

**GlobalPlatform Security Evaluation Agreement**

This document (the "Agreement") is an agreement between GlobalPlatform, Inc. ("GP"), with offices at 544 Hillside Road, Redwood City, CA 94062, and the undersigned product vendor ("Vendor"), and shall be effective as of the date that both GP and Vendor (each sometimes referred to herein as a "party" and collectively as the "parties") have executed below (the "Effective Date"). Capitalized terms herein shall have the meanings specified in Section 1 or elsewhere in this Agreement.

Whereas, Vendor would like to submit one or more Products for security evaluation from time to time; and

Whereas, subject to the terms and conditions of this Agreement, GP is willing to provide a security evaluation Certificate or Restricted Certificate for said Products.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree to the Terms and Conditions set forth in the following pages of this Agreement.

<b>Vendor</b>			
Name:			
Business Address:			
State/Province:	Country:	Postal Code:	
City:			
<b>Vendor Contact</b>			
Name:	Title:		
Direct Telephone Number:	E-mail:		
Location:	Fax:		
<b>Finance and Invoice Contact</b>			
Name:	Title:		
Direct Telephone Number:	E-mail:		
Location:	Fax:		

IN WITNESS WHEREOF, the duly authorized officers of the parties have executed this Agreement on behalf of the parties as of the Effective Date.

<b>GLOBALPLATFORM, INC.</b>	<b>VENDOR</b>
By	By
Name:	Name:
Title:	Title:
Date:	Date:

## Terms and Conditions

### 1. Definitions

"Affiliate" means, with respect to a party hereto, such party's parent, subsidiary or "sister" entities, and the employees, officers, directors, members, shareholders, contractors, representatives, resellers and agents of each of the foregoing.

"Certificate" means the written, formal recognition and acknowledgment of full certification of a Product under the Evaluation Process, provided by GP to a Product Vendor for a given Product.

"Confidential Information" means all information or material that (i) relates to (A) the Vendor or any Products, (B) the Security Requirements, or (C) the Reports, testing or test results of any Products under or in connection with the Evaluation Process (except that notwithstanding anything to the contrary herein or elsewhere, GP shall be permitted to publicly disclose whether a particular Product has satisfactorily complied with the Security Requirements and related Product listing information as contemplated by the Evaluation Process) and (ii) is provided by GP or is marked confidential or bears a marking of like importance. Such marking must be sufficiently specific and conspicuous to enable the recipient to identify the information considered to be Confidential Information by the discloser. Information disclosed by Vendor in a non-tangible form will be considered Confidential Information only if the discloser identifies such information in writing to the recipient within thirty (30) days of the initial disclosure.

"Discloser" means the party that discloses Confidential Information.

"Evaluation Process" means the security evaluation process detailed in this Agreement and the TEE Certification Process Document in connection with the Evaluation Process.

"Evaluation Report" means the Security Evaluation Report (SES) and/or Shared Security Evaluation Report (SSES), which are the security assessment reports prepared by the Laboratory.

"Full or Participating GP Member" means a Full Member of GP or a Participating Member of GP, which has selected the Device Committee for participation purposes, as each is further defined in the By-laws of GP, and remains in 'good standing,' as further defined in the By-laws of GP.

"GP Security Evaluation Secretariat" means, collectively, the individual(s) and/or entity(ies) designated by GP as providing the role of secretariat for security evaluations in connection with the Evaluation Process. The GP Security Evaluation Secretariat may include individuals employed by GP's members (or their affiliates) who provide this secretariat role and/or other third parties engaged by GP to provide this secretariat role.

"GP Website" means GP's website located at [www.globalplatform.org](http://www.globalplatform.org), and any successor or replacement web site thereto managed and operated by GP.

"Laboratory" means a laboratory and/or facility that performs the Evaluation Process and has been accredited by GP, pursuant to the TEE Certification Process Document.

"Product" means a TEE product, which includes any device or system-on-chip (SOC) embedding a TEE, submitted for assessment under the Evaluation Process.

"Product Vendor" means an entity submitting a Product for security evaluation assessment under the Evaluation Process, including but not limited to Vendor.

"Recipient" means the party that receives Confidential Information.

"Report" or "Reports" means one or more of the Evaluation Report, the Risk Analysis Report and any other report prepared as part of the Evaluation Process.

"Restricted Certificate" means the written, formal recognition and acknowledgment of restricted certification of a Product under the Evaluation Process and provided by GP to a Product Vendor for a given Product, where a Product is found to have a vulnerability under the Evaluation Process.

"Risk Analysis Report" means the report, prepared jointly by GP and a Product Vendor in the event the Product Vendor elects not to remedy vulnerabilities identified as part of the Evaluation Process, and containing information for parties intending to use the Product Vendor's Product.

"Product Evaluation Request Form" means a completed written request for security evaluation of a given Product by a Product Vendor, through the Evaluation Process, using the form attached hereto as Exhibit B and executed by an officer of the Product Vendor.

"Security Requirements" means collectively the most recent version (unless GP specifies an earlier version) of the GP TEE Protection Profile, GP TEE Evaluation Methodology and GP TEE Attack Catalog, and all amendments, modifications and upgrades as adopted by GP from time to time.

"TEE" means Trusted Execution Environment.

"TEE Certification Process Document" means the most recent version (unless GP specifies an earlier version) of the GlobalPlatform Technology TEE Certification Process, based on the Security Requirements, and all amendments, modifications and upgrades as adopted by GP from time to time. This document is currently available at <http://www.globalplatform.org/TEECertification.asp>.

