



TRUSTe Master License and Services Agreement

This TRUSTe Master License and Services Agreement is entered into by and between Trusted Universal Standards in Electronic Transactions, Inc. (a California not-for-profit corporation) (“TRUSTe”) and [_____] (the “Participant”) with respect to the Participant’s enrollment and participation in one or more TRUSTe Programs. This Agreement shall be effective on the effective date provided under the TRUSTe signature block hereto. Each of TRUSTe and Participant are a “Party” and together they are the “Parties”.

WHEREAS, TRUSTe has developed and administers several Programs, as further described in the Program Requirements governing such Programs, and Participant desires to participate in one or more of such Programs, pursuant to the terms and conditions of this Agreement and the Applicable Program Requirements.

NOW, THEREFORE, the Parties hereto, for good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, and intending to be legally bound, hereby agree as follows:

1. Definitions and Interpretation. Capitalized terms not defined herein (including the list of definitions in Exhibit 1 hereto) shall have the meaning ascribed to them in the Applicable Program Requirements. Unless specifically stated otherwise, references to “Sections” used in this Agreement refer to sections in this Agreement and references to “Sections” in the Program Requirements refer to sections in such Program Requirements.

2. Programs and Fees.

(a) Programs. In order to become a participant in one or more Programs, Participant must enter into individual program amendments to this Agreement (each a “Program Amendment”). Each Program Amendment covers one of the Programs, and the terms and conditions of this Agreement apply to each Program Amendment. Each Program Amendment provides information with respect to the application and acceptance process for the applicable Program. Where a Program Amendment and this Agreement are in conflict, the Program Amendment shall control.

(b) Fees. Participant shall pay the initial and ongoing fees as required by each Program Amendment, as well as suspension related fees and fees for any additional services required by the Applicable Program Requirements (“Fees”). During the Term hereof, Participant may apply to participate in other Programs, or expand the services for an existing Program. Unless otherwise agreed to by the Parties, additional fees will be applicable, per TRUSTe’s then current fee structure, for any such expansion of services or addition of a Program. Except as otherwise expressly provided in this Agreement, all fees are non-refundable.

(c) Acceptance into a Program. Final acceptance into a Program, and the effectiveness of any License Grant, shall be governed by each Program Amendment and Applicable Program Requirements.

(d) TRUSTe References to Participation in Program. After enrollment by Participant in a Program and certification of Participant by TRUSTe, it shall be public information that Participant is a Participant in the TRUSTe Program(s) and has entered into this Agreement with TRUSTe. TRUSTe may make descriptive references to Participant’s name and URL in

TRUSTe's current list of participants located on the TRUSTe Web Site and corporate documentation (such as annual reports). TRUSTe may also respond to any inquiry regarding whether Participant participates in a Program and TRUSTe may provide its current list of TRUSTe program participants to any Party requesting such a list. TRUSTe may also make descriptive references to Participant's name and URL on other advertisements, promotional materials and related collateral marketing materials created during the term of this Agreement unless Participant expressly requests that TRUSTe not do so. Upon the termination of a Program Amendment, TRUSTe shall, within thirty (30) business days, remove Participant, with respect to the Applicable Program, from TRUSTe's current list of Participants located on the TRUSTe Web Site.

3. Participant's Adherence to the Program.

(a) Participant's Obligation to Comply. Participant shall fully comply with the Applicable Program Requirements for each Program Amendment.

(b) Amendments to the Program Requirements. The Parties agree that TRUSTe may, from time to time, amend the Applicable Program Requirements in its discretion upon twenty (20) business days' prior written notice to Participant. Upon receipt of such notice, Participant may terminate the applicable Program Amendment by providing written notice to TRUSTe within said twenty (20) business day period, in which case Participant will receive a prorated refund of pre-paid fees for the applicable Program. If Participant does not provide such written notice of termination, it will comply in full with the amended Applicable Program Requirements upon the end of said twenty (20) business day period. TRUSTe may amend, on less than twenty (20) business days' notice, any time periods referenced in this Agreement if required by law. Participant's failure to object in writing within the twenty (20) business day period, or its continued use of the TRUSTe Mark(s) after the expiration of the twenty (20) business day period, shall be deemed to constitute Participant's acceptance of the amended Applicable Program Requirements. If Participant is enrolled in more than one Program, the requirements and obligations of the Applicable Program Requirements are intended to be additive and in no way limiting of one another.

(c) Complaints. TRUSTe will investigate credible allegations and complaints related to the Applicable Programs and will use reasonable efforts to keep abreast of such allegations. Participant shall maintain dispute mechanisms and shall cooperate with TRUSTe in an effort to resolve all non-frivolous complaints in a manner that will comply with the Applicable Program Requirements and that will prevent damage to the reputation of the Applicable Programs and TRUSTe's goodwill.

(d) Notice of Actions or Investigations. If Participant becomes the subject of an Action regarding (i) Personally Identifiable Information, (ii) privacy matters, or (iii) the Participant Program Materials, Participant shall, except to the extent prohibited by law, provide TRUSTe with a Notice of Action.

