

Model Interoperability Agreement Version 4.0

for the Transmission and Processing of Electronic Invoices and other Business Documents

GENA acknowledges that the original source material for this document is the Draft Model Interoperability Agreement for the Transmission and Processing of Electronic Invoices and other Business Documents as prepared by the CEN Workshop on Electronic Invoicing Phase 3 and which following finalization in February 2012 was released by CEN. This document has been based on the CEN Workshop Agreement version 0.91 dated 3rd December 2011. It has been substantially amended for use by the service provider community in the light of evolving legal, technical and market requirements.

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This Agreement is dated the day of 20 (the
"Effective Date")

1. Parties and Recitals

1.1 The Parties

- (a) [Full name of Service Provider] a company incorporated in [country of incorporation] with company registration number [registration number] whose registered office is at [registered office], [VAT Number]; and
- (b) [Full name of Service Provider] a company incorporated in [country of incorporation] with company registration number [registration number] whose registered office is at [registered office], [VAT Number],

each a **Party** or together the **Parties**.

1.2 Recitals

- A) Each Party provides services and/or support to third party customers in the area of compliant e-invoicing and related services.
- B) The Parties wish to provide interoperability services to each other on the terms of this Agreement.

2. Definitions and Interpretation

2.1 Definitions

For the purpose of this Agreement the following defined terms shall have the following meaning:

Agreement: means the Terms and Conditions and the Description of Services.

Business or Technical Acknowledgment: means a Message sent by one Party to the other Party to acknowledge receipt of a Message or to provide status information relating to the Interoperability Service.

Customer: means a customer of either Party being a Sender or Receiver, with the exception of any party that provides services and/or support to third party customers in the area of compliant e-invoicing and related services.

Data: means the information contained in Datasets or Documents.

Dataset: means a structured file containing Data within a defined format.

Description of Services: means the document titled "Description of Services" further described in section 5 and annexed to these Terms and Conditions.

Document: means a human readable representation of the Data or Dataset.

E-Invoice: means an electronic invoice Document and/or Dataset, with or without

attachments, provided in the Format Standard described in the Description of Services in a form and containing the content as required under applicable law or regulations in relation to the particular invoice and any additional content agreed between the Customers for invoicing purposes.

Electronic Business Documents: means Documents, and/or Datasets provided in an electronic format, that are related to the processes of ordering, procurement, shipping, invoicing and payment, but not an actual payment instruction to a third party payment provider or the actual E-Invoice itself, and all associated acknowledgements.

Format Standard: means the standard for the formatting of an Electronic Business Document or Dataset according to pre-defined syntax and/or schema as described in the Description of Services.

Intellectual Property Rights or IPR: means patents, rights to inventions, copyright and related rights, trademarks, trade names, service marks, business names, domain names, logos and rights in get-up, rights in goodwill or to sue for passing off or equivalent unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, know-how and trade secrets and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Interoperability Service: means the automated services provided by each Party to the other Party relating to the implementation and maintaining of an interconnection between both Parties' Systems and to the transmission and processing of Messages in accordance with the agreed Mode and other agreed upon requirements and carried out on behalf of their respective Customers, as set out in Description of Services. The term "Interoperability Service" when used in this Agreement expressly excludes services either Party may offer to its own Customer(s).

Message: means a single electronic transmission that consists of a header containing addressing and routing information and a payload, which includes an E-Invoice or an Electronic Business Document or a Business or Technical Acknowledgement or response Datasets.

Mode: means the method chosen by the Parties through which the Sender and Receiver can satisfy their obligations in respect of the authenticity of origin, the integrity of content and the legibility of the E-Invoice under applicable law or regulations in relation to the particular E-Invoice.

Receiver: means a Customer of the Receiving Party receiving E-Invoices and Electronic Business Documents.

Receiving Party: means the Party receiving E-Invoices or Electronic Business Documents under this Agreement and acting on behalf of the Receiver.

Regulator: Any national supervisory body set up pursuant to EU Directive 95/46/EC or Regulation (EU) 2016/679 to be responsible for monitoring the application of the laws implementing Regulation (EU) 2016/679.

Sender: means a Customer of the Sending Party sending E-Invoices and Electronic

Business Documents.

Sending Party: means the Party sending E-Invoices or Electronic Business Documents under this Agreement and acting on behalf of the Sender.

System: means the hardware and software owned or licensed by a Party that such Party uses to perform the Interoperability Services.

Subcontractor: means any person or company contracted to a Party and involved in the provision of the Interoperability Service by and on behalf of such Party.

Terms and Conditions: means sections 1 to 22 inclusive of this document.

Transmission Protocol: means a standard that allows for secure and reliable packaging, routing and transporting of Messages.

2.2 Interpretation

In the event of any conflict or inconsistency between the provisions of the Terms and Conditions and the provisions of the Description of Services, the provisions of the Terms and Conditions shall prevail save in respect of sections 15.3 and 21.1 where the provisions of the Description of Services shall prevail.

3. Scope and Purpose of the Agreement

3.1 Scope

The Agreement sets out the terms and conditions for the provision of an Interoperability Service between the Parties involving the automated transmission and processing of E-Invoices and Electronic Business Documents on behalf of their respective Customers, whether Senders or Receivers. Each Party may act in the capacity of Sending Party or Receiving Party when performing the Interoperability Service under this Agreement. The definition of these capacities and the E-Invoices and/or Electronic Business Documents to be exchanged and such other services as might be mutually agreed are specified in the Description of Services.

3.2 Purpose

In providing the Interoperability Service, the Parties intend to provide a secure, reliable and functional set of operating procedures and infrastructural capabilities so as to enable the Parties in turn to provide high quality services to their respective Customers. The Agreement concerns the exchange of E-Invoices and Electronic Business Documents in accordance with applicable legislation, which form an essential part of the services provided by the Parties to their Customers.

4. Relationship with Customers and between the Parties

4.1 Structure of the Agreement

The Agreement is intended to define the general terms and conditions that will govern the relationship between the Parties in this Agreement and to describe the specific Interoperability Service to be provided by the Parties to each other as set out in the Description of Services.

