

**GLOBALPLATFORM QUALIFICATION AND LISTING AGREEMENT**

**For Test Tool Vendor**

This document (the "Agreement") is an agreement between GlobalPlatform, Inc. ("GP"), with offices at 544 Hillside Road, Redwood City, CA 94062, and the undersigned test tool vendor ("Company"), and shall be effective as of the date that both GP and Company (each sometimes referred to herein as a "party" and collectively as the "parties") have executed below (the "Effective Date").

Whereas, one or more Test Tool (defined below) of the Company have been or may be submitted for Qualification (defined below) as a GP Qualified Test Tool (defined below); and

Whereas, subject to the terms and conditions of this Agreement, GP is willing to provide a Qualification and Listing (defined below) for each of Company's Test Tool that have achieved such Qualification, and Company desires such Qualification and Listing.

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>Company</b>			
Company Name:			
Business Address:			
State/Province:	Country:	Postal Code:	
City:			
<b>Company Contact</b>			
Name:		Title:	
Direct Telephone Number:		E-mail:	
Location:		Fax:	
_____		_____	
<i>Company Officer Signature</i> <input type="checkbox"/>		<i>Date</i> <input type="checkbox"/>	
Company Officer Name:		Title:	
<b>GlobalPlatform, Inc.</b>			
_____		_____	
<i>GlobalPlatform, Inc. Signature</i> <input type="checkbox"/>			
Name:			
Title:			
Date:			

## Terms and Conditions

**1. Definitions.** For purposes of this Agreement, the following terms shall have the following meanings:

“Configuration” means a particular set of features and implementation rules as specified by GP for, or required by, a given GP specification, such as a configuration for mobile or a configuration for government use or a given specification from a GlobalPlatform partner such as GSMA.

“Direct Test Tool Support” means support services provided by Company to an End User to assist that End User in solving one or more specific problems using a GP Qualified Test Tool sold or licensed to that End User by Company, and specifically does not include consultative services such as training, customization, or other technical or professional services.

“Eligible Member” is defined in Section 3(d).

“End User” is a company, entity or individual that is the purchaser or user of any of Company’s GP Qualified Test Tools.

“Full or Participating GP Member” means a Full Member of GP or a Participating Member of GP, as each is further described in the By-laws of GP.

“GP Certification Body” means, collectively, the individual(s) and/or entity(ies) designated by GP as providing the role of certification secretariat for functional certification scheme in connection with the current GlobalPlatform Self-Testing and Product Qualification Process.

“GP Certification Body Requirements” means the requirements established by GP from time to time for certification of vendors and products under the associated GP Certification Body

“GP Materials” means all materials and information of, or made available to Vendor by or on behalf of, GP, each portion thereof, all right, title and interest in and to each of the foregoing, and any other Intellectual Property of GP.

“GP Qualified Product” (also known as Certified Product) means a Product that has received written validation from GP Certification Body that such Product has satisfactorily demonstrated compliance with the relevant and then current Configuration for the applicable category of Product, so long as such validation has not expired, terminated, or been revoked, withdrawn or invalidated.

“GP Qualified Test Tool” means a Test Tool that has received written validation from GP at or in connection with an applicable Test Fest that such Test Tool has satisfactorily demonstrated compliance with the relevant and then current Configuration for the applicable category of Test Tool, so long as such validation has not expired, terminated, or been revoked, withdrawn or invalidated.

“GP-related Consulting Services” means, excluding Direct Qualified Test Tool Support, any and all consultative, technical or other professional services performed by Company (including without limitation, training, support, customization or other services) that utilize, relate to, or otherwise exploit, Company’s knowledge of the Licensed Works, the GP Certification Body requirements or any other GP Materials or portion thereof, including without limitation, Company’s knowledge of Tests, Test Suites, Configurations, related application layers or GP qualification, validation or certification programs or processes.

“GP Test Tool Qualification” means written validation by GP, at or in connection with an applicable Test Fest, pursuant to an applicable Qualification Letter, indicating that a given Test Tool is formally recognized by GP as having satisfactorily demonstrated compliance with the relevant and then current Configuration for the applicable category of Test Tool, so long as such Qualification has not expired, terminated, or been revoked, withdrawn or invalidated.

“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.

“Infringement Claim” is defined in Section 6(d).

“Intellectual Property” means, on a worldwide basis, any and all: (a) rights associated with works of authorship, including copyrights thereof; (b) trade secrets or any data or information which provides value or a competitive advantage to its holder by not being publicly known; (c) patents, patent applications, continuations, divisionals, reexaminations, reissues; (d) designs, algorithms and other industrial property rights; (e) other intellectual and industrial property rights of every kind and nature, however designated, whether arising by operation of law, contract, license or otherwise; and (f) applications, registrations, renewals, extensions, continuations, continuations-in-part, divisions or reissues thereof now or hereafter in force of the foregoing (including any rights in any of the foregoing) and foreign equivalents thereof.

“Licensed Works” means the Test Suites and related GP Materials made available by GP for purposes of enabling authorized users thereof to develop GP Qualified Products.

“Listing” means the listing of a GP Qualified Test Tool on the applicable list of GP Qualified Test Tool on the GP Website or in other GP publications as permitted in accordance with this Agreement.

“Product” means a Secure Element (e.g., card), device or system related product or component

“Qualification” means GP Test Tool Qualification.

“Qualification Letter” is defined in Section 3(b) below.

“Qualification Request” means a completed written request for Qualification of a given by Company, using the form attached hereto as [Exhibit A](#) and executed by an officer of the Company.