4. Use and Ownership of Applicable TRUSTe Mark(s).

(a) General. Each of the Programs is different and not every Program has a TRUSTe Mark associated with it. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 4(b), NO RIGHT TO USE THE TRUSTe NAME OR ANY OF THE TRUSTe MARK(S) IS GRANTED HEREUNDER.

(b) License Grant. Subject to the terms and conditions of this Agreement, TRUSTe grants to Participant a non-exclusive, non-transferable, royalty-free, worldwide license to

publicly display copies of the Applicable TRUSTe Mark(s); provided, however, a Program Amendment is required in order to activate the License Grant with respect to a particular TRUSTe Mark and the Applicable TRUSTe Mark(s) shall be identified in each Program Amendment (the "License Grant"). Participant may not use or reproduce any Applicable TRUSTe Mark(s) in any manner other than as described in this Agreement and the Program Amendment. Participant may not sublicense the use of the Applicable TRUSTe Mark(s), except to a third party hosting service if necessary to display the Applicable TRUSTe Mark(s) in accordance with the terms of this Agreement and provided that Participant ensures that the third party hosting service adheres to the terms of this Agreement and the Program Amendment(s) with regard to the Applicable TRUSTe Marks(s). Participant will comply with any temporary suspension of Participant's right to display the Applicable TRUSTe Mark(s), pursuant to the terms and conditions of this Agreement.

(c) Ownership Acknowledgment and Use of Applicable TRUSTe Mark(s). Participant acknowledges that, as between the Parties, TRUSTe is the sole and exclusive owner of the worldwide rights to all trademarks, service marks, certification marks, copyrights, rights of affiliation and publicity, moral rights and other intellectual property rights of any kind in the TRUSTe Name and TRUSTe Mark(s). Participant agrees that: (i) Participant shall do nothing inconsistent with such ownership either during the term of this Agreement or afterwards; (ii) all use of the Applicable TRUSTe Mark(s) by Participant shall inure to the benefit of TRUSTe; (iii) Participant shall take no action that shall interfere with or diminish TRUSTe's right in the TRUSTe Mark(s); and (iv) Participant shall use the Applicable TRUSTe Mark(s) so as to create a separate and distinct impression from any other service mark or trademark that might be used by Participant.

(d) Partial Termination/Modification of Mark by TRUSTe. Upon ten (10) business days' prior written notice, TRUSTe may terminate Participant's right to use the Applicable TRUSTe Mark(s) on a server in a particular country in which TRUSTe reasonably determines that the continued use of the Applicable TRUSTe Mark(s) in such country may impose potential liability on TRUSTe or threaten TRUSTe's ownership of the Applicable TRUSTe Mark(s). If no replacement mark is provided, Participant will receive a prorated refund of the Fees paid hereunder for the then-current term (representing the portion of the current term remaining as of the effective date of termination for the affected Web site(s)). In addition, in such event or if TRUSTe's use of the Applicable TRUSTe Mark(s) is challenged by a third party or TRUSTe becomes aware of a significant risk of such a challenge, TRUSTe may at its option uniformly provide its Participants with a replacement mark for the Applicable TRUSTe Mark(s), either generally or in any particular country(ies), which shall become the Applicable TRUSTe Mark(s) for all purposes under this Agreement. In the event TRUSTe provides such replacement(s), Participant shall promptly cease all use of the replaced Applicable TRUSTe Mark(s). Notwithstanding anything to the contrary contained herein, in the event that Participant becomes aware of any claim by any third party against the Applicable TRUSTe Mark(s), Participant may, in its sole discretion, cease using the Applicable TRUSTe Mark(s).

(e) Non-Alteration. As part of its licensed display of the Applicable TRUSTe Mark(s), Participant shall display the Applicable TRUSTe Mark(s) in accordance with the then applicable style guide provided to Participant by TRUSTe. In no instance shall Participant display any Applicable TRUSTe Mark(s) such that the display of the Applicable TRUSTe Mark(s) will either inhibit TRUSTe's ability to exercise its rights or be deemed deceptive. If the Applicable TRUSTe Mark(s) resides on a server other than Participant's own server, Participant shall

ensure that any such third party conforms to the requirements of this Agreement and the Program Amendment with regard to the Applicable TRUSTe Mark(s).

(f) Warranty and Disclaimer. The Applicable TRUSTe Mark(s) is licensed "AS IS" with no warranty of any kind. TRUSTe disclaims all express and implied warranties, including the implied warranties of merchantability and fitness for a particular purpose or use.