4.2 Separate Agreements with Customers

The Parties' relationship with their respective Customers is out of the scope of this Agreement. Each Party shall conclude separate Customer agreements with its own Customers (whether Senders or Receivers or both) regarding the service to be provided by each Party to its own Customers. Each Party is responsible for obtaining any necessary consent from its Customers authorizing the provision of that Customer's Data and set-up information to the other Party for the purpose of enabling the Interoperability Service to be provided by the other Party. The Parties are entitled to decide independently on all matters related to their respective Customer agreements, unless otherwise expressly provided for in this Agreement.

4.3 No Authority to Bind the other Party

Neither Party may conclude agreements on behalf of the other Party or in any other way, bind, incur liabilities or make representations on behalf of the other Party (either on the basis of this Agreement or otherwise), including in particular, representations or warranties about the capabilities or services of the other, and neither Party acts as the other Party's agent or subcontractor in the operations referred to in this Agreement.

4.4 Non-exclusivity

The Agreement shall not be interpreted as an exclusive cooperation between the Parties. Each Party is free to conduct identical or similar business on its own and/or in cooperation with other parties and enter into Interoperability Agreements with whomever they wish.

4.5 Subcontractors

Subject to the requirements of section 14 (Data Protection), a Party may engage Subcontractors to perform the Interoperability Service (or any part thereof), and such Party shall be responsible and liable for the acts and omissions of such Subcontractors. A Subcontractor does not become a party to this Agreement.

5. Description of Services

5.1 Description of Services

The Description of Services sets out the agreed scope of the Interoperability Service, the agreed Mode, the agreed Format Standard, the agreed Transmission Protocol and the other business features, legal and other compliance procedures and technical and process specifications, by which the Parties shall provide to each other the Interoperability Service. The Description of Services forms an integral part of this Agreement.

5.2 Compliance with the Description of Services and Amendments

Each Party agrees to receive, transmit, process and route, as applicable, Messages in accordance with the Terms and Conditions and the Description of Services.

5.3 Variation or Amendment of the Description of Services

- 5.3.1** Any modification of the Description of Services must follow the procedure outlined in this section 5.3 and such changes may be agreed without amending the remainder of this Agreement.
- 5.3.2** If a Party wishes to vary the Description of Services, the Parties must first agree and sign an amended Description of Services to include such agreed changes.
- 5.3.3** The Party requesting a variation to or amendment to the Description of Services shall provide advance notice to the other Party of such a request, including reasonable details of the intended change and its reasonable assessment of the likely timescales, costs and impact of implementing such a change.
- 5.3.4** The Party in receipt of such a request will take reasonable steps to agree a timetable for reviewing the request.
- 5.3.5** No changes shall be implemented without the prior written consent of both Parties as stated in section 5.3.2. Where changes are agreed, both Parties shall agree upon a time schedule for implementing these changes and, where the costs are to be shared, the costs to be paid by each Party, otherwise such costs shall be paid by the Party initiating the change.
- 5.3.6** Until such time as a change is made in accordance with the procedure set out in this section 5.3 or if no changes are agreed, each Party shall, unless otherwise agreed in writing, continue to perform its obligations in compliance with the Description of Services prior to such change.
- 5.3.7** Unless agreed otherwise in writing in advance of any work being undertaken, each Party is responsible for its own costs and expenses in undertaking the agreed changes to its own System.

6. Transmission of Messages

6.1 Receipt and Transfer of Messages

The E-Invoices and Electronic Business Documents that are identified in the Description of Services are deemed to have been received by the Receiving Party when:

- 6.1.1 the Message containing an E-Invoice or Electronic Business Document is made available to the Receiving Party's System in accordance with the Description of Services; and
- 6.1.2 the Sending Party has received (if applicable) such Technical Acknowledgment of receipt from the Receiving Party as is required by the Description of Services; prior to such receipt, responsibility for the E-Invoice or Electronic Business Document remains with the Sending Party.

6.2 Correct Transmission

- 6.2.1 The Receiving Party shall ensure that it correctly transmits to the Receiver all E-Invoices and Electronic Business Documents received by it in accordance with section 6.1, in accordance with its relevant Customer agreement or it must notify the Sending Party that transmission to the Receiver has not been achieved and to provide such notification as agreed and set out within the Description of Services.

6.3 No Transmission to Unauthorized Parties

Under this Agreement, neither Party shall transfer Messages to anyone other than the identified Receiving Party. The Receiving Party may transfer Messages to its relevant Customer and to any party authorized by such Customer.

7. Service Levels and Support

7.1 Warranties

- 7.1.1 Each Party warrants that the services regarding E-Invoices and Electronic Business Documents it provides to its Customers will be provided and maintained in a reliable and professional manner always for lawful purposes and in compliance with all applicable laws and regulations, using professionals who understand the applicable technology, and who will exercise reasonable care in providing the services.
- 7.1.2 Each Party warrants that the Interoperability Services provided by it will be provided and maintained in a reliable and professional manner always for lawful purposes and in compliance with all applicable laws and regulations, using professionals who understand the applicable technology, and who will exercise reasonable care in providing the Interoperability Services and who will respect all access rights and procedures for the use of the other Party's Systems.

7.2 Development, Connectivity and Maintenance

Each Party shall ensure it has sufficient resources for the readiness, testing, operation and maintenance of its own System, including applicable connections to and from its System and for the security of its System. Without prejudice to section 7.3, each Party shall use commercially reasonable efforts to maintain the Interoperability Service to commercially reasonable standards.

7.3 Availability

The Interoperability Service shall be available to the Parties during the hours as set forth in the Description of Services, with due allowance for times when the Interoperability Service is not available due to agreed maintenance and updating or otherwise as agreed in the Description of Services. The Parties shall not guarantee to their Customers or to each other that their Interoperability Services shall be error free or that Interoperability

Services will be available without interruption.

7.4 Service Level Agreements

Additional service levels may be agreed by the Parties and included within the Description of Services.