“Sublicense” is defined in Section 5(a)(i).

“Subsidiary” means any entity of which a majority of the outstanding voting securities or interests are owned, either directly or indirectly, by a Full or Participating GP Member.

“Test” means the testing of a proposed GP Qualified Product to determine whether the particular version of the tested product complies with the relevant Configuration.

“Test Fest” means an event conducted by GP for purposes of enabling Product vendors to engage in cross-testing of Products in order to demonstrate compliance with the relevant and then current Configuration and category of Product.

“Test Suite” means a suite consisting of GP testing documentation, GP test scripts and/or other GP Materials, based on a given Configuration, which has been released by GP for purposes of enabling authorized users to develop corresponding GP Qualified Products.

“Test Tool” means a tool that integrates any portion of the Licensed Works and is created, developed or produced for purposes of performing Tests of proposed GP Qualified Products.

## **2. Initial Qualification and Listing.**

a. Initial Qualification. Subject to the terms and conditions of this Agreement and satisfaction of all conditions and requirements of this Agreement and the GP Certification Body Requirements applicable to Company and Qualification of a given Test Tool of Company (including without limitation, payment of applicable initial Qualification, re-Qualification and other fees), GP Certification Body will (i) review each Qualification Request submitted by Company to GP Certification Body with respect to such Test Tool, and (ii) if GP Certification Body determines that all conditions and requirements for Qualification

of the Test Tool identified therein have been met, deliver to Company a Qualification Letter with respect to such Test Tool.

b. Listing. Subject to the terms, conditions and restrictions set forth in this Agreement, at all times while Company has a valid Qualification, unless Company has affirmatively opted out of Listing with respect to such Qualification by notifying GP Certification Body in writing, Company hereby authorizes GP to include, and GP shall use reasonable commercial efforts to include, a Listing of the Test Tool subject to such Qualification, including related details and Qualification status, and a copy of the corresponding Qualification Letter, on the GP Website and in such other GP publications as GP may deem appropriate. Company shall provide any information necessary to ensure that all Listing and Company contact information provided to GP Certification Body is true, accurate and complete.

**3. Qualification and Listing Restrictions.** Company acknowledges and agrees as follows:

a. Each Qualification and Listing is subject to the terms and conditions of this Agreement.

b. Qualification only applies to the specific version of a given Test Tool that has received Qualification. Qualification of a given Test Tool will not apply if any aspect of the Test Tool is changed or modified in any manner, even if the Test Tool conforms to the basic description contained in the applicable letter from GP Certification Body notifying Company of the Qualification of such Test Tool (each a "Qualification Letter"). Any change in the Test Tool that has received Qualification, including applicable engines or scripts, must be communicated to GP Certification Body and will require additional Qualification.

c. Qualification is conditioned upon all agreements required by GP in connection with such Qualification having been executed, including without limitation, all applicable license agreements with GP (the "Required Agreements", see Exhibit B), and Company's continued compliance with all Required Agreements. GP Certification Body is not required to review a Qualification Request unless and until Company has satisfied all GP conditions and requirements applicable for the corresponding Qualification. Company grants GP Certification Body permission to witness Test Fests and to access, upon request, all information submitted to, or received during Test Fests relating to each Test Tool for which Company has submitted a Qualification Request to GP.

d. Qualification is granted solely to the Company identified in the applicable Qualification Letter. Qualification may not be assigned, transferred, conveyed or sublicensed, either directly or indirectly, by operation of law or otherwise and any purported assignment, transfer, conveyance or sublicense shall be null and void and shall automatically terminate and invalidate such Qualification. Only those Companies who have received a valid Qualification Letter from GP Certification Body for a given Test Tool may claim that they have obtained Qualification, and only for the Test Tool specified in such Qualification Letter, and only for so long as such Qualification is effective and has not been terminated or revoked. In order to obtain and maintain any GP Test Tool Qualification, Company must be, or must be a Subsidiary of, a Full or Participating GP Member, which: (a) is in "good standing" in accordance with the By-laws of GP; and (b) pays and continues to pay all fees associated with its GP membership (including without limitation, annual member dues, assessments and any other fees relating to GP membership) within 45 days of the date when due (an "Eligible Member").

e. GP may revoke any Qualification at any time as provided in this Agreement. Because Qualification may be revoked at any time, no third party should rely on any Qualification or Qualification Letter at any time without first confirming the continued effectiveness of such Qualification with GP Certification Body. GP reserves the right to modify the terms, conditions and/or duration of any Qualification at its sole discretion, including without limitation to accommodate business or security requirements. Notwithstanding any Qualification, Company shall be solely responsible for compliance with all applicable Configurations and for all liabilities resulting from the use or distribution of its Test Tools and the performance of any services provided by Company. Without limiting the generality of the foregoing, Qualification shall not be deemed to constitute an endorsement of Company or any of its Test Tools or services, or to include or constitute any warranty, guarantee or representation from GP, including, without limitation, any implied warranties of merchantability, fitness for any particular purpose, non-infringement,

freedom from violation, or freedom from misappropriation of any Intellectual Property, all of which warranties are hereby expressly disclaimed by GP and waived by Company.

f. Company acknowledges and agrees that it may only communicate that a given Test Tool has received Qualification if (i) Company also communicates to the recipients of the communication regarding such Qualification all of the limitations and/or restrictions (if any) applicable to such Qualification, as described in the applicable Qualification Letter, (ii) when making such communication, Company provides specific details identifying which specific Test Tool (and version number) has received such Qualification and does not merely release a general statement implying that the Qualification applies more broadly or that all of Company's Test Tools or services have received Qualification, (iii) such communication in no way suggests that by using the Test Tool that has received Qualification a user will be guaranteed GP Certification Body approval of their products or services, (iv) such communication in no way implies that Company is a preferred vendor of GP, and (v) all such written communications referring to such Qualification shall contain the following legend:

"GlobalPlatform qualification does not under any circumstances constitute or include any endorsement or warranty by GlobalPlatform regarding the functionality, quality or performance of any particular product, Test Tool or service. GlobalPlatform does not warrant any products, Test Tools or services provided by third parties. GlobalPlatform qualification does not under any circumstances constitute, include or imply any product or Test Tool warranties from GlobalPlatform, including, without limitation, any implied warranties of merchantability, fitness for a particular purpose, or non-infringement, all of which are expressly disclaimed by GlobalPlatform. To the extent that any rights or remedies are provided regarding products, Test Tools or services which have received GlobalPlatform qualification, such rights or remedies shall be provided by the party providing such products, Test Tools or services, and not by GlobalPlatform."

g. Each Qualification and the continuance of each Listing is further subject to Company's continued satisfaction of all applicable GP Certification Body Requirements and policies, including without limitation, those relating to such Qualification and Listing and Company's maintenance thereof. Company shall at all times during the term of this Agreement satisfy and comply with all such requirements, testing policies and agreements, and comply with the relevant standards upon which each of its Qualifications is based. Upon request from GP or its agents, Company shall cooperate to demonstrate that each of its Test Tools are in compliance with the requirements for the applicable Qualification and the relevant standards upon which such Qualification is based. Failure to comply with all requirements of this Agreement, any other agreement between Company and GP, a given Qualification (and all related requirements and policies of GP), or the relevant standards upon which a given Qualification is based, shall entitle GP to terminate this Agreement and/or revoke such Qualification.

h. Each Qualification is subject to required re-qualification in accordance with applicable GP Qualification maintenance policies, which may be amended by GP in its sole discretion at any time and from time to time. Unless otherwise specified by GP Certification Body in writing or by posting to the GP Website, each Qualification must be renewed as follows, and if not so renewed, shall automatically expire: each GP Test Tool Qualification must be renewed upon the earlier of either the modification of the relevant GP test suite for such GP Test Tool Qualification or the next Test Fest for the applicable category of Test Tool.

i. Each Qualification is subject to Vendor's agreement to inform GP Certification Body, without delay, of changes that may affect its ability to conform with:

A. GP Certification Body Requirements or otherwise established by GP Certification Body in the course of the Certification Process, or

B. The Test Tool Certification Request information.

NOTE: Examples of changes include but are not limited to changes to Vendor's:

- legal, commercial, organizational status or ownership,

- organization and management (e.g., key managerial, decision-making or technical staff),
- contact address,
- quality management system

**4. Payment and Reporting.** In addition to any applicable payment or other obligations arising from Company's status as a Full or Participating GP Member, Company shall record, report to GP regarding, and pay to GP all Fees as an in the manner specified below:

a. **Reporting.** Within fifteen (15) days after the end of each calendar quarter, Company shall provide to GP a report identifying and enumerating all Sublicenses granted, all GP-related Consulting Services performed, and all Tests conducted by Company during such calendar quarter (each a "Report"), in each case detailing each such Sublicense and the GP-related Consulting Services and Tests performed, and the corresponding amounts Company charged for such Sublicenses and GP-related Consulting Services.

b. **Consulting Fees.** On a calendar quarterly basis, GP will invoice Company for an amount (such amounts, collectively, "Consulting Fees") equal to the product of GP's then current consulting rate (the "Consulting Rate") multiplied by the amount Company charged for all GP-related Consulting Services during the applicable calendar quarter.

c. **Program Fees.** In addition to the foregoing, Company agrees to pay to GP, and GP may invoice Company for, all such other applicable fees and costs as GP may establish from time to time in connection with the GP Certification Body Requirements, including without limitation, applicable fees associated with initial Qualification, re-Qualification, Listing, review of Test results, Test Fest participation fees (such fees, collectively, "Program Fees"; and collectively with Sublicense Fees, Testing Services Fees and Consulting Fees, "Fees"), in each case, as and in the manner specified by GP.

d. **Payment of Invoices.** Company shall pay each invoice described in this Section 4 within thirty (30) days of the invoice date, and a late fee of 1% per month will apply to all late payments. The current Sublicense Rate, Testing Services Rate, Consulting Rate and other Fees are set forth on Exhibit C hereto, and Company acknowledges and agrees that GP may change any of its rates or Fees at any time and from time to time upon at least ten (10) days' notice (which notice shall be deemed to be effective and delivered upon GP's posting of revised rates and/or Fees on the GP Website, notwithstanding anything to the contrary in Section 13 below).

e. **Access to Books and Records.** Company shall prepare and maintain complete and accurate books and records relating to all Sublicenses, Tests and related services, GP-related Consulting Services, its use of the Licensed Works, and all payments made or received in connection with any of the foregoing. While this Agreement is in effect, and for a period of six (6) months thereafter, GP shall have the right, at its expense and upon reasonable notice, twice per calendar year, to examine, or have examined by an accountant designated by GP, any such Company books and records (including without limitation, copies of any agreements between Company and any of its End Users or other customers relating to any and all such Sublicenses, Tests and related services, GP-related Consulting Services, use of Licensed Works and payments, and any amendments or modifications thereof) to the extent necessary to enable GP to determine and verify Company's performance under this Agreement (each such examination, an "Audit"). In the event GP determines, in its reasonable discretion, that Company has underpaid the amount of Fees owed by Company in accordance with this Agreement, Company shall reimburse GP for all costs incurred in connection with the applicable Audit, and shall promptly pay to GP the amount of such underpayment, along with all applicable late fees.