(g) Formalities. In the event TRUSTe desires to ascertain the location of the server hosting the Applicable TRUSTe Mark(s), Participant shall supply such information upon TRUSTe's reasonable request. Participant shall cooperate with TRUSTe to allow TRUSTe to comply with the formalities of the laws of the jurisdiction where Participant operates, including but not limited to the execution of applications for registration as a registered user of the Applicable TRUSTe Mark(s), the execution of additional license agreements suitable for recording with appropriate authorities, the provision of proof of use of the Applicable TRUSTe Mark(s), or by providing or executing other applicable documents. TRUSTe will reimburse Participant's reasonable out-of-pocket expenses incurred under this Section 4(g) to comply with formalities imposed upon licensors by the law of the jurisdiction where Participant operates. Participant will not be reimbursed for expenses incurred under this Section 4(g) to comply with formalities imposed upon Participants by the law of the jurisdiction where Participant operates, such as costs associated with registration as a registered user of a licensed mark.

5. Term and Termination; Additional TRUSTe Remedies.

(a) Term. Unless terminated earlier pursuant to the terms and conditions hereof, this Agreement shall automatically terminate six (6) months following the termination of all Program Amendments, unless the Parties enter into at least one new program Amendment within such six (6) month period. Termination of this Agreement pursuant to the terms hereof shall terminate all Program Amendments.

(b) Annual Recertification. Participant shall, under each Program Amendment, comply with the certification requirements of the then-current Applicable Program Requirements annually.

(c) Termination for Non-Certification; Right to Decline.

(i) During the Program certification process (as required by a Program Amendment), in the event that TRUSTe does not approve the Participant Program Materials for the Applicable Program and Participant does not agree to modify the Participant Program Materials and/or other relevant policies and practices in a manner that fully addresses TRUSTe's objections, Participant shall have the right to terminate the Program Amendment within twenty (20) business days of receiving TRUSTe's objections with respect to the Participant Program Materials and Licensee will receive a prorated refund of the Fees for the Applicable Program paid hereunder for the then current license term (representing the portion of the current license term remaining as of the effective date of the termination). After such twenty (20) business day period has expired, Participant shall not be entitled to a refund. The foregoing right shall be Participant's sole and exclusive remedy if TRUSTe does not approve the Participant Program Materials.

(ii) Except for the circumstances provided for in Section 5(c)(i), if at any time prior to certification TRUSTe determines that it does not wish to be bound under a Program Amendment with Participant, it shall so notify Participant and shall refund all of the prepaid Fees received from Participant for such Program Amendment and such Program Amendment shall be terminated (to the extent it was ever effective).

(d) Termination for Cause with Right to Cure.

(i) Either Party may terminate this Agreement or a Program Amendment upon twenty (20) business days' prior written notice ("Notice of Termination") to the other of a material breach by the other Party of this Agreement and/or a Program Amendment(s) (which shall include breaches of Applicable Program Requirements), unless the breach is corrected within the same twenty (20) business day period ("Cure Period"). Within the Cure Period, the breaching Party shall:

- (A) In the case of TRUSTe, correct the breach to Participant's commercially reasonable satisfaction within the Cure Period, and, in the case of Participant, correct the breach to TRUSTe's satisfaction and comply with the Suspension Obligations pursuant to Section 5(f) of this Agreement; or
- (B) Take no action, in which case the applicable Program Amendment and/or this Agreement will terminate without further action and, in the case of Participant's breach, without any refund of Fees to Participant.

For purposes of this Section 5(d), material breaches include but are not limited to: (i) a Party's material breach of any representation or warranty contained in this Agreement, a Program Amendment or any Participant Program Materials; (ii) Participant's use of the TRUSTe Mark(s) in a manner inconsistent with the License Grant; (iii) Participant's challenge to TRUSTe's ownership of the TRUSTe Mark(s) or the validity of the TRUSTe Mark(s); (iv) Participant's material failure to implement and adhere to the Participant Program Materials approved by TRUSTe; (v) Participant's material failure to adhere to the Applicable Program Requirements; (vi) Participant's failure to permit or cooperate with a TRUSTe investigation or review of Participant's Web site or practices pursuant to the Program Requirements; (vii) Participant's failure to comply with any Suspension Obligations; (viii) Participant's failure to cooperate with TRUSTe regarding an audit, complaint or the compliance monitoring activities of TRUSTe; (ix) any deceptive trade practices of Participant; (x) the bankruptcy or insolvency of a Party; (xi) Participant's assignment or transfer of its rights and duties under this Agreement or a Program Amendment in a manner inconsistent with Sections 10(a)-(b) hereof; and (xi) Participant's failure to make payments to TRUSTe when due.

(ii) In addition to the Termination for Cause provisions of Section 5(d)(i), Participant may be terminated for cause pursuant to the Suspension provisions in Section 5(f).

(e) Termination By Either Party for Any Reason. Either Party may terminate this Agreement or a Program Amendment at any time upon twenty (20) business days' prior written notice for any reason ("Termination for Convenience"), provided that Participant may not terminate this Agreement or a Program Amendment under this Section 5(e) while it is curing a material breach pursuant to written notice from TRUSTe or while it is under Suspension. If Participant terminates this Agreement or a Program Amendment pursuant to this Section 5(e), Participant is not entitled to any refund of Fees. If TRUSTe terminates this Agreement or a Program Amendment pursuant to this Section 5(e), Participant shall receive a prorated refund of prepaid license Fees.