7.5 Recovery Procedures

Each Party shall use commercially reasonable efforts to assist the other Party in the event that the other Party has lost Messages. In no event shall a Party have liability for the other Party's loss of Messages or other data or files provided to that other party for the purposes of this Agreement or for any damages or liability incurred by the other Party for such loss.

7.6 Support Services

Each Party shall provide support services to the other Party on the basis and as set out in the Description of Services. Each Party is responsible for providing set-up and support services to its own Customers in connection with the use of the Interoperability Service.

7.7 Communication with Customers of the other Party

In relation to the provision of the Interoperability Service if the Parties wish to agree that a Party may or may be obliged to communicate with or provide support services to the other Party's Customers, then this shall be set out in the Description of Services.

7.8 Contact Person(s)

Each Party shall designate at least one contact person for the exchange of information and for taking care of technical, administrative and other matters related to the Agreement, as set out in the Description of Services.

8. Responsibilities in relation to E-Invoices

8.1 Responsibilities of the Sending Party

The Sending Party is responsible for:

8.1.1 providing E-Invoices in a form and containing the presence of such content described in the Description of Services, which description shall include but not be limited to the agreed Mode by which the Sender and Receiver will be supported in meeting their legal and VAT obligations, the operational procedures to be followed and the carrying out of such checks and controls that are specified therein;

8.1.2 transmitting to the Receiving Party E-Invoices that have been so created, so that they may be delivered by the Receiving Party to the Receiver; and

8.1.3 carrying out these tasks with the necessary authority and consent of the Sender.

8.2 Responsibilities of the Receiving Party

The Receiving Party will transmit to the Receiver E-Invoices received from the Sending

Party in accordance with section 8.1.2 in accordance with the agreement between the Receiving Party and the Receiver. If the Receiving Party agrees to carry out checks and controls for legal and VAT compliance under its Customer agreement with a Receiver, such checks and controls are for the benefit of only that Receiver. If the Receiving Party discovers that an E-Invoice does not meet the requirements stated in section 8.1 or otherwise it may be rejected by the Receiving Party together with the reasons for the rejection unless otherwise agreed in the Description of Services.

8.3 Responsibility of the Sender and Receiver

It is agreed between the Parties that they will establish in the Customer agreement with their respective Customers by expressly notifying their Customers that:

- 8.3.1** the Sender of an E-Invoice is responsible for the content relating to the transaction or transactions that are the subject of an E-Invoice, and the Sender and the Receiver are responsible for taking all necessary steps to check and approve such content and satisfy themselves that it can be relied on it as being accurate and complete.
- 8.3.2** the Sending and Receiving Parties are not responsible for verifying the accuracy of such content and will not modify, supplement, remove or otherwise edit content, other than for the purposes of formatting, validation, translating and/or augmenting the content as expressly provided for in their Customer agreements. All commercial and legal terms relating to the commercial transactions to which the content relates are solely a matter for the Sender and Receiver.
- 8.3.3** no obligation is placed on the Parties regarding the underlying transaction or transactions represented by the content of the E-Invoice, or for the performance or failure to perform the obligations arising from such transaction or transactions. Furthermore the obligations of the Parties set out above in sub-section 8.1 shall not relieve the Sender and Receiver from their obligations to comply with all applicable laws, including VAT requirements.

8.4 Liabilities relating to this Section 8

Liability arising between the Parties for the carrying out of the responsibilities as defined in this section 8 and in particular in the Description of Services, may be the subject of a warranty and/or indemnity to be set out in the Description of Services. Such indemnity and/or warranty will be subject to the provisions of section 15 of this Agreement.

9. Conversion, Electronic Signature Validation and Archiving

9.1 Conversion

If the Receiving Party or the Receiver undertakes format conversion then such Receiving Party or the Receiver is responsible for doing so in compliance with any applicable VAT or other legal requirements. The Sending Party is not responsible for any non-compliance with VAT requirements arising from such conversion. If a Party's Customer requires conversion of the E-Invoices or Electronic Business Documents into another Format Standard then such Party and the Customer are responsible for all costs associated therewith, and for ensuring that the conversion is performed.

9.2 Electronic Signature Validation

The Description of Services must specify if the Sending Party is responsible for providing a validation of an electronic signature attached to an E-Invoice or Electronic Business Documents as sent by the Sending Party as part of the Interoperability Services provided by it. If the Description of Services does not state that the Sending Party is responsible for providing such validations, then the Receiving Party is responsible for performing any such validations itself if and to the extent required by its Customers.

9.3 Archiving of invoice and other business documents

If separately agreed and set out in the Description of Services, the Sending Party, acting for the Sender of the E-invoice or Electronic Business Documents and the Receiving Party, acting for the Receiver of an E-invoice or Electronic Business Documents, may contract separately with each other to archive E-invoices and other Electronic Business Documents, subject to applicable legal requirements.

10. Charges

10.1 Customer Charges

Each Party shall freely and independently determine its Customer charges and shall be responsible for collecting Customer charges from its own Customers.

10.2 Charges between the Parties

Any charges for establishing or maintaining the Interoperability Services will be negotiated between the Parties and described in the Description of Services.

11. Use of Name and Marks

11.1 Promotion of Interoperability Services

Subject to the provisions of sections 11.2, 11.3 and 11.4 both Parties agree to support the promotion of the Interoperability Services for their mutual benefit and will act in good faith with the other Party to facilitate such promotion.

11.2 No Use of Other's IPR

Neither Party may use the IPR of the other Party, except i) as required to meet its obligations under this Agreement or ii) with the prior written consent of the other Party and subject in each case to the requirements of section 11.4.2.

11.3 Use of Customer IPR

Neither Party may use the IPR of the other Party's Customers except i) as required to meet its obligations under this Agreement or ii) with the prior written consent of the other Party and subject in each case to the requirements of section 11.4.2.

11.4 Press Releases and Publicity

11.4.1 The Parties agree that nothing in this Agreement shall restrict a Party's right to promote and market its own services and to make reference, in its external communications, to the existence of the present Agreement as concluded with the other Party, provided that neither Party will publish a press release regarding this Agreement or make any such reference in its external communications without: i) the other Party's prior written consent and ii) adherence to the requirements of section 11.4.2.