**5. License Grants and Restrictions.**

a. **License Grants.** Subject to the terms and conditions of this Agreement (including without limitation, payment of applicable Fees) and any additional terms, conditions and/or restrictions applicable to a given Qualification pursuant to the corresponding Qualification Letter:

i. Commercial Tool Vendor License. If Company has obtained a valid GP Test Tool Qualification with respect to a given GP Qualified Test Tool, then for so long as such Qualification remains in full force and effect, GP hereby grants to Company a non-exclusive, worldwide, non-transferable, revocable license to:

A. copy the Licensed Works as incorporated into such GP Qualified Test Tool, to the extent necessary to enable Company to manufacture, produce and demonstrate such GP Qualified Test Tool on a commercial basis,

B. use the License Works as incorporated into such GP Qualified Test Tool on an internal basis for purposes of performing Tests of Company's own proposed GP Qualified Products,

C. use the Licensed Works on an internal basis to the extent necessary to enable Company to provide Direct Test Tool Support to End Users,

D. solely in connection with Company's promotion of its GP Qualified Test Tools, use the titles of the corresponding Licensed Works as set forth in the applicable Licensed Works as amended from time to time (the "Titles"), provided that Company hereby acknowledges and agrees that notwithstanding anything to the contrary in this Agreement, GP may amend the Titles at any time and from time to time in its sole discretion, and

E. grant to End Users sublicenses to use the Licensed Works as incorporated into such GP Qualified Test Tool, solely for such End Users' internal evaluation purposes and to the extent necessary to permit such End Users to test the functionality of their own proposed GP Qualified Products on an internal, non-commercial basis (each such sublicense a "Sublicense"; and the licenses described in this Section 5(a)(i), collectively, the "Commercial Tool Vendor License"); provided, however, that

(1) Company shall promptly notify GP of each Sublicense,

(2) Each such End User must agree in writing to restrict its use and disclosure of such GP Qualified Test Tool (and the Licensed Works incorporated therein) in a manner in accordance with this Agreement and at least as restrictive as, and at least as protective of GP and its Intellectual Property as, the provisions of this Agreement as they apply to Company, and

(3) Company shall be solely responsible to GP for any failure of such End Users to comply with such restrictions. Each Commercial Tool Vendor License is subject to the following additional restrictions:

A. Except as otherwise expressly agreed by and between GP and a given End user pursuant to a separate written agreement, Company shall not permit any End User to, and no End User shall: modify, distribute or sublicense the Licensed Works or any portion thereof, or use the Licensed Works other than as incorporated into the applicable GP Qualified Test Tool for purposes of internally testing the functionality of proposed GP Qualified Products on a non-commercial basis.

B. Company shall (1) participate in each Test Fest for each Configuration for which Company wishes to support, sell, offer for sale, sublicense, or distribute a corresponding GP Qualified Test Tool and (2) comply with all other reasonable GP requirements for assessing that a GP Qualified Test Tool is capable of testing the functionality of a GP Qualified Product, as GP may establish from time to time.

C. Company shall incorporate into each GP Qualified Test Tool all applicable Mandatory Updates (as defined in Section 5(c) below) released by GP, in accordance with Section 5(c) below and the corresponding plan of adoption issued by GP.

ii. Consulting License. If Company has obtained a valid GP Test Tool Qualification, then for so long as such Qualification remains in full force and effect, GP hereby grants to Company a limited, non-exclusive, worldwide, non-transferable, revocable license to use the Licensed Works solely as necessary for purposes of providing GP-related Consulting Services (the "Consulting License", and each Consulting License, Commercial Tool Vendor License, a "License").

iii. Each License is subject to the following additional restrictions:

A. Except as otherwise expressly provided herein or approved in writing by GP, Company shall not (and shall not permit any End User to) copy, publish, demonstrate, modify, distribute, sell, offer for sale, disclose, create derivative works based upon, sublicense or otherwise use any Licensed Works or portion thereof for any purpose.

B. All reproductions or embodiments of any of the Licensed Works, related documentation or any portion of any of the foregoing shall incorporate the legends that appear on such Licensed Works or such other legends as GP may instruct Company from time to time.

C. Use, duplication or disclosure of the Licensed Works by or to the United States government may be subject to Restricted Rights as set forth in the Rights in Technical Data and Computer Software Clauses in DFARS 252.227-7013 (c)(1) and FAR 52.227-19(a)-(d) as applicable (or successor or similar regulations), and Company agrees to comply with all such Restricted Rights in connection with its use of any of the Licensed Works.

D. Under no circumstances shall Company make or publish (or permit any End User to make or publish) any representation, warranty or guarantee by or on behalf of GP concerning the GP Materials or any portion thereof.

E. Under no circumstances shall any End User use, or shall Company permit any End User to use, any Licensed Work for any commercial purpose, unless such End User has executed a separate written agreement with GP, permitting such commercial use, in the form then provided by GP.

