdiction shall not be affected and the legality, validity and enforceability of the whole of this Agreement shall not be affected in any other jurisdiction.
- d. No failure to exercise nor any delay in exercising any right, power, privilege or remedy under this Agreement, by either party to this agreement, shall impair or operate as a waiver of such right, power, privilege or remedy.
- e. Any notice required to be given under this Agreement or in connection with the matters contemplated in it shall, except where otherwise specifically provided, be in writing and be:
 - i. personally delivered at the address of the other party stated in this Agreement or other address advised by that party, in which case it shall be deemed to have been given upon delivery at the relevant address, or if delivered outside business hours on the next business day;
 - ii. sent by first class, pre-paid post to the address of the other party stated in this Agreement or other address advised by that party, in which case it shall be deemed to have been given on the second business day after posting; or
 - iii. sent by facsimile, in which case it shall be deemed to have been given when dispatched subject to confirmation by transmission report of uninterrupted transmission, or if sent outside business hours on the next business day.



- f. Nothing in this Agreement shall constitute or be deemed to constitute a partnership between the parties nor, except as expressly provided, shall it constitute or be deemed to constitute either party being or becoming the agent of the other party for any purpose.
- g. The rights of the Auditor under this Agreement are personal and the Auditor shall not be entitled to assign, transfer, delegate, sub-contract or sub-license any of the rights or obligations under this Agreement without the prior written consent of EPC.

17. GOVERNING LAW AND JURISDICTION

- a. All disputes arising under or in relation to this Agreement may be referred by either party to the Courts of Brussels in Belgium.
- b. Each of the parties will have recourse to any court having jurisdiction for the purpose of injunctive relief, interim or interlocutory orders in support of an arbitration or to enforce an arbitration award.
- c. The Agreement shall be governed by and construed in accordance with the laws of Belgium, without giving effect to any conflict of laws rules or provisions (Belgian or other), that would cause the laws of any other jurisdictions to apply the principles of conflict of laws.

In witness whereof this agreement has been entered into on the date set out above.

Signed by

[insert name, title]

duly authorised for and on behalf of EUROPEAN PAYMENTS COUNCIL A.I.S.B.L

Signed by

[insert name, title]

duly authorised for and on behalf of [Auditor]



Schedule A The Marks



Schedule B

Code of Conduct

Participants in the CA services industry strive:

- to act in an honest, fair, reasonable and trustworthy manner;
- not to bring CA services into disrepute;
- to provide clear information about what each CA service provides, including limitations and exclusions, to those who rely on that service;
- to meet service commitments and obligations;
- to be proactive in identifying and correcting faults and deficiencies in CA services;
- to operate in accordance with appropriate standards;
- to act promptly in resolving complaints relating to CA services.