## **2. Security Evaluation Process**

This Section 2 sets forth the procedures under which (i) Vendor may submit a Product for certification and (ii) GP will consider such certification. Submissions of a Product for certification do not, independently, constitute certification of such Product. Vendor hereby acknowledges receipt of the Security Requirements and TEE Certification Process Document.

### **2.1 Conditions for Submittal of Product to Evaluation Process**

Vendor agrees that submission of Product samples and assessments must be done in accordance with the Security Requirements and TEE Certification Process Document. Vendor represents and warrants that prior to submitting Product samples and any prior assessments to a Laboratory, Vendor will have satisfied the following conditions:

- (a) Vendor will have completed, executed, and delivered to GP a Product Evaluation Request Form (attached as Exhibit B) submitting its Product for the Evaluation Process, and GP has confirmed receipt of such; and
- (b) Vendor will have complied in all respects with the terms, conditions and obligations required by the Security Requirements and TEE Certification Process Document.

Vendor agrees and acknowledges that (i) it is solely responsible for designing, manufacturing or otherwise acquiring the components of a Product that can be evaluated according to the Evaluation Process, (ii) GP will have no liability with respect to Vendor's Product sample and (iii) the provisions of Sections 8 and 9 of this Agreement shall apply to Vendor's submission of the Product samples.

### **2.2 Witnessing Laboratory Assessment; Access to Information**

Vendor grants GP permission to witness assessments performed by the Laboratory with respect to Vendor's Products, and to access, upon request, all information relating to Vendor's Products submitted to, or received from, or generated by the Laboratory as part of the Evaluation Process.

### **2.3 Submission of Reports to GP**

Vendor shall include in its submission to the Laboratory all information required by the Security Requirements or the GP Security Evaluation Secretariat as part of the Evaluation Process. If Vendor disputes an Evaluation Report, Vendor shall resolve such dispute with the Laboratory, but acknowledges and agrees that the GP Security Evaluation Secretariat will have access to all information regarding such dispute and shall provide resolution on such dispute if necessary.

### **2.4 Request for Evaluation**

After Vendor has completed all of the requirements, and the GP Security Evaluation Secretariat has received all of the information, specified in the Security Requirements and TEE Certification Process Document or otherwise requested or required by GP, Vendor may submit a request for evaluation of Vendor's Product under the Evaluation Process using the Product Evaluation Request Form. Vendor hereby represents and warrants that each Product submitted for such evaluation shall be identical to the corresponding Product to be produced and/or offered or sold by Vendor. The GP Security Evaluation Secretariat will review the Evaluation Report and other available information regarding each relevant Product. Based upon its review, the GP Security Evaluation Secretariat may require further assessment testing by the Laboratory or by a separate Laboratory pursuant to Section 2.5 before deciding whether to issue a Certificate. If GP concludes that sufficient assurance has been demonstrated, GP will issue to the Vendor a Certificate for that Product. If significant vulnerabilities have been discovered and are not remedied by the Vendor, the GP Security Evaluation Secretariat will then perform a risk analysis and prepare a Risk Analysis Report. Depending on the vulnerabilities discovered and results of the Risk Analysis Report, GP will issue to the Vendor a Restricted Certificate for that Product or decline to issue a Certificate. The Certificate or Restricted Certificate will be subject to Terms & Conditions that are substantially in the form attached hereto as Exhibit A and any specific terms, conditions, and limitations noted in the Certificate or Restricted Certificate. Vendor may elect to remedy the vulnerabilities discovered and resubmit the Product for the Evaluation Process with the Laboratory.

### **2.5 Retest Samples and Expenses**

Vendor agrees that, in connection with GP's review of a request for evaluation pursuant to Section 2.4, in the event the Evaluation Report is inconclusive or initially fails to demonstrate sufficient assurance with respect to a Product, GP may notify Vendor of the suspected reasons for such inconclusiveness or failure and require Vendor to select one or more different Laboratories to retest Vendor's Product samples and/or associated devices, and may request that different Product samples be used in such retest. Vendor shall make such samples available to GP at no cost if not already available and functioning within the Laboratory's premises, and shall pay the Laboratory (in advance when requested by GP) all reasonable expenses related to such retest. GP retains the right to choose the samples when GP requires a retest.

### **2.6 Post-Certificate Evaluation**

Vendor acknowledges and agrees: (i) that, following GP's issuance of a Certificate or Restricted Certificate with respect to a Product, if a weakness or new threat is identified, GP may elect to require additional evaluation of such Product and/or associated devices and/or to terminate or revise such Certificate or Restricted Certificate, and (ii) to pay the Laboratory (in advance when requested by GP) all reasonable expenses related to such additional evaluation and/or certification or restricted certification.

## **3. No Statements Prior To Issuance**

Vendor may disclose that it has submitted its Product for certification. Vendor shall not (and shall ensure that its Affiliates shall not) represent, state, or imply that a Product (i) has been evaluated, approved or certified by GP, or (ii) demonstrates sufficient assurance under, or otherwise complies with, the Security Requirements and TEE Certification Process Document, except to the extent and so long as Vendor has been issued a Certificate or Restricted Certificate by GP relating to the Product and such Certificate or Restricted Certificate has not been terminated.