11.4.2 In the event of the Parties agreeing the wording of a press release and/or communications with third parties under section 11.4.1 above, each Party will, whenever using the IPR of the other Party or the other Party's Customer comply at all times with the other Party's (or its Customer's, as applicable) notified branding requests.

12. Internal Controls

12.1 Security Procedures

The Parties undertake to implement and maintain appropriate physical, administrative and technological security procedures and measures in order to ensure the protection of all Messages and Data processed under this Agreement against the risks of unauthorized access, alteration, delay, destruction or loss and such security measures shall ensure a level of security that is reasonably appropriate to the risk represented by the processing and the nature of the Data to be protected.

12.2 Responsibility for Security Procedures

Without prejudice to the general obligations in section 12.1, each Party's responsibilities for implementing particular controls, security procedures and measures to protect the confidentiality and security of E-Invoices and Electronic Business Documents and personal data that a Party processes or gains access to as a result of this Agreement are as set out in the Description of Services.

12.3 Malicious Software

Each Party is responsible for protecting its own Systems against illicit use, malicious and harmful code, viruses, computer intrusions, infringements and illegal tampering of data and other comparable actions by its own Customers, employees, agents and third parties. Each Party shall use commercially reasonable efforts to avoid transmitting to the other Party's Systems any viruses, time bombs, worms, harmful code or similar items or any computer programming routines that may interfere with the other Party's Systems.

12.4 Unauthorized Operations and Notification of Disturbances

Each Party agrees not to carry out unauthorized operations with, or seek unauthorized access to, the other Party's System, including unauthorized downloads, copies and publication of the other parties copyrighted materials and trademarks. The Parties shall notify each other as soon as reasonably practical if they observe disturbances or errors in their own Systems that may endanger the fulfilling of the Interoperability Services or causing the other Party's Systems to malfunction, crash or be flooded.

12.5 Correction of Fault or Disturbance

If a fault or disturbance occurs in a System or data transmission connection, which is the responsibility of either of the Parties, and which has an impact on operation of the Interoperability Service, the Parties agree that the Party whose area of responsibility the fault or disturbance belongs shall take measures to correct it without undue delay and if applicable in accordance with the agreement it has concluded with its Customer, and shall inform the other Party and the Customer of the fault or disturbance without delay. If the other Party is able to assist in the resolution of such a fault or disturbance, it will take commercially reasonable steps so to do.

12.6 Certification

Each Party agrees to provide the other Party with evidence of any certification of its internal controls as may be defined in the Description of Services (**Certification**). The other Party shall not disclose or share that Certification with its Customers, but it may confirm the existence of any such Certification to its Customers solely for the purposes of this Agreement.

12.7 Notification of Security Breach:

Each Party shall notify the other of any unauthorised or unlawful processing or any accidental loss, destruction, damage, alteration or disclosure affecting Data processed under this Agreement as soon as it becomes aware and shall keep the other Party informed of any related developments.

13. Confidentiality

13.1 Confidential Information

The Parties undertake to keep confidential the content of: (i) the Agreement together with all technical, commercial or financial information relating to the other Party or the operations of the other Party ("**Party Confidential Information**"); and (ii) , the Messages, together with all technical, commercial or financial information relating to the Customer of the other Party or the operations of that Customer ("**Customer Confidential Information**") in each case that is exchanged between the parties or otherwise comes to their knowledge due to this Agreement and which together is referred to as "**Confidential Information**" and to not disclose any Confidential Information to any third party, save as is provided for in this section 13 and/or with the prior written consent of the other Party. The Parties may disclose E-Invoices, Electronic Business Documents and their associated Data to such Party's Customer who is the Sender or Receiver or as instructed by such Customer. Either Party may also disclose to its Customers technical and operational information relating to the other Party's provision of the Interoperability Service, as far as necessary for the performance of this Agreement, with the prior written consent of the other Party (not to be unreasonably withheld or delayed). If it is necessary for a Party to give its employees or advisers any Confidential Information, the Confidential Information may not be disclosed to persons other than those for whom it is necessary to receive such Confidential Information and who are bound by a confidentiality undertaking either by agreement or by law.

13.2 Limited Use and Disclosure of Data

Each Party agrees not to sell or make commercial use of Data it handles, transmits or stores under this Agreement on behalf of the other Party, except in furtherance of the Interoperability Service or the services under which it delivers Messages to its Customers. The obligations of confidentiality and restrictions on use of Data in this Agreement apply to Data even if it is in anonymous or aggregated form and to any work derived from the Data. Notwithstanding the foregoing, each Party may disclose anonymous aggregated Data based on all or substantially all of the transmissions it handles during a time period solely for the purpose of reporting and advertising the total volume of transactions or spending handled by its Systems during that time period, so long as pricing, other competitively sensitive information or anything which might identify the Customers of the other Party (or which may enable the identity of the Customer of the other Party to be ascertained) is not disclosed.

13.3 Customer Information

Neither Party shall collect, save or decompile information relating to the other Party or to the other Party's Customers for any other purpose than is necessary in order to carry out the performance of its obligations in accordance with this Agreement. Each Party undertakes not to use or disclose the information regarding the other Party or its Customers received due to this Agreement for any other purpose than for the performance of the Interoperability Service. Without prejudice to other rights of disclosure allowed elsewhere in this section 13, each Party is entitled to disclose information it has received regarding the other Party or the other Party's Customer during the performance of this Agreement, as far as it is necessary in order to implement and/or maintain the Interoperability Service or to report statistics, in accordance with applicable legal or regulatory requirements in relation to payment transactions.

13.4 Damages for Breach

Both Parties understand and acknowledge that any breach of the obligations under this section 13 (Confidentiality) may cause the other Party irreparable harm, the amount of which would be difficult to ascertain. Both Parties agree that the Party affected by a breach of the provisions of this section 13, shall be entitled, without prior notice to the other Party, to appeal to the Brussels' competent court in summary proceedings ("*kort geding procedure*" or "*procédure en référé*") for an order restraining any further unauthorized disclosure or for any such relief the affected Party deems appropriate. Where applicable any such rights shall be in addition to the remedies otherwise available at law to the affected Party.