F. To the extent applicable, Company agrees to comply with the US Export Administration Regulations ("EAR") and all other applicable laws and regulations governing export, import or use of encryption products and technology.

b. Support and Maintenance. GP shall have no obligation (to Company, any End User or otherwise) to support or maintain the Licensed Works or any portion thereof.

c. New Versions and Updates. Periodically, GP may, in its sole discretion, release new versions or updates to the then current versions of the Licensed Works. Upon release of a new version or update, GP shall indicate whether it is a "Mandatory Update" or a "Discretionary Update". For such purposes, a "Mandatory Update" is an update required by GP, and a "Discretionary Update" is an update that GP has designated as relating solely to functionality that GP deems to be optional. Discretionary Updates may be adopted in a manner determined by Company, provided that Company utilizes commercially reasonable efforts to incorporate all Discretionary Updates into all new GP Qualified Test Tools and GP Qualified Test Tools of Company within twelve (12) months of the release date. GP generally shall not release more than one Mandatory Update per year, and a plan for adoption of each applicable Mandatory Update, including, but not limited to schedules for incorporation of Mandatory Updates into all new GP Qualified Test Tools as well as schedules for recall of existing Test Tools, if necessary, shall be communicated to Company within twenty-one (21) days of the applicable release date. Company shall provide GP with written confirmation of receipt of GP's plan for adoption of Mandatory Updates within twenty-one (21) days of delivery of GP's plan for adoption of Mandatory Updates. If Company fails to provide such written confirmation within twenty-one (21) days of receipt or comply with such plan of adoption, GP may terminate this Agreement or all or part of the licenses granted in this Agreement immediately upon written notice to Company.



d. Intellectual Property. Notwithstanding anything to the contrary in this Agreement, Company acknowledges and agrees that all right, title and interest in and to the Licensed Works, the Titles, all Improvements, any and all scripts, tools, computer code or other materials of, or made available by or on behalf of, GP, each portion of each of the foregoing, all right, title and interest in and to each of the foregoing, and any other Intellectual Property of GP (all of the foregoing, collectively, the "GP Materials") shall, at all times, be and remain the exclusive property of GP, and except as expressly provided herein, nothing in this Agreement shall be construed to convey or license to Company or any third party any right, title or interest in the any of the foregoing. Upon request, Company shall deliver to GP fully executed documents giving full effect GP's rights, title and interests as contemplated by this Section.

## **6. Disclaimers; Indemnification; Insurance.**

a. ALL GP PROGRAMS AND GP MATERIALS (COLLECTIVELY, THE "GP PROGRAMS AND MATERIALS") ARE PROVIDED ON AN "AS IS", "WHERE IS", BASIS, "WITH ALL FAULTS" KNOWN AND UNKNOWN. TO THE MAXIMUM EXTENT PERMITTED BY LAW, GP EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE GP PROGRAMS AND MATERIALS, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. GP MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE GP PROGRAMS AND MATERIALS, INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATION OR WARRANTY THAT IT HAS EXCLUSIVE OWNERSHIP RIGHTS THEREIN OR THERETO OR THE POWER OR AUTHORITY TO GRANT THE RIGHTS GRANTED HEREUNDER. COMPANY HEREBY ACKNOWLEDGES AND AGREES THAT IT SHALL TAKE NO ACTION AGAINST GP, AND UNCONDITIONALLY RELEASES GP FROM ANY AND ALL LOSSES, DAMAGES OR OTHER LIABILITIES WHICH COMPANY MAY SUFFER OR INCUR ARISING OUT OF OR RESULTING FROM ANY THIRD PARTY ACTIONS OR CLAIMS RELATING TO THE GP PROGRAMS AND MATERIALS OR COMPANY'S PARTICIPATION IN OR USE THEREOF.

b. IN NO EVENT WILL GP OR ANY OF ITS MEMBERS, OR ANY OF ITS OR THEIR RESPECTIVE AFFILIATES, SUBSIDIARIES OR PARENT ENTITIES, OR ANY DIRECTOR, OFFICER, EMPLOYEE, CONTRACTOR, OR AGENT OF ANY OF THE FOREGOING (EACH OF THE FOREGOING, A "GP PARTY" OR COLLECTIVELY, THE "GP PARTIES") BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, ANY GP PROGRAMS AND MATERIALS OR THE USE THEREOF, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR OTHER MONETARY LOSS, WHETHER OR NOT SUCH GP PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS OF DAMAGES OR LIABILITY SET FORTH IN THIS AGREEMENT ARE FUNDAMENTAL ELEMENTS OF THIS AGREEMENT.

c. Company acknowledges and agrees that a Qualification does not indicate that any Test Tools are free of defects or will operate properly in all conditions, or that any services are free of errors, omissions or other defects, and shall not make any representations inconsistent with the foregoing.

d. Company agrees to indemnify, defend and hold harmless the GP Parties from all losses, costs, damages, claims and other expenses (including reasonable attorneys' fees) (collectively, "Losses") arising out of (i) any breach of any of the terms or conditions of this Agreement by Company or its End Users (ii) any third party claims relating to any Company Test Tools, services or activities or the use thereof, including but not limited to, any claim that a third party Intellectual Property right is infringed in connection with the manufacture, use, importation, sale, offer for sale, distribution, reproduction or display of any Company Test Tool or by Company's provision or performance of any Test, related services or GP-related Consulting Services (or by any other Test Tool, process, service or system of Company which implements or relies on the Licensed Works or any portion, improvement or derivative thereof), either alone or in combination with other Test Tools, processes, services or systems (each an "Infringement Claim").