(f) "Suspension" Status. In the event TRUSTe reasonably believes that Participant has materially violated the Applicable Program Requirements or materially breached this Agreement, Participant may be placed on suspension by TRUSTe ("Suspension").

(i) Participant will be considered to be on Suspension immediately upon receiving notice from TRUSTe, which may be by email pursuant to the notice provisions of Section 11(g). Suspension shall last until such time as the Participant has corrected the material breach or Program violation to TRUSTe's satisfaction, but not for a period of greater than three (3) months ("Suspension Period"). TRUSTe will notify Participant of the remedial actions that TRUSTe will require Participant to take during the Suspension Period ("Suspension Obligations") within ten (10) business days of Participant being placed on Suspension. "Suspension Obligations" may include, but are not limited to: (A) compliance with additional or more stringent Program Requirements; (B) cooperation with heightened compliance monitoring by TRUSTe; (C) payment to TRUSTe of an amount equal to one-twelfth (1/12) of the then current Program Amendment fees applicable to Participant, payable for every month of the Suspension Period, as compensation for TRUSTe's additional compliance monitoring; and (D) payment of any applicable additional fees as identified in a Program Amendment.

(ii) Participant may provide documentation and information to TRUSTe regarding Participant's position with respect to the Suspension, and TRUSTe will promptly respond to any such documentation or information. Participant must cease displaying the Applicable TRUSTe Mark(s) (excluding any Click-to-Verify Mark as identified in the Applicable Program Amendment) within three (3) business days of being notified of its Suspension status by TRUSTe, and may not use or display the Applicable TRUSTe Mark(s) until notified by TRUSTe that it may do so.

(iii) During the Suspension Period, Participant's status may be communicated or otherwise indicated to third parties in the same manner that TRUSTe uses to communicate or publish certification status.

(iv) During the Suspension Period, in addition to correction of the material breach or Program violation to TRUSTe's satisfaction, Participant shall comply with all Suspension Obligations.

(v) At the end of the Suspension Period, TRUSTe will, in its discretion, either: (A) determine that Participant has complied with Participant's Suspension Obligations, thereby satisfying TRUSTe's concerns; (B) extend the Suspension Period by mutual agreement with the Participant; or (C) determine that Participant has failed to comply with Participant's Suspension Obligations and terminate Participant for cause immediately.

(g) Appeals. Participant may appeal any termination for cause hereunder to TRUSTe's Appeals Committee. Appeals shall follow the process set forth for such appeals, found at TRUSTe Web Site. During the appeal process, Participant may not use or display the Applicable TRUSTe Mark(s).

(h) Effect of Termination. Upon termination of this Agreement or a Program Amendment, Participant shall:

(i) immediately cease all use of the Applicable TRUSTe Mark(s) and remove them from all locations where they have been placed by Participant or its third party providers;

(ii) immediately cease all references to Participant's participation in the Programs covered by the terminated Program Amendments; and

(iii) comply with all post-termination obligations required by each terminated Program Amendment.

(i) TRUSTe's Right of Publication and Referral.

(i) Notwithstanding any other provision of this Agreement, TRUSTe may, after termination of this Agreement or a Program Amendment, publish the departure of Participant from the Program(s) publicly on TRUSTe's Web Site, including Participant's name and identifying information and, where termination is for cause based upon Participant's violation of the Applicable Program Requirements or other material breach of this Agreement, TRUSTe may: (A) refer violations of Program Requirements to the appropriate Authority, and (B) in conjunction with Participant's name, publish the Program Requirement found to have been violated, along with a description of the violation, and whether or not such matter has been referred to an Authority.

(ii) Where TRUSTe has terminated this Agreement or a Program Amendment for cause pursuant to Section 5(d), TRUSTe may also refer any information it acquired on its own or obtained from a user of the site, services, or products of Participant to the appropriate Authority.

(j) Remedies Not Limiting. The remedies provided in this Section 5 are in no way limiting of one another or of any other rights and remedies granted to TRUSTe under this Agreement or the Applicable Program Requirements. TRUSTe may choose to, but is not required to, place Participant on Suspension in lieu of terminating Participant for cause or taking other appropriate action.

(k) Survival. Sections 5(g), 5(h), 5(i), 7, 8, 9, 10, and 11, this "Survival" provision, and all post-termination obligations contained in the Applicable Program Requirements shall survive termination of this Agreement regardless of the manner in which this Agreement was terminated.

6. Representations and Warranties.

(a) Each Party represents, warrants and covenants, as applicable, to the other Party that:

(i) It has all right, title and authority to enter into this Agreement.

(ii) Its execution of this Agreement and its engagement hereunder do not constitute a breach of any contract, agreement or understanding, oral or written, to which it is a Party or by which it is bound.

(iii) It is not the subject of an allegation, of which it has been notified by any known Authority in any country, including without limitation the Attorney General of any state, the United States Federal Trade Commission (FTC), any law enforcement agency or any foreign privacy authority, of the misuse of Personally Identifiable Information.