13.5 Exclusion

The obligation of confidentiality does not, however, apply to material and information (a) which is or becomes generally available or otherwise public (other than through the default of the receiving Party), or (b) which the Party has received from a third party without an obligation of confidentiality, or (c) which was in the possession of the recipient Party without an obligation of confidentiality applying to it before receiving it from the other Party, or (d) which a Party has independently developed without using material or information received by him from the other Party or (e) to the extent the release of such material or information is required under a governmental subpoena or similar governmental or regulatory demand provided that, if permissible and to the extent reasonably practicable, the Party notifies the other Party of such demand before

releasing the Confidential Information.

14. Data Protection

14.1 General Compliance

Each Party: (i) agrees to comply with relevant data protection and privacy laws; (ii) acknowledges that the Senders and Receivers are the data controllers of the personal data processed on their behalf pursuant to this Agreement; (iii) acknowledges that the Sending Party and the Receiving Party are both data processors of any such personal data for purposes of EU Directive 95/46/EC and GDPR (Regulation (EU) 2016/679).

14.2 Retention of Personal Data

Neither Party shall keep personal data of the other, or of the other Party's Customers, for longer than necessary to:

- 14.2.1 perform its obligations under this Agreement;
- 14.2.2 perform any contractual or legal obligations to their data controller;
- 14.2.3 comply with any applicable law or regulation.

15. Liability

15.1 Intellectual Property Rights Indemnity

- 15.1.1 Each Party warrants to the other that to the best of its knowledge and belief the use of its System to perform the Interoperability Service and its performance of the Interoperability Services, will not infringe any third party IPR.
- 15.1.2 Save as provided in section 15.1.3 below and subject to section 15.6 below, each Party shall indemnify the other Party against, and shall defend or settle, any third party claim made against the other Party and any damage, loss, fines, expenses and costs (including reasonable legal expenses) arising out of any such third party claim, in which it is alleged that the use of the Party's System in connection with the Interoperability Services and/or the Party's performance of the Interoperability Services (excluding the content of any Messages transmitted via the Party's System) infringes any third party IPR, provided that the other Party (i) promptly notifies the Party in writing of such claim and has not made any admission or offer to settle the claim; (ii) grants the Party sole conduct of the defence of any such claim and/or related settlement negotiations; (iii) acts in accordance with the reasonable instructions of the Party and gives the Party such information, assistance and authorizations as it shall reasonably require to defend or settle such claim; and (iv) mitigates its losses.
- 15.1.3 To avoid doubt, neither Party will have any liability for any claim if it arises from:
 - (a) unauthorised use of their System or the Interoperability Service; or
 - (b) use of the Interoperability Service in conjunction with third party materials used by the other Party or its Customer where use otherwise than in such conjunction would not have caused the infringement.
- 15.1.4 When a claim alleging IPR infringement is made or appears likely to be made, that Party may, in its discretion: (i) modify the infringing part of its System and/or its Interoperability Service to make it non-infringing, (ii) procure the necessary licenses for such infringing part (iii) replace the infringing part with a non-infringing equivalent or (iv) if it determines that none of these alternatives is commercially reasonable, the Party is entitled to terminate the Agreement forthwith. If the Party provides any of the remedies described in (i), (ii) or (iii), such remedies together with the indemnity protection referred to in this section shall constitute the other Party's sole and exclusive remedy and the Party's entire liability with respect to the infringement of the third party IPR.

15.2 Disclaimer of Warranties

Except as expressly set forth in this Agreement, neither Party makes any representations or warranties regarding its Interoperability Services, its System or its other services. All other conditions, warranties or other terms which might have effect between the Parties or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law or otherwise, are hereby excluded to the fullest extent permitted by law, including, without limitation, the implied conditions, warranties or other implied

terms as to satisfactory quality, fitness for purpose, merchantability, title, non-infringement or the use of reasonable skill and care.

15.3 No liability for E-Invoices or Electronic Business Document content

Subject to the Party's obligations under sections 12 (Security), 13 (Confidentiality) and 14 (Data Protection), and save to the extent expressly provided otherwise pursuant to section 8 (Responsibility for E-Invoices), each Party agrees that neither Party shall have liability to the other for the content of E-Invoices or Electronic Business Documents or that it will bring any claim against the other Party relating thereto. Each Party shall procure that its Customers agree that it is the responsibility of the respective Customers of the Parties to take all the necessary steps to check and approve the content of E-Invoices and Electronic Business Documents for accuracy and completeness.

15.4 Liability for Employees, Consultants and Subcontractors

Each Party is responsible for the acts, failures or omissions of its employees, consultants and Subcontractors, including any breach of the terms of this Agreement by such employees, consultants or Subcontractors.

15.5 Indirect Damages

Neither Party shall be liable for:

- 15.5.1** loss of profits, business revenue, business opportunity, contracts, goodwill, anticipated savings, lost discounts, loss of data, business interruption caused to the other Party, its Customers or any (other) third parties;
- 15.5.2** indirect or consequential loss or damage (including, for the avoidance of doubt, where such loss or damage is of the type specified in section 15.5.1), which arises out of or in connection with this Agreement.