e. In the event that GP becomes aware of a potential claim of infringement with respect to the Licensed Works or any portion thereof that has been or may be asserted against GP, Company or any third

party, GP may in its sole discretion (i) modify the infringing or potentially infringing Licensed Works so as to avoid such infringement or potential claim, (ii) procure for Company the right to continue using such Licensed Works or (iii) terminate any or all related Licenses granted in this Agreement in accordance with Section 8(b)(iii) with respect to such Licensed Works. In the event that GP modifies such Licensed Works pursuant to this Section, Company shall promptly upon written notice thereof from GP, cease using such Licensed Works and providing or using any Tests, related services, GP-related Consulting Services and Test Tools that incorporate, reference, rely upon or implement the unmodified version of such Licensed Works.

f. At all times while this Agreement is in effect, Company shall procure, maintain and keep in full force and effect for GP's mutual benefit, at Company's sole cost and expense, the following types of insurance and minimum coverage amounts: (i) a fully-paid commercial general liability insurance policy, alone or in combination with umbrella liability insurance, with a combined single limit of at least \$1,000,000 and an annual aggregate limit of at least \$2,000,000 with respect to bodily injury, personal injury, and property damage; and (ii) professional liability or errors and omissions insurance with a limit of at least \$2,000,000 per claim and an annual aggregate limit of at least \$2,000,000. If the policies described above are claims made policies, Company shall maintain such insurance in force for not less than one year after the termination of this Agreement. Upon request, Company shall submit certificates of said policies to GP evidencing that the required coverages are in effect. Company shall provide at least ten (10) days notice to GP prior to any cancellation or reduction of any required coverage, and shall provide written notice to GP promptly upon receiving notice from any insurer that any such insurance policy will be or has been cancelled or subject to a reduction in coverage.

## **7. Restrictions on Use and Disclosure.**

a. Confidentiality. For the purposes of this Agreement, "Confidential Information" shall mean any and all proprietary or confidential information or materials disclosed in connection with the performance of this Agreement and conspicuously marked as "Confidential" or "Proprietary" by the party disclosing such information ("Discloser"), and with respect to GP, shall also include any and all GP Materials, whether or not so marked; provided, however, that the term "Confidential Information" shall not include any information that (1) is or becomes generally publicly available through no fault of the party receiving such information ("Recipient"); (2) is lawfully obtained from a third party that has the right to make such disclosure; (3) is known to Recipient prior to receipt from the Discloser or any officer, agent, contractor or representative thereof; or (4) Recipient independently develops without use of or reference to any of the Discloser's Confidential Information. With respect to the Discloser's Confidential Information, the Recipient shall:

i. not use, or allow any other person or entity to use, such Confidential Information for any purpose other than as necessary under the terms of this Agreement, or as otherwise may be specifically authorized by the Discloser in writing (the "Permitted Purposes");

ii. except for Permitted Purposes, not make any copies or summaries of such Confidential Information without the Discloser's prior written approval;

iii. take reasonable precautions and measures to maintain the confidentiality of such Confidential Information, which precautions and measures shall be at least equal to those taken to protect its own Confidential Information;

iv. not disclose or furnish such Confidential Information to any person or entity except to employees and consultants of the Recipient 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

v. promptly return such Confidential Information to the Discloser, including all copies (excluding archival and/or automatically generated backup copies), drawings, documents, and other manifestations containing any such Confidential Information, immediately upon (A) request (or at the Discloser's discretion, destroy such Confidential Information with evidence in writing), or (B) termination of

this Agreement.

b. No Implied Grant of License. Unless otherwise stated herein, all Confidential Information shall remain the property of the Discloser. 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.

c. 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.

**8. Term and Termination.** Subject to the remainder of this Section 8, this Agreement shall be effective upon the Effective Date and shall remain in effect for as long as Company has a valid Qualification, unless earlier terminated in accordance herewith. The term of this Agreement shall automatically expire upon the expiration or termination of all of Company's Qualifications.

a. Termination By Company. Company may terminate this Agreement for any or no reason immediately upon written notice to GP.

b. Termination By GP.

i. GP may terminate this Agreement without cause by providing Company with one hundred twenty (120) days prior written notice of its intent to terminate, such termination to be effective at the end of such one hundred twenty (120) day period.

ii. GP may terminate this Agreement immediately upon notice if it is discontinuing all Qualification programs for which Company then has a valid Qualification.

iii. GP may terminate this Agreement or all or part of the Licenses granted hereunder immediately upon notice to Company in the event that GP suspects, determines or receives notice that any of the Licensed Works, any portion thereof, any Test Tool or service of Company incorporating any of the foregoing, or Company's use of any of the foregoing (A) gives rise to a claim against a GP Party (as defined in Section 6(b) above) that contains at least one claim predicated upon the manufacture, use, importation, provision, offer for sale, sale or licensing of any Test Tool or service of Company (1) for which the indemnification of GP Parties in Section 6 does not apply or (2) for which Company asserts that such indemnification does not apply or (B) infringes any third-party Intellectual Property.

iv. GP may terminate this Agreement for cause in accordance with Section 8(c) below if:

A. Company violates or does not comply or cooperate fully with any material terms of this Agreement or any of the Required Agreements.

B. Company fails to maintain compliance with the relevant standards on which all of its Qualifications are based or any of the requirements for such Qualifications, other than as a result of Company's failure to be a Full or Participating GP Member in "good standing".

C. Any of the Required Agreements terminates, expires, was not fully or properly executed or otherwise ceases to be in full force and effect, in whole or in part.

D. Company makes any assignment of assets or business for the benefit of creditors, if a trustee or receiver is appointed to conduct the business or affairs of Company, or if Company is adjudged in any legal proceeding to be in either a voluntary or involuntary bankruptcy.