(b) Participant further represents, warrants and covenants, as applicable, to TRUSTe that:

(i) All information provided in writing by Participant to TRUSTe, including without limitation the Self-Assessment and all other submitted Participant Program Materials, is true, accurate and complete as of the date of delivery to TRUSTe.

(ii) Participant shall, at all times during the term of this Agreement, comply with all declarations, obligations, promises and claims of the Participant Program Materials.

(iii) Participant shall, at all times during the term of this Agreement, comply with all Applicable Program Requirements.

(iv) Participant will not display any of the TRUSTe Mark(s) on any Web site that is, or offers any service or product that is, misleading, unlawful, or violative of the rights of third parties.

(v) Participant represents that it understands that its participation in, and compliance with, any Program does not constitute specific compliance with any law or regulation. Participant represents that it understands that it has an independent duty to comply with any and all laws and regulations.

(vi) Participant represents that it has not modified the form or content of this Agreement from the form and content of the Agreement provided to it by TRUSTe.

7. Indemnification; Liquidated Damages

(a) Indemnification by TRUSTe. TRUSTe will defend, indemnify and hold Participant and its officers, directors, employees, agents, subsidiaries and affiliates harmless from and against any and all claims, losses, liabilities, damages, judgments, awards, expenses, actions, lawsuits and costs, including, without limitation, reasonable attorneys' fees ("Damages"), arising out of or relating to third party claims based on TRUSTe's actual or alleged (i) gross negligent acts or omissions, willful misconduct or fraud in connection with this Agreement; and/or (ii) violation of any statute, law, ordinance or regulation, provided, that Participant complies with the indemnification procedures of Section 7(c) below. **THE FOREGOING IS PARTICIPANT'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS OF ANY KIND.**

(b) Indemnification by Participant. Participant will defend, indemnify and hold TRUSTe and its officers, directors, employees, agents, subsidiaries and affiliates harmless from and against any and all Damages arising out of or relating to third party claims based on Participant's actual or alleged: (i) gross negligent acts or omissions, willful misconduct or fraud in connection with this Agreement; (ii) violation of any statute, law, ordinance or regulation; and/or (iii) information collection, disclosure, and use practices related to the Sites or Online PoC Page(s), provided that TRUSTe complies with the indemnification procedures of Section 7(c) below. Participant will further defend, indemnify and hold TRUSTe and its officers, directors, employees, agents, subsidiaries and affiliates harmless from and against any and all Damages arising out of or relating to Participant's use of the TRUSTe Mark(s) (except for claims that the TRUSTe Mark(s) infringes upon the intellectual property rights of a third party).

(c) Indemnification Procedures. With respect to a Party's obligation to indemnify (the "Indemnifying Party") the other Party (the "Indemnified Party"): (i) the Indemnified Party shall provide prompt written notice of any such claim, action or demand; (ii) the Indemnified Party shall allow the Indemnifying Party to control the defense and related settlement negotiations, provided, however, that the Indemnified Party shall have the right to participate in such defense with counsel of its own choosing at the Indemnifying Party's expense; (iii) the Indemnified Party shall provide the Indemnifying Party, at the Indemnifying Party's request, with reasonable assistance in the defense of such claim, action or demand, so long as the Indemnifying Party reimburses the Indemnified Party for the Indemnified Party's reasonable out-of-pocket expenses associated therewith; and (iv) the Indemnifying Party shall not settle a claim in a manner that causes the Indemnified Party to incur uninsured liability, take action, or suffer other injury, without the Indemnified Party's written consent, which consent shall not unreasonably be withheld. The Indemnifying Party shall not be relieved of its indemnification obligations herein for the Indemnified Party's failure to comply with such requirements, except to the extent that the Indemnifying Party has been prejudiced by the Indemnified Party's actions or inactions.

(d) Liquidated Damages. Participant acknowledges that its use of the TRUSTe Mark(s) in violation of this Agreement would cause harm to TRUSTe that would be difficult to quantify. Participant shall pay TRUSTe a fee of \$1,000.00 for each day, or any part thereof, that Participant continues to use the Applicable TRUSTe Mark(s) in any form after the termination of the applicable Program Amendment ("Liquidated Damages"). Participant understands that its continued use of the Applicable TRUSTe Mark(s) after termination of the applicable Program Amendment(s) would cause irreparable harm to TRUSTe. The Parties agree that the monetary amount of damages in the event of Participant's breach is uncertain at this time due to the nature of TRUSTe's business, and that the amount of damages would be difficult to determine in the event of a breach. The Parties agree that such liquidated damages in no way constitute a penalty and are not excessive in relation to the damages likely to result from Participant's breach. Participant expressly waives the right to challenge the enforceability or validity of these liquidated damages and acknowledges that it entered into this Agreement with full understanding of its obligations under this clause.