The Parties however agree that the exclusions of liability in this section 15.5 do not apply to any losses and/or damages arising from the items listed in (a) – (e) below or do not exclude liability for the items listed in (f) – [(h)] below:

- (a) death or personal injury;
- (b) intentional misconduct or fraud;
- (c) any breach of section 13 (Confidentiality) which involves Party Confidential Information;
- (d) IPR indemnification under section 15.1;
- (e) fines made against a Party by a Regulator as a result of a breach by the other Party of its data protection obligations set out in sections 12 and/or 14 of this Agreement;
- (f) costs incurred by a Party as a result of data subject notifications or monitoring required as a result of a breach by the other Party of its data protection obligations set out in sections 12 and/or 14 of this Agreement[;]
- (g) **[Alternative – delete if Parties want the indirect damage exclusion of section 15.5 to exclude all Customer damages arising from breach of confidentiality obligations; if not, Parties further to amend to make it clear if indirect Customer damages are excluded]** [direct] damages incurred by a Customer of a Party [(excluding damages of that Customer falling within the categories stated in section

15.5.1 and 15.5.2)) as a result of a breach by the other Party of its obligations under section 13 (Confidentiality) and/or section 12.2 (Responsibility for Security Procedures) for which it is liable in accordance with the terms of this Agreement which involves Customer Confidential Information of that Customer[;]

- (h) **[Alternative – delete if Parties want the indirect damage exclusion of section 15.5 to exclude other types of direct Customer damages]** direct damages incurred by a Customer of a Party (excluding damages of that Customer falling within the categories stated in section 15.5.1 and 15.5.2) as a result of a breach by the other Party of its obligations under this Agreement for which it is liable in accordance with the terms of this Agreement **[OR list sections if Parties want to limit this to allow for direct damages of Customer to be included in relation to breach of particular sections of the Agreement only e.g. sections 8.1 and/or 8.2 (Responsibilities in relation to E-Invoices)].**

15.6 General Liability Limitation

The total annual cumulated liability of either Party to the other howsoever arising out of or in connection with this Agreement is limited to 50,000 euros.

For the avoidance of doubt, the Parties agree that the limitation of liability in section 15.6 does not apply to any losses and/or damages arising from:

- (a) death or personal injury;
- (b) intentional misconduct or fraud;
- (c) **[Alternative – delete if parties intend the cap on liability to apply]** any breach of section 13 (Confidentiality) which involves Party Confidential Information;
- (d) **[Alternative – delete if parties intend the cap on liability to apply]** any breach of section 13 (Confidentiality) which involves Customer Confidential Information;
- (e) **[Alternative –delete if parties intend the cap on liability to apply]** IPR indemnification under section 15.1;
- (f) **[Alternative –delete parties intend the cap on liability to apply]** fines made against a Party by a Regulator as a result of a breach by the other Party of its data protection obligations set out in sections 12 and/or 14 of this Agreement;
- (g) **[Alternative –delete if parties intend the cap on liability to apply]** costs incurred by a Party as a result of data subject notifications or monitoring required as a result of a breach by the other Party of its data protection obligations set out in sections 12 and/or 14 of this Agreement.

15.7 Liability to Customers

Without prejudice to any liability that a Party may claim against the other pursuant to the terms of this Agreement, each of the Parties shall be solely liable for its own services and all related liabilities to its own Customers in accordance with the terms of its agreement with its respective Customers.

15.8 Insurance

Each Party agrees to secure and maintain suitable insurance providing coverage for the types of damages for which it may incur liability under this Agreement.

16. Force Majeure

16.1 Force Majeure.

A Party shall not be liable for any loss or damage arising from its delay or failure to perform as a consequence of changes to national or foreign legislation, the actions of national or foreign governmental authorities, acts of war, insurrection or riot, fire, flood, explosion or serious accident, strikes, blockades, boycotts, lockouts, disruption of public traffic or data communications, pandemic or other similar circumstance which is beyond the reasonable control of the Parties and which is unforeseeable and which significantly impedes performance of the obligation or renders performance of the obligation impossible. The Parties shall not be liable for any loss or damage caused by similar circumstances of force majeure at the Parties Subcontractors.

16.2 Termination Following Force Majeure

Where performance of this Agreement is significantly impeded or impossible as a result of a circumstance set forth in section 16.1 above for a period in excess of 30 days, either Party shall be entitled to terminate this Agreement in writing without incurring liability. If the force majeure event arises as a consequence of changes to national or foreign legislation or the actions of national or foreign governmental authorities, each Party may terminate this Agreement immediately.

16.3 Notification of Force Majeure Event

The Party wishing to invoke release from liability in accordance with this section 16 shall notify the other Party of the force majeure event without delay. The Party shall also notify the other Party of the cessation of the force majeure event without delay.

17. Ownership of Data; Intellectual Property Rights

17.1 Rights to Data

The Parties acknowledge and agree that the Sender and Receiver, jointly or individually, as applicable, retain all rights, title and ownership, including IPR contained, in the Data and any works derived from the Data. Neither the delivery of Data to a Party, nor the conversion of Data by the Party, nor anything else in this Agreement transfers to either Party any ownership or other proprietary interest in such Data or any product, device, design, service, process, secret, trade mark, IPR or anything else described or contained in Data, other than as expressly provided in this Agreement.

17.2 No Transfer

All IPR held by a Party in its Interoperability Service or in the services that it provides to its Customers shall remain the property of such Party and nothing in this Agreement shall be construed as to convey, assign or transfer any ownership to the other Party, nor is any license or implied license in such IPR granted to the other Party other than as explicitly stipulated in this Agreement.

17.3 Systems

Each Party remains the owner or licensee of its own Systems and may modify its own Systems in its sole discretion. No transfer of ownership or grant of license rights in the

Systems is intended by this Agreement, except that if one Party requires or permits the other Party to access its System in connection with the Interoperability Services, the accessing Party shall have a limited, non-exclusive, non-transferable right to use such portions of the System as necessary to perform the Interoperability Services during the term of this Agreement. Each Party shall bear its own development and operation costs in connection with its own System.

18. Warranties

18.1 Authorization

Each Party warrants that it is entitled to send, receive and process E-Invoices and Electronic Business Documents on behalf of its Customers in accordance with this Agreement.

18.2 Customer Requirements

Each Party warrants that its Customers have signed an agreement with the Party under which: (a) it is noted that the Customer is responsible for observing all applicable legal and operational requirements, including VAT regulations and data protection laws, (b) it is noted that the Customer (if it is the Sender), accepts responsibility for the provision of accurate and complete data, (c) the Customer is obliged to provide timely written notification of its current VAT registration number and of any changes to it.

18.3 Approvals and Licenses

Each Party is responsible for and warrants that it will obtain and maintain all required permits, licenses and approvals relevant to the discharge of its obligations under this Agreement. Each Party warrants it has the authority to use or make available its Systems to perform the Interoperability Services in accordance with this Agreement.