E. Company does not at the time have a valid and effective GP Qualification in place and fails to be a Full or Participating GP Member that is in “good standing” (as defined in the GP By-laws); provided that if, at the time of such breach, Company is a Subsidiary of a Full or Participating GP Member (the “Parent”), and the sole basis for such termination is the Parent’s failure to pay applicable GP membership fees, such termination shall not be effective until the date thirty (30) days after the occurrence of such failure and shall be ineffective if, within such thirty (30) day period, such fees are paid in full or Company becomes an Eligible Member.

c. Notice of Termination for Cause. GP shall provide Company with thirty (30) days written notice of intent to terminate pursuant to Section 8(b)(iv)(A), such notice shall state the basis for termination and the effective date of such termination (not to be earlier than the last day of such thirty (30) day notice period), and such termination shall be effective immediately as of the end of such thirty (30) day period or upon such later effective date of termination as was stated in such notice of intent, unless Company cures the condition giving rise to such notice to GP’s reasonable satisfaction prior to such effective date, in which case such termination shall be ineffective. Termination pursuant to Sections 8(b)(iv)(C), 8(b)(iv)(D) or 8(b)(iv)(E) shall be effective immediately without any notice required, regardless of whether either party has previously provided to the other party a notice of its intent to terminate the Agreement pursuant to any other Section, and regardless of whether the party receiving such notice has or has attempted to cure the condition that gave rise to such notice. Notwithstanding anything to the contrary herein, if GP provides a notice pursuant to Section 8(b)(iv)(B), then upon such notice and until such time as (1) Company has cured the condition giving rise to such notice, (2) Company is in compliance with all of the terms of this Agreement and (3) this Agreement is in full force and effect, Company shall not in any manner state or imply that Company or any of its Test Tools or services have received a Qualification.

d. Effect of Expiration or Termination.

i. Upon any expiration or termination of this Agreement: (a) each Qualification shall automatically terminate, Company shall cease all references to all of its Qualifications and, except as expressly provided in Section 8(d)(ii) below, all Licenses shall automatically terminate and (b) the provisions of Sections 4, 5(d), 6, 7, 8(d) and 9 through 20 of this Agreement shall survive. Upon any revocation, expiration or termination of any specific Qualification, except as expressly provided in the remainder of this Section, Company shall cease all references to such Qualification and all Licenses shall automatically terminate except to the extent applicable to any Qualifications that remain in full force and effect.

ii. Notwithstanding the foregoing, for a period of twenty-four (24) months from the effective date of termination of any GP Test Tool Qualification (the “Tail Period”), Company may continue to use the Licensed Works and Titles to the extent necessary to provide Direct Test Tool Support to those End Users who were authorized to use the Test Tool covered by such terminated Qualification as of such termination date; provided that if Company continues to so use the Licensed Works or Titles during the Tail Period after notice of an Infringement Claim relating to such Test Tool or the Licensed Works or Titles used to create, develop or implement such Test Tool, then Company shall indemnify GP against any and all claims, causes of action or damages arising from or in connection with such use or the use of any related systems. Without in any way broadening the limitations set forth in the preceding sentence, Company’s use of Licensed Works, Titles or Test Tools as permitted by the preceding sentence during the Tail Period will continue to be subject to all restrictions, terms and conditions of this Agreement. Upon the earlier of Company’s ceasing to offer any Test Tools or the expiration of the Tail Period, Company will (A) make no further use of the Licensed Works or Titles (except to the extent Company may otherwise be entitled to use the same solely in its capacity as a member of GP), (B) return or destroy all copies of the Licensed Works in Company’s possession or under its control and expunge all electronic copies (except to the extent otherwise permitted by GP), (C) recall, or cause to be recalled, all Test Tools then in use by any third party and (D) destroy all marketing and other materials that depict or incorporate any of the Licensed Works or Titles.

**9. Compliance with Laws.** In performing its obligations under this Agreement, neither party will be required to undertake any activity that would conflict with the requirements of any applicable law, statute,

rule, regulation, interpretation, judgment, order or injunction of any governmental authority.

**10. Relationship of the Parties.** This Agreement creates no agency relationship between the parties hereto, and nothing herein contained shall be construed to place the parties in the relationship of partners or joint venturers, and Company shall have no power to obligate or bind GP in any manner whatsoever.

**11. Assignment and Transfer.** Company may not assign or transfer this Agreement or any right granted hereunder without the prior written consent of GP, and any attempted assignment without consent shall be void. Notwithstanding the foregoing, Company may assign this Agreement, including all of its rights and obligations under this Agreement, to any successor of its business that at the time is a Full or Participating GP Member in “good standing”; provided, however, that any such assignment will not relieve Company of any of its obligations under this Agreement. Subject to the foregoing restrictions, this Agreement shall be binding upon and shall inure to the benefit of the parties and their successors and assigns.

**12. Entire Agreement.** This Agreement (including any schedules or appendices attached hereto or referenced herein, each of which is incorporated herein by this reference) sets forth the entire agreement and understanding between the parties regarding the subject matter hereof and supersedes any and all prior agreements between the parties regarding such subject matter.

**13. Notices.** Except as otherwise provided herein, all notices to be made hereunder shall be given or made at the respective address of the intended recipient (for GP, as set forth in the preamble to this Agreement; and for Company, to the address specified by Company on the first page hereof), unless notification of a change of address is given by either party in writing in accordance with this Agreement. Where notices are required to be given in writing, such notices shall be by first-class or equivalent mail service, and the date of mailing shall be deemed the date the notice is given. Notice in writing also may be given by email, provided that a confirming electronic receipt is received by the sender. Notices to GP by email shall be sent to [secretariat@globalplatform.org](mailto:secretariat@globalplatform.org), and notices to Company by email shall be sent to the email address specified by Company herein.