#### **4. Ownership and Use of Information**

Vendor agrees and acknowledges that GP is the sole owner of all rights, including but not limited to the copyright and all other intellectual property rights in, and the content of, the Evaluation Process, the Security Requirements, the TEE Certification Process Document, each Certificate, Restricted Certificate and Report, and all other materials or information provided or otherwise made accessible to Vendor by GP in connection with the Evaluation Process, and each portion of the foregoing (the foregoing, collectively, "GP Materials"). Vendor agrees and acknowledges that Vendor may use and disclose GP Materials solely to the extent necessary for purposes of designing and producing the Product, requesting evaluation by GP, and otherwise participating in the Evaluation Process; provided, however, that GP hereby grants to Vendor a limited, non-exclusive, non-assignable, and non-transferable license, which license shall terminate upon termination of this Agreement, to make copies of the Certificate and the Restricted Certificate, if any, only in quantities sufficient to inform Vendor's customers of the issuance of such Certificate or Restricted Certificate. Notwithstanding the foregoing: (a) so long as Vendor ensures that its Evaluation Reports are disclosed only to the GP Security Evaluation Secretariat, GP shall cause the GP Security Evaluation Secretariat not to disclose the Evaluation Reports to other representatives of GP or to third parties (including to GP's member organizations), except with Vendor's consent or as otherwise may be required by law; (b) Vendor agrees and acknowledges that GP may use and disclose the contents of the Evaluation Reports only for the purposes of (i) considering Vendor's request for evaluation or (ii) any other actions contemplated by this Agreement, the Certificate or the Restricted Certificate, if any, or the Evaluation Process; and (c) Vendor agrees and acknowledges that Vendor may use and disclose Reports only for the purposes of (i) requesting evaluation by GP and (ii) any other actions contemplated by this Agreement, the Certificate or the Restricted Certificate, if any, or the Evaluation Process. Notwithstanding the foregoing, Vendor agrees that it will not use any Report in any way that asserts or implies that the results constitute GP's approval and/or certification of any Product. Vendor shall not revise, abridge, modify or alter any Report in any way, and shall not assert or imply that any Report other than those upon which a Certificate or Restricted Certificate was based: (1) are in any way connected or related to such Certificate or Restricted Certificate or (2) were in any way the basis of such Certificate or Restricted Certificate.

#### **5. Fees**

In connection with the Evaluation Process, Vendor agrees to pay GP those fees and costs (including but not limited to periodic re-certification fees) that are set by GP and either (a) described from time to time in the TEE Certification Process Document or on the GP Website or (b) otherwise communicated to the Vendor in writing (including email) prior to the execution of this Agreement. Except as provided above or otherwise agreed by the parties in writing, there shall be no other fees or costs associated with or relating to this Agreement. Changes in fees and costs adopted by GP pursuant to Section 12 will be effective as to Products submitted for evaluation or re-evaluation after the date of GP's notice of such changes.

#### **6. Representations and Warranties by Vendor**

##### **6.1 Generally**

Vendor represents and warrants that (i) it possesses full power and authority to enter into this Agreement and to perform its obligations hereunder, (ii) its performance of the terms of this Agreement will not breach any separate agreement by which it is bound, and (iii) upon execution, this Agreement will be a legal, valid, and binding obligation of Vendor, enforceable against Vendor and its Affiliates who distribute Products in accordance with its terms.

##### **6.2 Statement of Specific Acceptance**

Vendor's execution of this Agreement constitutes its approval and acceptance of the terms and conditions hereof, and of each of the Security Requirements and the TEE Certification Process Documents, as any of the foregoing may be amended from time to time in accordance with Section 11 or 12, as applicable.

### **6.3 Submission of Product Samples to Laboratory**

Vendor agrees that in connection with the Evaluation Process it shall only use Laboratories that have been approved in advance in writing by GP and are sufficiently independent of Vendor, as set forth in and required by the TEE Certification Process Document.

### **6.4 Compliance with Security Requirements**

Upon submitting a request for evaluation of a Product to GP pursuant to Section 2.4, Vendor thereby represents and warrants that (i) the conditions contained in Section 2.4 were fully satisfied; (ii) the production of all corresponding Products is and will be in conformance with the Security Requirements; (iii) the Product samples used to generate the Reports for such Product are materially identical to the corresponding Products that will be produced by Vendor or its suppliers and agents; and (iv) the Report results are a fair and accurate representation of Product performance and that Vendor does not dispute the validity of the Report results.

## **7. Disclaimer of Warranties**

EXCEPT AS OTHERWISE SET FORTH IN SECTION 7, GP MAKES NO WARRANTIES, EXPRESS OR IMPLIED AS TO THE SECURITY REQUIREMENTS, THE PROCESS BY WHICH GP TESTS AND APPROVES ANY PRODUCT OR LABORATORY OR AUDITOR. IN PARTICULAR, GP EXPRESSLY DISCLAIMS ANY AND ALL (1) WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE; AND (2) WARRANTIES THAT THE SECURITY REQUIREMENTS DO NOT INFRINGE ANY THIRD PARTY PATENTS, COPYRIGHTS, TRADEMARKS, TRADE SECRETS, KNOW HOW OR OTHER INTELLECTUAL PROPERTY RIGHTS.