8. Consequential Damages Waiver. EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS OF THE PARTIES CONTAINED IN SECTIONS 7(a) AND 7(b), THE LIQUIDATED DAMAGES PROVIDED FOR IN SECTION 7(d), AND DAMAGES RESULTING FROM PARTICIPANT'S BREACH OF THE LICENSE PROVISIONS OF THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR DAMAGES FROM LOST PROFITS, LOST USE, DAMAGE TO GOODWILL OR ANY OTHER THEORY EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. Limitation of Liability. Except for the following, neither Party shall be liable to the other Party on any claim arising under or relating to this Agreement or any Program Amendment for an amount greater than the amount of Fees actually paid by Participant to TRUSTe under the Program Amendment which gave rise to the claim:

(a) the indemnification obligations and Damages associated therewith contained in Sections 7(a) and 7(b);

(b) additional Fees associated with Suspension;

(c) service Fees, including without limitation, costs for investigations and audits provided for in the Applicable Program Requirements;

(d) damages, losses or expenses incurred by the Parties, including reasonable attorneys' fees for any claim, investigation or litigation resulting from a material breach or misstatement of the representations and warranties by the Parties contained in Section 6 of this Agreement;

(e) Liquidated Damages;

(f) damages arising from or relating to gross negligence or willful misconduct resulting in personal injury or property damage; and

(g) direct damages resulting from breaches of the confidentiality requirements of this Agreement, except that such direct damages shall be capped at the greater of a multiple of five (5) times the Fees paid by Participant to TRUSTe within the twelve (12) months prior to the action giving rise to the claim, or TRUSTe's insurance coverage for such breach of confidentiality.

10. Receipt of Confidential Information.

(a) Confidentiality. Each Party agrees to maintain the confidentiality of Confidential Information of the other Party, using not less than the measures that Party uses for its own confidential information of similar type, and not to disclose such information to any person except its officers, employees or subcontractors, who have a need to know in order to comply with the obligations of this Agreement. Each Party's officers, employees and subcontractors shall be bound by the terms of this Section 10(a) or a similar written agreement with terms no less protective of Participant's Confidential Information than this Agreement. The Parties agree that a Party is entitled to injunctive relief as a remedy for any breach of this Section 10(a). Nothing in this Section shall prohibit TRUSTe from disseminating aggregated information that contains no identifiable Participant Confidential Information.

(b) Limitation. Notwithstanding the provisions of this Section 10, TRUSTe may disclose Participant Confidential Information: (i) in accordance with a judicial or other governmental subpoena, warrant or order; provided that TRUSTe shall comply with any applicable protective order or equivalent and, unless prohibited by law, TRUSTe will employ commercially reasonable efforts to provide Participant with five (5) business days' prior written notice, so that Participant has an opportunity to intervene to protect the confidentiality of its information; (ii) as part of the publication and referral process contemplated in Section 5(i); and (iii) to other Parties that are identified by Participant for that purpose.

11. Miscellaneous.

(a) Governing Law; Jurisdiction; Venue; Attorneys' Fees. This Agreement shall be construed in accordance with, and governed by, the laws of the State of California, except for that body of law addressing conflicts of law. The Parties hereby consent to exclusive venue and jurisdiction for actions concerning or relating to this Agreement in the federal or state courts of California, County of San Francisco. In any action to interpret or enforce this Agreement, the prevailing Party shall be awarded all court costs and reasonable attorneys' fees it incurs.

(b) Assignments; Subcontractors.

(i) Except as provided for in Section 11(b)(ii), Participant may not assign or transfer, indirectly or directly (including without limitation by merger or operation of law), any of its rights or delegate any of its duties under this Agreement or under a Program Amendment without the prior written consent of TRUSTe. In the event of an Assignment or Transfer by Participant of a Program Amendment without TRUSTe's consent, or an attempt by Participant to do so, such Assignment or Transfer, or attempted Assignment or Transfer, shall be null and void, and TRUSTe may immediately terminate this Agreement for cause.

(ii) Participant may assign its rights and obligations under this Agreement or a Program Amendment provided that: (A) the assignee takes subject to all of the obligations of the Participant under the Program Amendment (including the obligations of this Agreement); (B) TRUSTe is notified in writing within thirty (30) days of such assignment; (C) the assignee is the Owner of the web page (and related pages) displaying the Applicable TRUSTe Mark(s) as well as the product or service that is covered by the applicable Program Amendment; (D) assignee signs TRUSTe's then-current Agreement and Program Amendment; and (E) assignee completes a Self Assessment and provides Participant Program Materials that are acceptable to TRUSTe.

(iii) TRUSTe is free to subcontract portions of its obligations hereunder; provided, however, that TRUSTe shall remain liable for such subcontracted work pursuant to applicable law.

(c) Entire Agreement; Waiver; Relationship of the Parties. This Agreement and the Schedule(s), appendices and exhibits hereto constitute the entire Agreement between the Parties as to the subject matter hereof, and supersede all prior and/or contemporaneous agreements, representations and understandings between them, except as may be expressly incorporated by reference into this Agreement. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Parties. Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, agency or employment relationship between the Parties, and neither Party shall have any right to bind the other or incur any obligation on the other's behalf without the other's prior written consent. Except as expressly provided for herein, this Agreement is not for the benefit of any third party, but nothing in this Agreement shall prevent or interfere with any consumer bringing an action against Participant for violation of law.