19. Assignment and Amendments

19.1 Assignment

Neither Party is entitled to assign or transfer the Agreement or any of its rights, liabilities or obligations under the Agreement without the prior, written consent of the other Party. However, either Party may assign this Agreement without the consent of the other Party to a successor by merger or acquisition of all or substantially all of its assets provided that the other Party is given prior written notice.

19.2 Amendment

Except as set out in section 5.3 (Variation or amendment to the Description of Services), any amendments to this Agreement shall be in writing and shall have no effect unless signed by the duly authorised representatives of the Parties. This Agreement may not be modified by electronic terms and conditions or “click licenses” associated with each Party’s website or any other terms of business unilaterally established by either Party.

19.3 Sole Agreement

This Agreement including for the avoidance of doubt the Description of Services (as amended from time to time in accordance with section 5) constitutes the entire

agreement and understanding between the Parties as to the subject matter hereof and supersedes all previous oral or written communications, representations, understandings or agreements between the Parties relating to the subject matter hereof (including any pre-printed terms on any purchase order or other document issued by either Party). Each party agrees that in entering into this Agreement it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement. Nothing in this section 19.3 shall exclude or limit any liability for fraud.

20. Term and Termination of the Agreement

20.1 Term

The Agreement shall enter into force on the Effective Date and shall continue for an undetermined duration until terminated in accordance with this Agreement.

20.2 Termination for Convenience

Each Party may terminate the Agreement at any time for any reason or no reason following one hundred and twenty (120) days prior written notice to the other Party.

20.3 Termination on Certain Events

20.3.1 Either Party may terminate the Agreement immediately by written notice if the other Party:

- (a) commits a material breach of any of the provisions of the Agreement, and either that breach is incapable of remedy or the other Party fails to completely remedy that breach within thirty (30) days from written notice requiring it to remedy such breach;
- (b) has a receiver, liquidator, administrator or administrative receiver appointed, ceases to trade, seeks a composition or arrangement with creditors generally, suspends payments to creditors generally or the Party takes or suffers any similar or analogous procedure to any such events described in this sub-section in any jurisdiction;
- (c) materially or persistently fails to comply with the confidentiality or security requirements of the Agreement, or if a Party, or any member of its staff or its Sub-contractors' personnel, engages in willful or criminal misconduct that materially or adversely impact the Interoperability Services or the reputation or services of either Party;
- (d) fails to meet any provision of a service level agreement set out in the Description of Services entitling that Party to terminate this Agreement.

20.3.2 This Agreement will automatically terminate if a Party is declared bankrupt or insolvent.

20.4 Notification of Customers; Cooperation Following Termination

20.4.1 Each Party is responsible for informing its own Customers of the termination of this Agreement. If either Party delivers notice of termination of this Agreement, the Parties undertake to cooperate and negotiate on the procedures that pertain to the ending of the Interoperability Services in order to avoid any unnecessary disturbances in the Customer relationships of the Parties.

20.4.2 At the request of the other Party on/after termination, each Party will return or destroy all Confidential Information of the other Party (including all information about the other Party's Customers). This requirement does not apply to Messages transmitted via the Interoperability Services.

21. Governing Law and Settlement of Disputes

21.1 Governing Law

Without prejudice to any mandatory national law which may apply to the Parties regarding recording and storage of E-Invoices and Electronic Business Documents or confidentiality and protection of personal data, the Agreement is governed by the laws of Belgium unless any other country is agreed between the Parties and specified within Part 8 of the Description of Services (Other Specified Terms and Conditions).

21.2 Dispute Resolution (Delete the Alternative that is NOT required)

If any dispute arises in connection with this Agreement, the contact for legal notices from each Party, as set out in the Description of Services, shall, within 14 days of a written request from one party to the other, discuss in a good faith effort to resolve the dispute.

If the dispute is not resolved within 7 days of that discussion, the dispute shall be resolved as set out below. This provision does not prejudice either Party's right to have urgent litigation cases under this Agreement discussed in summary proceedings ("kort geding procedure" or "procédure en référé") before the Brussels' court in Belgium.

[Alternative 1]

Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by the arbitration under the rules of CEPANI by a tribunal of one person to be agreed by the Parties, or failing agreement, to be nominated by CEPANI in accordance with and subject to the rules of procedure of CEPANI. It is agreed that the place of the arbitration will be Brussels, the language of the arbitration will be English.

The present arbitration section does not prejudice either Party's right to have urgent litigation cases under this Agreement discussed in summary proceedings ("kort geding procedure" or "procédure en référé") before the Brussels' court in Belgium.

[Alternative 2]

Any dispute arising out of or in connection with this Agreement shall be referred to the courts of Brussels, Belgium, which shall have sole jurisdiction.

21.3 Confidentiality of Arbitration

The arbitration procedure and all matters dealt with in connection therewith shall be kept strictly confidential by the Parties. The confidentiality undertaking in section 13 above shall apply to (but is not limited to) all information admitted during the arbitration procedure and any decision by the arbitral tribunal.

22. Miscellaneous

22.1 Counterparts

The Agreement may be executed in one or more counterparts, each of which shall be an original and all of which shall constitute a single instrument.

22.2 Survival

Sections 12, 13, 14, 15, 16, 18, 19, 20, 21 and 22 shall survive the termination of this Agreement.

22.3 Severability

Invalidity or unenforceability of any provision of this Agreement shall not impair the enforceability of any other provision of this Agreement. If a provision is determined to be unenforceable or invalid by a Belgian court of competent jurisdiction, then the provision shall be deemed modified to the extent necessary to render it valid and enforceable.

22.4 Notices:

Any notice or other communication required to be given to a Party under or in connection with this Agreement shall be in writing and shall be delivered by hand or sent by a next working day delivery service providing proof of postage or proof of delivery, at its

registered office, or sent by fax or email to the other party's main fax number or email address as set out in the Description of Services.

Any notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address, or if sent by fax or email, at 9.00 am on the next working day after transmission (provided that the fax confirmation slip indicates that the transmission was communicated correctly or the sender does not receive a delivery failure message in respect of the e-mail).