UNDER NO CIRCUMSTANCES SHOULD A CERTIFICATE FROM GP, WHEN ISSUED, BE CONSTRUED TO IMPLY ANY ENDORSEMENT OR WARRANTY REGARDING THE SECURITY, FUNCTIONALITY, QUALITY, OR PERFORMANCE OF ANY PARTICULAR PRODUCT OR SERVICE, AND VENDOR SHALL NOT STATE OR IMPLY ANYTHING TO THE CONTRARY. GP SPECIFICALLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT TO PRODUCTS AND SERVICES THAT HAVE RECEIVED A CERTIFICATE AND TO EVALUATION PROCESS GENERALLY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE OR NONINFRINGEMENT. TO THE EXTENT PROVIDED AT ALL, ALL REPRESENTATIONS, WARRANTIES, RIGHTS AND REMEDIES RELATING TO PRODUCTS AND SERVICES THAT HAVE RECEIVED A CERTIFICATE OR RESTRICTED CERTIFICATE ARE PROVIDED SOLELY BY THE PARTIES SELLING OR OTHERWISE PROVIDING SUCH PRODUCTS OR SERVICES, AND NOT BY GP, AND GP ACCEPTS NO LIABILITY WHATSOEVER IN CONNECTION WITH SUCH PRODUCTS AND SERVICES. UNLESS OTHERWISE AGREED IN WRITING BY GP, THIS DOCUMENT AND MATTER CONTAINED HEREIN, INCLUDING ALL PRODUCTS AND SERVICES CONTEMPLATED BY THIS DOCUMENT ARE PROVIDED ON AN "AS-IS" BASIS, "WITH ALL FAULTS" AND WITH NO WARRANTIES WHATSOEVER, AND GP SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE, OR NONINFRINGEMENT.

In addition, Vendor acknowledges that it (i) has no expectation and has received no assurances that any Certificate or Restricted Certificate will be issued by GP with respect to any Product or that any investment by Vendor in the design, development, production, or promotion of the Product will be recovered or recouped, or that Vendor will obtain any anticipated amount of revenue or profits by virtue of this Agreement; and (ii) will not have or acquire by virtue of this Agreement or otherwise any vested, proprietary or other right in the promotion of the Product or in "goodwill" created by Vendor's efforts hereunder.

## **8. Limitation of Liability**

### **8.1 Generally**

EXCEPT FOR THE INDEMNITIES PROVIDED IN SECTION 9 AND DAMAGES RESULTING FROM VENDOR'S BREACH OF CONFIDENTIALITY OBLIGATIONS IN SECTION 10, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR ANY DAMAGES OR LOSSES OF ANY KIND (INCLUDING BUT NOT LIMITED TO (i) INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL OR DIRECT DAMAGES; (ii) LOSS OF GOODWILL, PROSPECTIVE PROFITS OR ANTICIPATED INCOME; OR (iii) LOSSES ON ACCOUNT OF ANY EXPENDITURES, INVESTMENTS, LEASES, OR COMMITMENTS MADE BY EITHER PARTY OR FOR ANY OTHER REASON WHATSOEVER) RELATING TO OR ARISING OUT OF (1) THE EVALUATION PROCESS, THE SECURITY REQUIREMENTS OR THE TEE CERTIFICATION PROCESS DOCUMENT, (2) THIS AGREEMENT, (3) GP'S DECISION NOT TO ISSUE A CERTIFICATE FOR A PRODUCT OR DECISION TO IMPOSE CONDITIONS OR LIMITATIONS ON A CERTIFICATE, (4) THE TERMINATION OF THIS AGREEMENT FOR ANY REASON, (5) THE SECURITY REQUIREMENTS (INCLUDING ANY NEGLIGENCE BY GP IN THE DESIGN, DEVELOPMENT, AND PUBLICATION OF THE SECURITY REQUIREMENTS OR THE EVALUATION PROCESS, OR THE INFRINGEMENT OF ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS) OR (6) THE REPORT RESULTS OR THE LABORATORY'S OR GP'S ACTIONS RELATING THERETO (INCLUDING LABORATORY'S OR GP'S NEGLIGENCE OR GP'S NEGLIGENCE IN SELECTING THE LABORATORY). THE FOREGOING LIMITATION OF DAMAGES AND LOSSES APPLIES TO CAUSES OF ACTION OF ANY KIND, WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE), CONTRACT, OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES. IF THE FOREGOING LIMITATION OF LIABILITY IS HELD TO BE UNENFORCEABLE, THEN NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, GP'S TOTAL LIABILITY UNDER THIS AGREEMENT OR OTHERWISE IN CONNECTION WITH THE EVALUATION PROCESS SHALL NOT EXCEED ONE THOUSAND DOLLARS (\$1,000).

## **8.2 Material Inducement**

Vendor understands and acknowledges that the provisions of Sections 8.1 and 9 have been included as a material inducement for GP to enter into this Agreement, and that GP would not have entered into this Agreement but for such provisions.

## **9. Indemnification**

Vendor agrees to defend, indemnify and hold harmless GP and its Affiliates harmless against any and all damages, costs, liabilities, expenses and settlement amounts incurred in connection with any suit, claim, or action by any third party, except to the extent arising from GP's gross negligence or willful misconduct, (i) alleging that the Vendor or any of its Products infringes any copyright, patent, trademark, trade secret or other proprietary right; (ii) against GP as a result of the design, development, production, or marketing, or use of any Vendor Product, even if the Product is subject to a Certificate or Restricted Certificate, (iii) arising out of or relating to the Evaluation Process in relation to any such Product, including any claim of implied endorsement of such Product and any claim relating to the functionality, quality, or performance of any particular product or service of Vendor; or (iv) alleging a flaw or defect in the Security Requirements, TEE Certification Process Document or the Evaluation Process in connection with any Vendor Product or that any such Product should not have been the subject of a Certificate or Restricted Certificate pursuant to any such process.