(d) Amendment. Except for amendments to the Program Requirements, as provided for herein, this Agreement shall not be changed, modified, or amended except by a writing signed by both Parties.

(e) Force Majeure. Neither Party shall be liable (except for nonpayment) for interruptions, delays, damages, losses or destruction, or malfunction of any equipment, or any consequence thereof caused or occasioned by, or due to fire, flood, water, earthquake, the elements, acts of God, war and threat of imminent war, terrorism, utility curtailments, power failures, explosions, civil disturbances, governmental actions, acts or omissions of third parties, or any other cause beyond either Parties' commercially reasonable control. The Party so delayed or prevented from performing shall exercise commercially reasonable efforts to remedy any such cause of delay or cause preventing performance.

(f) Marketing & Consumer Awareness. The Parties agree to release a joint press release within thirty (30) days of the Effective Date. From time to time thereafter, the Parties shall further promote their relationship in marketing and promotional efforts, through the issuance of mutually agreed upon joint press releases or other mutually agreed upon efforts.

(g) Notices to Participant and Participant Contact Information. Except as otherwise provided herein with respect to TRUSTe's right to provide notice via email, all notices required to be given to Participant under this Agreement must be given in writing and delivered either in hand (in which case delivery shall be effective as of the delivery date), by certified mail, return receipt requested, postage pre-paid (in which case delivery shall be effective three (3) days after mailing), or by Federal Express or other recognized overnight delivery service (in which case delivery shall be effective the day following remittance to the delivery service), all delivery charges pre-paid, and addressed to the Designated Participant Coordinator identified under the Participant's signature block hereto.

PARTICIPANT ACKNOWLEDGES THE REQUIREMENT TO MAINTAIN THE DESIGNATED PARTICIPANT COORDINATOR'S EMAIL ACCOUNT. PARTICIPANT EXPRESSLY CONSENTS TO RECEIPT OF NOTIFICATION BY EMAIL OF THE FOLLOWING: (i) AMENDMENTS TO THE PROGRAM REQUIREMENTS AS PROVIDED FOR UNDER SECTION 3(b); AND (ii) NOTIFICATION OF SUSPENSION STATUS AS PROVIDED FOR UNDER SECTION 5(f)(i). PROVIDED THAT TRUSTe MAINTAINS AN ELECTRONIC RECORD OF SENDING SUCH AN EMAIL NOTIFICATION, PARTICIPANT WAIVES ANY RIGHT TO CONTEST ACTIONS TAKEN BY TRUSTe UNDER SECTIONS 3(b) AND 5(f)(i)

BASED ON THE ASSERTION THAT THE EMAIL ADDRESS IS NOT VALID OR OPERATIONAL, OR THAT THE EMAIL NOTIFICATION WAS NOT RECEIVED.

(h) Notices to TRUSTe. Except as otherwise provided, all notices and acknowledgments required to be given to TRUSTe under this Agreement must be given in writing and delivered either in hand (in which case delivery shall be effective as of the delivery date), by certified mail, return receipt requested, postage pre-paid (in which case delivery shall be effective three (3) days after mailing), or by Federal Express or other recognized overnight delivery service (in which case delivery shall be effective the day following remittance to the delivery service), all delivery charges pre-paid, and addressed.

Designated Address: TRUSTe Compliance Department

Address: TRUSTe

685 Market Street, Suite 270

San Francisco, CA 94105

[SIGNATURES ON FOLLOWING PAGE]

The authorized representatives of the Parties have executed this Agreement below.

THE INDIVIDUAL EXECUTING THIS AGREEMENT ON BEHALF OF PARTICIPANT REPRESENTS AND WARRANTS THAT HE OR SHE IS AUTHORIZED TO EXECUTE THIS AGREEMENT ON BEHALF OF PARTICIPANT AND, TO THE BEST KNOWLEDGE OF SUCH PERSON, ALL REPRESENTATIONS MADE IN THIS AGREEMENT BY PARTICIPANT ARE TRUE AND CORRECT.

PARTICIPANT ACKNOWLEDGES THAT VIOLATIONS OF THE PROGRAM REQUIREMENTS MAY RESULT IN TERMINATION OF THIS AGREEMENT, CIVIL AND CRIMINAL ACTIONS BY LAW ENFORCEMENT AUTHORITIES AGAINST PARTICIPANT, AND/OR PRIVATE CAUSES OF ACTION. PARTICIPANT ALSO ACKNOWLEDGES THAT TRUSTe HAS THE RIGHT, WHERE IT HAS TERMINATED PARTICIPANT FOR CAUSE, TO REFER PARTICIPANT TO APPROPRIATE AUTHORITIES PURSUANT TO SECTION 5 OF THIS AGREEMENT.