**14. Modification, Waiver.** Except for the requirements and terms of GP’s Qualification programs, which may be amended by GP in its sole discretion, none of the terms of this Agreement may be amended, modified, or supplemented, or provisions hereof waived, except by an express agreement in writing executed (including through an electronic click-through process) by both parties. Any waiver of a breach by either party is not a waiver of any subsequent or other breach. The failure of either party hereto to enforce, or the delay by either party in enforcing, any of its rights under this Agreement, shall not be deemed a continuing waiver or a modification thereof and either party may, within the time provided by applicable law, commence appropriate legal proceedings to enforce any or all of such rights. No person, firm, group or corporation other than Company and GP shall be deemed to have acquired any rights by reason of anything contained in this Agreement.

**15. 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.

**16. Certain Construction Rules.** The Section headings used in this Agreement are for convenience of reference only and in no way define, limit, extend or describe the scope or intent of any provisions of this Agreement. In addition, as used in this Agreement, unless otherwise expressly stated to the contrary, all references to days, months or years are references to calendar days, months or years. A reference to a Section by number includes all subparagraphs contained in the Section.

**17. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes hereof, a facsimile copy of this Agreement, including the signature pages hereto, shall be deemed to be an original.

**18. Attorney's Fees.** In the event of any action, suit or proceeding brought by either party to enforce the terms of this Agreement, the prevailing party shall be entitled to receive its costs, expert witness fees, and reasonable attorneys fees and expenses, including costs and fees on appeal.

**19. Choice of Law.** 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 consents to the exclusive jurisdiction and venue of the state and federal courts within the State of Delaware.

**20. GlobalPlatform's Remedies.** Company acknowledges that its failure to comply with the terms of this Agreement, including, but not limited to, Company's duties after expiration or termination of this Agreement, may result in immediate and irreparable damage to GP, and GP may seek equitable relief by way of temporary and permanent injunction and such other further relief as any court with jurisdiction may grant or deem just and proper. Resort to any remedies referred to herein shall not be construed as a waiver of any other rights and remedies to which GP may be entitled under this Agreement or otherwise.

*[remainder of page intentionally left blank]*

**Exhibit A – GlobalPlatform Qualification Request Form**

**For Test Tool Vendor**

Company Name:			
Company Registration No:			
Business Address:			
City:	State/Prov.:	Country:	Postal Code:
Qualification Type ( <i>check one</i> ):		<input type="checkbox"/> Full Qualification <input type="checkbox"/> Derivative Qualification	
Test Tool Details:	Test Tool Reference and Version No. (to appear on GlobalPlatform website):		
	Configuration and Version No.:		
	GlobalPlatform Test Suite with Version No.:		
<input type="checkbox"/> Please check here if you <b>do not</b> want a Listing for this Qualification to appear on the GlobalPlatform web site.			
<b>Company Primary Contact:</b>			
Name:		Title:	
Direct Telephone:		E-mail:	
Location:		Fax:	
By signing this Qualification Request, I acknowledge, agree and certify, by and on behalf of the company identified above ("Company"), that (i) all capitalized terms used but not defined herein have the meanings ascribed to them in the Qualification and Listing Agreement between Company and GlobalPlatform, Inc., as amended (the "QLA"), (ii) Qualification of the Test tool identified above, if obtained, and the procedures for obtaining Qualification, are subject to the terms, conditions and restrictions of the QLA, the GP GlobalPlatform Self-Testing and Product Qualification Process requirements, and any additional terms set forth in the corresponding Qualification Letter, including without limitation, payment of applicable Fees and termination or revocation in accordance with the QLA, (iii) Qualification is limited to the specific version and Configuration of the Test tool identified in the corresponding Qualification Letter, (iv) the Test Tool satisfies all prerequisites for the corresponding Qualification, (v) all information provided to GlobalPlatform, Inc. by Company regarding the above Test Tool is accurate and complete and (vi) I have been duly authorized by Company to execute and submit this Qualification Request.			

<i>Company Officer Signature</i> <input type="checkbox"/>		<i>Date</i> <input type="checkbox"/>
Company Officer Name:		Title: <input type="checkbox"/>
<b>Received by GlobalPlatform, Inc.</b>		
<i>GlobalPlatform, Inc. Signature</i> <input type="checkbox"/>		<i>Date</i> <input type="checkbox"/>
Name:		
Title:		



## **Exhibit B – Qualification Requirements**

GP Test Materials License Agreement.

Test Fest Non-Disclosure Agreement (Required if Company is a vendor of a GP Qualified Test Tool, or otherwise has participated or intends to participate in any Test Fest).

Latest revision of GlobalPlatform Card Compliance Program Test Tool Requirements (GPC\_REQ-030) or latest revision of TEE Compliance Program Test Tool Requirements, (GPD\_REQ\_012).

All other applicable GP Certification Body Requirements and policies established from time to time.

## Exhibit C – Fee and Rate Schedule

### Initial Qualification/Accreditation Fees:

GP Qualified Test Tool	\$0 USD
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### Re-Qualification/Accreditation Fees:

GP Qualified Test Tool	\$0 USD
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**Sublicense Rate:** \$0 USD per Sublicense

**Consulting Rate:** 10% of the amount charged by Company to perform GP-related Consulting Services