## **10. Restrictions on Use, Copying, and Disclosure**

### **10.1 Confidentiality Obligations**

GP and Vendor may receive Confidential Information in connection with the parties' performance of this Agreement. Except to the extent otherwise expressly permitted by this Agreement or approved by the Discloser in writing, the Recipient of Confidential Information shall:

- (a) not use, or allow any other person or entity to use, the Confidential Information for any purpose other than as necessary or expressly permitted under the terms of this Agreement (the "Permitted Purposes");
- (b) not make any copies or summaries of the Confidential Information except as necessary to carry on Recipient's internal activities;
- (c) take reasonable precautions and measures to maintain the confidentiality of the Confidential Information, which precautions and measures shall be at least equal to those taken to protect its own confidential information;
- (d) not disclose or furnish the Confidential Information to any person or entity except to employees and consultants of the Recipient (including for these purposes those of Recipient's Affiliates that provide services for or on behalf of the Recipient and are subject to restrictions on use and disclosure of such Confidential Information that are at least as restrictive as those set forth in this Agreement as they apply to Vendor) and, for GP, employees and consultants of member organizations, who have a need to know the information for the Permitted Purposes and are under a written obligation to maintain the confidentiality of the Confidential Information; and
- (e) promptly return the Confidential Information to the Discloser, including all copies, notes, summaries, reports, drawings, documents, and other manifestations containing any Confidential Information, immediately upon (i) request (or at the Discloser's discretion, destroy such Confidential Information with evidence in writing), or (ii) termination of this Agreement.

#### **10.2 No Implied Grant of License**

Unless and solely to the extent otherwise stated herein: (a) all Confidential Information shall remain the property of the Discloser and (b) no license or other right under any patent, copyright, trade secret, trademark or other proprietary right of Discloser is granted or implied by Discloser's disclosure of any such Confidential Information to the Recipient other than the right to use such Confidential Information for the Permitted Purpose.

#### **10.3 Exclusions**

Notwithstanding anything to the contrary, the restrictions on use and disclosure set forth in this Section 10 shall not apply to Confidential Information to the extent that the Recipient can prove by written documentation that such Confidential Information: (a) was already known to the Recipient prior to its first disclosure to the Recipient by the Discloser; (b) is disclosed to the Recipient without obligation of confidentiality from a third party who has the right to disclose such information without restriction; (c) is or becomes publicly available through no fault of the Recipient; or (d) is independently developed by the Recipient without any use of the Discloser's Confidential Information.

#### **10.4 Disclosures Required by Law**

A disclosure of Confidential Information by the Recipient (i) in response to a valid order by a court or other governmental body, (ii) otherwise required by law, or (iii) necessary to establish the rights of either party under this Agreement, shall not be considered to be a breach of this Agreement or a waiver of confidentiality; provided, however, that Recipient shall provide prompt written notice thereof to Discloser to enable Discloser to seek a protective order or otherwise prevent such disclosure.

### **11. Modification of Documents and Guidelines; Fees**

GP reserves the right, in its sole discretion, to modify the Evaluation Process, Security Requirements and TEE Certification Process Document, and fees at any time; provided, however, that (a)



GP must give notice of such modification to Vendor, and (b) GP will endeavor to consider the impact of such modifications on existing Certificates and Restricted Certificates generally. GP will inform Vendor of such modifications and date(s) for implementations and/or fee schedule. GP may, in its sole discretion, determine a time period during which either the old or new tests may be used. After a change in the Security Requirements, GP will determine: (i) whether and when to introduce the new Evaluation Process; (ii) when to stop using the previous Security Requirements and relevant parts of the Evaluation Process; and (iii) whether any Certificate or Restricted Certificate issued pursuant to the previous Security Requirements should be terminated, with such Products to be reevaluated pursuant to the new Security Requirements. Vendor may contest GP's termination of a Certificate or Restricted Certificate by submitting to the GP Board of Directors a written request for review. For purposes of this Section 11, notice to Vendor may be in written or electronic form, including e-mail or by posting of notice on the GP Website.

## **12. Specific Terms and Conditions**

GP's and Vendor's obligations pursuant to this Agreement are also subject to any specific terms and conditions that may exist between GP and Vendor in that Certificate or Restricted Certificate issued by GP.

## **13. Term; Termination; Survival**

### **13.1 Term**

This Agreement is effective as of the Effective Date and shall continue unless earlier terminated as set forth in this Section 13.

### **13.2 Termination**

#### **13.2.1 Termination without Cause**

Either party may terminate this Agreement at any time without cause with nine (9) months' advance written notice to the other party. Vendor shall not submit, and GP shall have no obligation to consider, Evaluation Reports for any Product samples submitted to a Laboratory for security evaluation testing later than six (6) months after either party's delivery of such notice of termination.

#### **13.2.2 Termination With Cause**

Either party may terminate this Agreement upon fifteen (15) days' written notice of a material breach of this Agreement to the other party, if such breach is not reasonably cured within such fifteen (15) day period. Notwithstanding the foregoing, GP may terminate this Agreement immediately, upon written notice, for breach of Sections 3, 4 or 5, or as otherwise provided in any Certificate or Restricted Certificate. Either party may terminate this Agreement immediately, upon written notice, for breach of Section 10.

### **13.3 Survival**

Upon termination of this Agreement pursuant to Section 13.2.1, notwithstanding anything to the contrary in the applicable Certificate or Restricted Certificate, each valid Certificate or Restricted Certificate outstanding at the time of termination shall survive for the term stated in such Certificate or Restricted Certificate, unless sooner terminated pursuant to such or this Agreement, and Sections 2, 11 and 12 of this Agreement shall survive to the extent applicable to such outstanding Certificate or Restricted Certificate, including without limitation those terms applicable to post-certificate testing and termination of certificates. The rights and obligations contained in Sections 3, 4, 5, 6, 7, 8, 9, 10, 13 and 14 of this Agreement shall survive any termination of this Agreement.