Accepted and Agreed by TRUSTe:

Accepted and Agreed by Participant:

Authorized Representative Signature _____
Name John Tomaszewski _____
Title VP, Legal, Policy & Compliance _____
Effective Date _____

Authorized Representative Signature _____
Name _____
Title _____
Date _____
Telephone _____
Email _____
Mailing Address _____
City, State, Zip _____

Designated Participant Coordinator _____
Name _____
Email _____
Telephone _____
Company Name _____
Email _____
Mailing Address _____
City, State, Zip _____

Exhibit 1 - Definitions

The following definitions apply to all TRUSTe Programs. All definitions are not used for every Program.

1. “Action” means any investigation, demand, suit, legal proceeding, inquiry, or other legal action, whether formal or informal, initiated by any individual or entity, including any state or federal governmental authority.
2. “Agreement” means the Master License Agreement and all Program Amendments.
3. “Applicable TRUSTe Mark(s)” means those TRUSTe Mark(s) identified in a Program Amendment executed by the Parties.
4. “Applicable Programs” means one or more Programs covered by Program Amendments executed by the Parties.
5. “Applicable Program Requirements” means the Program Requirements that cover the Applicable Programs.
6. “Authority” means a government entity having jurisdiction over the Participant’s trade and/or privacy practices, including without limitation the Attorney General of any state, the United States Federal Trade Commission, any law enforcement agency or any foreign privacy authority.
7. “Confidential Information” means information concerning a Party’s business not generally known to the public that has been marked as confidential by the disclosing Party prior to its disclosure to the receiving Party. By way of illustration only, Confidential Information may include trade secrets, know-how, inventions, draft privacy statements and disclosures, techniques, processes, algorithms, software programs, schematics, software source documents, contracts, customer lists, financial information, sales and marketing plans, information and business plans and other proprietary information, provided, however, that such information is marked as confidential. Confidential Information shall not include, even if it is marked as such, information that: (i) is already known to the receiving Party at the time of disclosure, which knowledge the receiving Party shall have the burden of proving; (ii) is, or, through no act or failure to act of the receiving Party, becomes publicly known; (iii) is legally received by receiving Party from a third party without restriction on disclosure; (iv) is independently developed by receiving Party without reference to the Confidential Information of the disclosing Party; or (v) is approved for release by written authorization of the disclosing Party.
8. “Cure Period” has the meaning ascribed to it in Section 5(d).
9. “Damages” has the meaning ascribed to it in Section 7(a).
10. “Fees” has the meaning ascribed to it in Section 2(b).
11. “Indemnified Party” has the meaning ascribed to it in Section 7(c).
12. “Indemnifying Party” has the meaning ascribed to it in Section 7(c).
13. “Internet” means the worldwide network of computers commonly referred to as the Internet.
14. “License Grant” has the meaning ascribed to it in Section 4(b).

15. “Notice of Action” means notice to TRUSTe, in compliance with the notice requirements of Section 11(f), which shall include, notification to TRUSTe of the Action, the name of the Authority, the status of the Action, within twenty (20) business days of learning of such Action.
16. “Notice of Termination” has the meaning ascribed to it in Section 5(d).
17. “Owner” means that the Party holds title to and is in control of the object in question.
18. “Participant” has the meaning ascribed to it in the preamble of this Agreement.
19. “Participant Program Materials” means those materials identified as Participant Program Materials in a Program Amendment executed by the Parties, or otherwise required in writing by TRUSTe.
20. “Party(ies)” has the meaning ascribed to it in the preamble of this Agreement.
21. “Privacy Statement” means the statements of Participant’s information practices posted on its Web site(s), as such practices are updated from time to time. Participant’s Privacy Statement includes, but is not limited to: (1) a single, comprehensive statement of all Participant’s information practices (“Comprehensive Privacy Statement”); (2) a short notice, summary notice, or disclosure of specific information practices posted at the point of information collection or elsewhere, provided that Participant also posts a Comprehensive Privacy Statement; and/or (3) a P3P Statement.
22. “Program” means a certification program administered by TRUSTe. The TRUSTe Programs are found at www.truste.org.
23. “Program Requirements” means those requirements, conditions or other terms applicable to Participant under a TRUSTe Program, as such requirements are amended from time to time.
24. “Self-Assessment” means that document, the form of which is provided by TRUSTe to Participant, which contains Participant’s responses to TRUSTe’s requests for information with respect to a Program.
25. “Suspension” has the meaning ascribed to it in Section 5(f).
26. “Suspension Obligations” has the meaning ascribed to it in Section 5(f)(1).
27. “Suspension Period” has the meaning ascribed to it in Section 5(f)(1).
28. “Termination for Convenience” has the meaning ascribed to it in Section 5(e).
29. “TRUSTe” means the Trusted Universal Standards in Electronic Transactions, Inc. (a California not-for-profit corporation).
30. “TRUSTe Mark(s)” means collectively the registered certification marks and trademarks of TRUSTe.
31. “TRUSTe Name” means the name “TRUSTe”.
32. “TRUSTe Web Site” means the Internet Web site located at <http://www.truste.org>.
33. “URL” means Universal Resource Locator.