22.5 Waiver:

No delay or failure of either Party to exercise in any respect any right provided for in this Agreement, shall affect the ability of that Party to subsequently exercise that right or be deemed a waiver of any other right under this Agreement. Any waiver must be in writing and expressly refer to this section to be effective.

22.6 Third Party Rights:

The Parties agree that a person who is not a Party to this Agreement may not enforce any of its terms.

22.7 Anti-Corruption:

Each Party confirms that neither it nor any director, employee or agent of it has or shall violate, or cause the other Party or its affiliates to violate any applicable anti-corruption laws or regulations in connection with any activities carried out in relation to this Agreement or any other related activities. In particular, each Party has not and shall not pay, offer, promise or authorize the payment or transfer of anything of value directly or indirectly to i) any government official or employee (including employees of government owned or controlled companies or public international organizations) or to any political party, party official or candidate for public office or ii) any other person or entity, if such payments or transfers would induce improper performance of a relevant function or activity or otherwise violate the laws of the concerned country.

22.8 Compliance with competition and similar laws:

Each Party shall ensure it complies with competition, anti-trust and similar laws and regulations.

Party:	Party:
By:	By:
Name:	Name:
Title:	Title:
Signature:	Signature:

23. ANNEX – Description of Services

Part 1. Parties and Contact Information	
Party A.	Party B.
Service Provider Name: Contact(s) for Legal Notices: Contact Person: Address: Email: Phone: Technical Contact(s): Contact Person: Address: Email: Phone: Contact(s) for Support Issues: Contact Person: Address: Email: Phone: Commercial Contact(s): Contact Person: Address: Email: Phone:	Service Provider Name: Contact(s) for Legal Notices: Contact Person: Address: Email: Phone: Technical Contact(s): Contact Person: Address: Email: Phone: Contact(s) for Support Issues: Contact Person: Address: Email: Phone: Commercial Contact(s): Contact Person: Address: Email: Phone:

Part 2. Scope of Agreement

Empty content area for Part 2. Scope of Agreement.

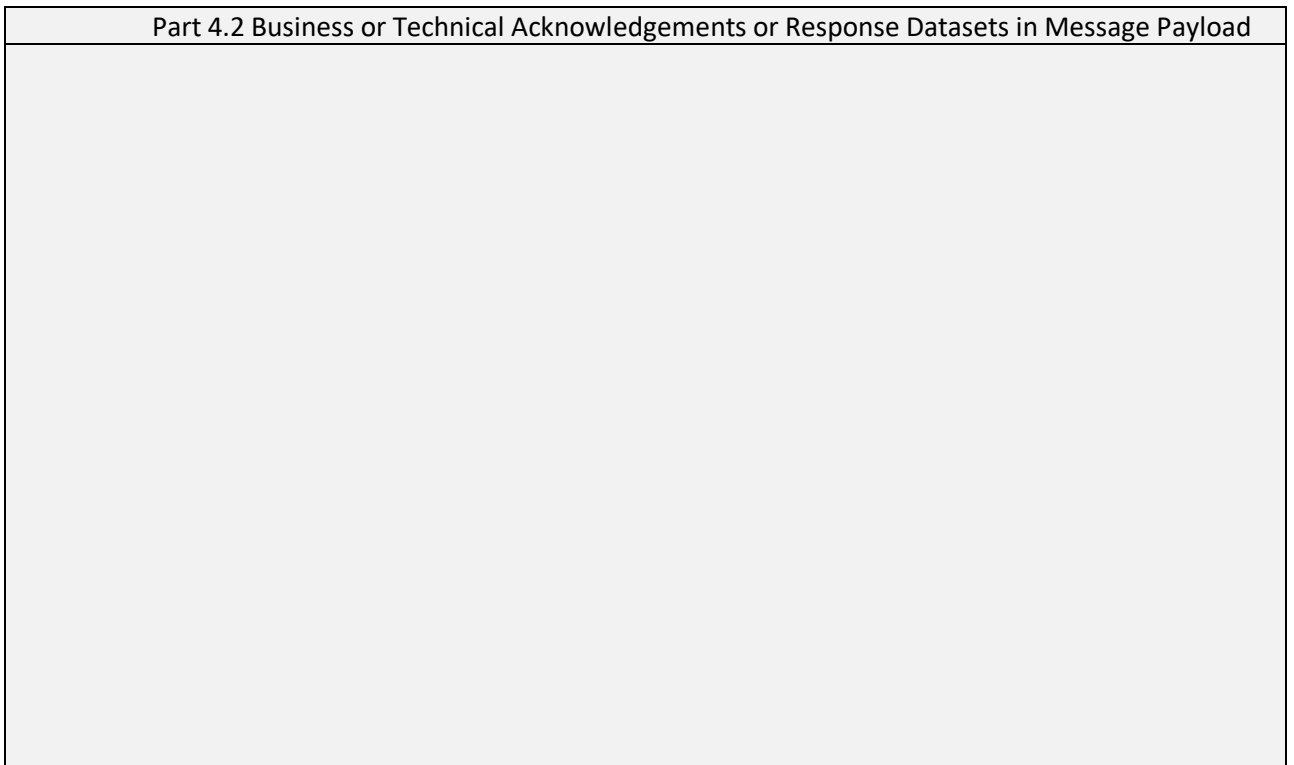
Part 3. Transport Protocol

Empty content area for Part 3. Transport Protocol.

Part 4.1 E-Invoice Message Payload Mode and Format Standard



Part 4.2 Business or Technical Acknowledgements or Response Datasets in Message Payload



Part 4.3 Other Electronic Business Documents in Message Payload

[Empty content area for Part 4.3]

Part 5. Set-Up and Service Procedures

[Empty content area for Part 5]

Part 6. Charges

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Part 7. Certification of Internal Controls

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Part 8. Other Specified Terms and Conditions

This Description of Service is agreed to on (DD/MM/YYYY):	
Party: By: Name: Title: Signature:	Party: By: Name: Title: Signature:

Record of Amendments:

Nbr.	Date	Amendment