## **14. General Provisions**

### **14.1 Entire Agreement**

This Agreement, including all attached Exhibits and any Certificate or Restricted Certificate issued hereunder, each of which is hereby incorporated into and made a part of this Agreement by this reference, completely and exclusively states the Agreement of the parties regarding its subject matter. It supersedes, and its terms govern, all prior or contemporaneous proposals, agreements or other communications between the parties, oral or written, regarding such subject matter.

#### **14.2 Amendments**

This Agreement may be modified, altered or amended only (i) by written instrument duly executed by both parties or (ii) by GP upon thirty (30) days' written notice to Vendor, provided, however, that if Vendor does not agree with such unilateral modification, alteration or amendment, Vendor shall have the right, exercisable at any time within the aforementioned thirty (30) day period, to terminate this Agreement upon written notice of its intention to so terminate to GP. Any such unilateral modification, alteration or amendment will be effective as of the end of such 30-day period unless the Agreement is earlier terminated by Vendor pursuant to the preceding sentence.

#### **14.3 Relationship of Parties**

Nothing in this Agreement shall be deemed to create a joint venture, partnership, or agency relationship between the parties. Neither party has the right or authority to assume or create any obligation or responsibility on behalf of the other. Each party is an independent contractor to the other.

#### **14.4 Assignment**

This Agreement may not be assigned by Vendor without the prior written approval of GP, which approval may be withheld by GP for any reason; provided that no consent is required in the case of Vendor's merger, consolidation, reorganization, reincorporation, dissolution, or sale of all or substantially all of its assets so long as the surviving or successor entity specifically assumes all of Vendor's obligations under this Agreement. GP may assign this Agreement without the prior written consent of Vendor. Any assignment or purported assignment in violation of this Section 14.4 shall be null and void *ab initio*.

#### **14.5 Successors and Assigns**

This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and permitted assigns.

#### **14.6 Notices**

Except as otherwise stated in this Agreement, any notices required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (i) by electronic mail, sent with a confirming receipt, effective when such confirming receipt is received by the sending party; (ii) by personal delivery when delivered personally; (iii) by overnight courier upon signature verification of receipt; (iv) by certified or registered mail, return receipt requested, upon verification of receipt; or (v) by a facsimile transmission upon electronic transmission confirmation. Notice shall be sent to the addresses first set forth above or such other address as either party may specify in writing.

#### **14.7 Severability**

If any provision of this Agreement or portion thereof should be declared invalid for any reason, the invalid provision or portion thereof shall be deemed omitted and the remaining terms shall nevertheless be carried into effect.

#### **14.8 Waivers**

The waiver by either party of a breach of any provisions contained herein shall be in writing and shall in no way be construed as a waiver of any succeeding breach of such provision or the waiver of the provision itself.

#### **14.9 Attorneys' Fees**

In the event of a dispute between the parties regarding the enforcement or interpretation of any terms of this Agreement, the non-prevailing party shall pay the reasonable costs and attorneys' fees of the prevailing party, including the reasonable costs and attorneys' fees incurred in the appeal of any final or interlocutory judgment.

#### **14.10 Injunctive Relief**

It is expressly agreed that a violation of Sections 3 or 10 of this Agreement will cause irreparable harm and a remedy at law would be inadequate. Therefore, in addition to any and all remedies available at law, GP or Vendor will be entitled to seek an injunction or other equitable remedies in all legal proceedings in the event of any threatened or actual violation of Sections 3 or 10.

#### **14.11 Rights and Remedies**

The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy shall not preclude or waive the right to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

#### **14.12 Governing Law; Jurisdiction**

This Agreement shall be governed by and construed in accordance with the laws of the state of Delaware, without regard to the choice of law provisions of the state of Delaware or any other jurisdiction. Each party to this Agreement consents to the exclusive jurisdiction and venue of the state and federal courts within the state of Delaware.

*[remainder of page intentionally left blank]*

**Exhibit A**  
**Certificate and Restricted Certificate General Terms & Conditions**  
**“Terms & Conditions”**

**A.1 Term**

Each Certificate or Restricted Certificate is effective as from the issue date shown on the Certificate or Restricted Certificate and is valid for a period ending as of the earliest of (i) three (3) years thereafter, (ii) the termination date noted thereon or (iii) the effective date of termination in accordance with the provisions of these Terms & Conditions and those contained in the Agreement (the "Term").

**A.2 Permitted Publicity Regarding Receipt of Certificate**

**A.2.1 GP Publication of List of Products**

Unless Vendor has specifically selected otherwise in the applicable Product Evaluation Request Form, Vendor hereby expressly agrees that GP may publish the identification of each Product that has been issued a Certificate or Restricted Certificate, containing the Vendor's contact information, on the GP Website and in other public or member announcements and publications. Vendor, at its sole expense, shall ensure that all information provided to GP is accurate. In the event the Certificate or Restricted Certificate is terminated, GP will immediately have the right to remove the relevant Product and/or Vendor's contact information from the GP Website or such announcements and publications.

**A.2.2 Vendor's Representations Regarding Product**

GP hereby grants Vendor permission to represent that as of the date of a given Certificate or Restricted Certificate, the Product specified therein has undergone the Evaluation Process and has received a Certificate or a Restricted Certificate, as the case may be, from GP in its publicity or with documentation accompanying such Product. If a Restricted Certificate is awarded, such publicity and documentation must reflect this, Vendor must disclose the information in the applicable Risk Analysis Report to those who intend to use the Product and the documentation must include the information in the applicable Risk Analysis Report. GP has the right to publish the details of any Restricted Certificate. Any permission granted in this Section A.2.2 is subject to Vendor's strict compliance with the terms of this Section A.2.2, as such compliance is judged by GP in its sole discretion. In the event any of Vendor's publicity, documentation or other communications regarding such product ("Communications") does not comply with the terms of this Section A.2.2, in the sole judgment of GP, the limited permission granted herein may be immediately revoked by GP, and Vendor, at its sole cost, shall correct, recall and/or destroy all such Communications as directed by GP. Any Communication from Vendor stating that a Product has received a Certificate or Restricted Certificate may be made and distributed, provided that:

- (a) the complete and correct identification of the Product is clearly stated;
- (b) the Product has been approved by all regulatory authorities, when such an approval is required by applicable law or regulation;
- (c) Vendor verifies on an ongoing basis that all individual instances of Products are and will be in conformance with the Security Requirements and TEE Certification Process Document, and with the Product samples upon which GP granted the Certificate or Restricted Certificate;
- (d) the Product produced by the Vendor or its suppliers or agents are materially identical to the Product samples that were submitted and evaluated;

- (e) all written communications referring to GP approval and/or certification shall contain the following legend:

"GlobalPlatform issuance of a certificate for a given product means only that the product has been evaluated in accordance and for sufficient conformance with the then current version of the GlobalPlatform Security Requirements, as of the date of evaluation. GlobalPlatform's certificate is not in any way an endorsement or warranty regarding the completeness of the security evaluation process or the security, functionality, quality or performance of any particular product or service. GlobalPlatform does not warrant any products or services provided by third parties, including, but not limited to, the producer or Vendor of that product and GlobalPlatform certification does not under any circumstances include or imply any product warranties from GlobalPlatform, including, without limitation, any implied warranties of merchantability, fitness for purpose, or non-infringement, all of which are expressly disclaimed by GlobalPlatform. To the extent provided at all, all representations, warranties, rights and remedies regarding products and services which have received GlobalPlatform certification shall be provided by the party providing such products or services, and not by GlobalPlatform, and GlobalPlatform accepts no liability whatsoever in connection therewith."; and

- (f) the Vendor's use of GP's trade name, trademarks, service marks, logos, designs or other indicia of origin strictly complies with Section A.3.5 below.

Such permission shall immediately terminate upon the termination or revocation of the Certificate or Restricted Certificate for any reason. Vendor shall not make any misleading advertisement, and shall advise its clients and customers against making misleading statements, concerning the issuance or applicability of a Certificate or Restricted Certificate as to a given Product. For the purpose of this clause, a misleading advertisement shall include any statement that may lead a client or customer to believe that the scope of a given Certificate or Restricted Certificate is broader than stated therein or is for a Product that either has yet to be evaluated by GP or is not the Product for which GP issued such Certificate or Restricted Certificate. Vendor shall not make any other statements, disclosures, or representations regarding the approval and/or certification of a Product except as expressly provided by the applicable Certificate or Restricted Certificate.

### **A2.3 Representations by Vendor's Clients and Customers**

Vendor may permit its clients and customers to make the same statements and representations Vendor is authorized to make under a given Certificate or Restricted Certificate if and only if Vendor takes reasonable steps to insure that such clients and customers adhere to the terms thereof.

### **A.2.4 Requirements Upon Termination**

If a Certificate or Restricted Certificate is terminated for any reason, (i) Vendor shall immediately cease any publicity or advertising regarding the Certificate or Restricted Certificate permitted under this Section A.2, and (ii) Vendor shall take reasonable steps to insure that its clients and customers cease publicity not in conformance with the Certificate or Restricted Certificate and the Agreement.

## **A.3 Vendor's Ongoing Requirements**

### **A.3.1 Ongoing Compliance; Certified Quality System**

During the Term of a given Certificate or Restricted Certificate, Vendor shall ensure that (i) its Products are produced (A) so that they are materially identical with the Product samples that were subjected to the Evaluation Process that resulted in the Certificate or Restricted Certificate

and (B) in conformance with the Security Requirements and TEE Certification Process Document, and (ii) such Products remain in conformity with the foregoing after installation and maintenance. Any change to a Product will require a security impact analysis which must be provided to, and approved by, GP. Based on the security impact analysis, a delta evaluation may need to be performed before a Certificate or Restricted Certificate can be issued for a changed Product.

### **A.3.2 Change Control**

Vendor shall keep a record of all changes to the Product, and shall implement an identification system to properly identify all changes with version numbers or any equivalent method.

### **A.3.3 Recordkeeping Requirements**

#### **A.3.3.1 Generally**

Vendor shall record, keep, and maintain all records necessary to demonstrate compliance with Section A.3.1 above, and shall require any agents who are involved in the manufacturing of any Products to also record, keep, and maintain such records.

#### **A.3.3.2 Complaint Records**

Vendor and its agents, contractors and representatives shall record, keep, and maintain records relating to any complaint made by any third party with respect to each Product for which a Certificate or Restricted Certificate has been issued. These records shall show clearly and in reasonable detail what problem was encountered and any corrective action undertaken.

#### **A.3.3.3 Other Recordkeeping Requirements**

All records made as part of or in connection with the Evaluation Process and/or issuance of any Certificate or Restricted Certificate, including, but not limited to the Agreement, shall be kept and maintained by Vendor.

#### **A.3.3.4 Length of Retention of Records; Availability**

All records specified above relating to a given Certificate or Restricted Certificate shall be maintained for a period of three (3) years following the termination of such Certificate or Restricted Certificate and shall be available to GP and auditors conducting an audit pursuant to Section A.4.2 below during normal business hours.

### **A.3.4 Change of Name**

Vendor shall inform GP promptly in writing of any change in its name, its address or the commercial brand name of any of its Products for which a Certificate or Restricted Certificate has been issued and not terminated.

### **A.3.5 Trademark Usage**

Vendor shall only use GP's trade name, trademarks, service marks, logos, designs or other indicia of origin in strict compliance with GP's trademarks guidelines and usage policies published on the GP Website, as such may be amended from time to time.

## **A.4 Monitoring by GP**

### **A.4.1 Product Monitoring by GP**

GP retains the right to retest and perform additional tests on any Product as described in Sections 2.5 and 2.6 of the Agreement, in which case Vendor shall supply the needed samples free of charge if not already available and functioning within the Laboratory's premises, and shall pay the Laboratory (in advance when requested by GP) all reasonable expenses related to such testing. GP may choose the samples for such retesting. Vendor may not claim or be entitled to receive compensation for any extra costs incurred as a result of such testing and retesting.

#### **A.4.2 Audits**

Upon thirty (30) days' prior written notice to Vendor, GP may conduct an audit of Vendor's records and books of account (or records and books of other entities that are producing, installing, or maintaining Products) for the purpose of reviewing (i) Vendor's recordkeeping procedures with respect to customer complaints, (ii) complaints regarding the Product, (iii) Vendor's conformity with the requirements of Section A.3.1 above, (iv) Vendor's records with respect to any changes to the Product, and (v) any other records or documents required to be maintained under any Certificate, Restricted Certificate or the Agreement. Any such audit shall be conducted (a) in a manner that will not unreasonably interfere with Vendor's operations, and (b) by an independent certified public accounting firm that executed a nondisclosure agreement with Vendor to protect the confidentiality of Vendor's records and other information. GP may conduct an audit under this Section A.4.2 no more than once during any twelve (12) month period. GP shall pay the auditor's fees for such audit; provided, however, that if any audit reveals Vendor is not complying with the terms of any Certificate or Restricted Certificate or the Agreement, Vendor shall promptly reimburse GP for all reasonable expenses incurred to conduct the audit.

#### **A.5 Vendor's Representations and Warranties**

By accepting a Certificate or Restricted Certificate, Vendor represents and warrants that

- (a) Vendor possesses full power and authority to enter into the Certificate or Restricted Certificate and to perform its obligations hereunder and thereunder;
- (b) Upon execution, the Certificate or Restricted Certificate will be a legal, valid, and binding obligation of Vendor, enforceable against Vendor in accordance with its terms;
- (c) The Product has been approved by relevant governmental and regulatory authorities, if such approval is required by applicable law; and
- (d) Production of the Product will conform with the Security Requirements and TEE Certification Process Document, and that Vendor shall ensure that all produced Products with respect to which a Certificate or Restricted Certificate has been issued will be materially identical to the Products samples that were submitted and evaluated in the Evaluation Process that resulted in such Certificate or Restricted Certificate.

#### **A.6 Termination of Certificate**

##### **A.6.1 Grounds for Termination**

GP may terminate any Certificate or Restricted Certificate (A) effective immediately upon written notice to Vendor if Vendor does not abide by the terms thereof or Vendor's manufacturers, distributors, suppliers or agents take any action which, if taken by Vendor, would constitute a breach of the terms of the Certificate or Restricted Certificate, or (B) effective five (5) business days' after written notice to Vendor if there is a security vulnerability with Vendor's approved and/or certified Product (so as to give Vendor an opportunity to respond to GP's discovery of the security vulnerability before the termination is effective), notwithstanding the Product's conformance with

the Security Requirements or Vendor's compliance with the terms of the Certificate, Restricted Certificate or the Agreement. Except as set forth in Section 13.3 of the Agreement, if the Agreement is terminated, each Certificate or Restricted Certificate issued thereunder will automatically terminate simultaneously with the Agreement. Vendor may immediately terminate a given Certificate or Restricted Certificate by giving written notice to GP. If a Certificate or Restricted Certificate is terminated and Vendor thereafter seeks certification thereof from GP, Vendor must reapply for a Certificate for that Product as provided in Section A.7 below.

#### **A.6.2 Effect of Termination of Approval Certificate on Agreement**

The termination of a Certificate or Restricted Certificate shall not terminate the Agreement unless (i) GP terminates the Agreement under its terms, or (ii) Vendor terminates the Agreement under its terms.

#### **A.6.3 Survival**

The rights and obligations contained in Sections A.2, A.3, A.5, A.6.3, A.7, A.8, and A.9 shall survive termination of any Certificate or Restricted Certificate.

#### **A.7 Reapplication Following Termination**

Before a Certificate or Restricted Certificate is terminated by GP, Vendor may apply to GP for a renewal. Such application will be reviewed by GP only if Vendor satisfies the requirements of the Agreement.

If Vendor applies for a renewal of a Certificate or Restricted Certificate, GP retains the right, in its sole discretion, to change these Terms & Conditions and any specific terms and conditions if GP issues a new Certificate.

#### **A.8 Assignment**

Vendor's rights with respect to a Certificate or Restricted Certificate may only be assigned by Vendor upon Vendor's merger, consolidation, reorganization, reincorporation, dissolution or sale of all or substantially all of its assets where the Vendor's proposed assignee agrees, in writing, to be bound by the terms and conditions of such Certificate or Restricted Certificate and the Agreement. Except as provided in the preceding sentence, no Certificate, Restricted Certificate or related rights may be assigned by Vendor without the prior written approval of GP. GP may assign any Certificate or Restricted Certificate for any reason.