Argos Logistics SA

Business Agreement

Effective: December 2020

This Argos Logistics SA ("Argos") Business Agreement (the "Business Agreement") is between Argos and the organization agreeing to these terms ("Customer"). This Business Agreement governs access to and use of the Services. By clicking "I agree,", or using the Services, you agree to this Business Agreement as a Customer.

To the extent that Argos is, on behalf of the Customer, Processing Customer Data that is subject to Swiss Data Protection Laws, by clicking "I agree," you are agreeing with Argos for the transfer of Personal Data to the Argos platform.

1. Services.

    1. Provision. The Agreement governs access to, and use of, the Services purchased under a Registration Form. Customer and End Users may access and use the Services in accordance with the Agreement.

    2. Modifications. Argos may update the Services from time to time. If Argos changes the Services in a manner that materially reduces their functionality, Argos will notify Customer at the email address associated with the account, and Customer may provide notice within thirty days of the change to terminate the Agreement. This termination right will not apply to updates made to features provided on a beta or evaluation basis.

2. Customer Obligations.

    1. Customer Administration of the Services. Customer may specify End Users as Administrators, through the Admin Console. Administrators may be able to: (a) access, disclose, restrict or remove Customer Data in or from End User Accounts; and (b) monitor, restrict, or terminate access to End User Accounts. Customer is responsible for maintaining the confidentiality of passwords and Admin Accounts, and managing access to Admin Accounts. Argos's responsibilities do not extend to the internal management or administration of the Services for Customer.

2. <u>Unauthorized Use or Access</u>. Customer will prevent unauthorized use of the Services by its End Users and terminate any unauthorized use of or access to the Services. End User Accounts may only be provisioned, registered, and used by a single End User. The Customer promptly notify Argos of any unauthorized use of or access to the Services.

3. <u>Restrictions</u>. Customer will not: (a) sell, resell, or lease the Services or (b) reverse engineer the Services, or attempt or assist anyone else to do so, unless this restriction is prohibited by law.

4. <u>Compliance</u>.

    a. <u>Generally</u>. Customer and its End Users must use the Services in compliance with the Terms of Use. Customer will comply with laws and regulations applicable to Customer's use of the Services. Customer must satisfy itself that: (i) the Services are appropriate for its purposes, taking into account the nature of the Customer Data; and (ii) the technical and organizational requirements applicable to Argos under Swiss Data Protection Laws are satisfied by the Security Measures and the Agreement.

    b. <u>End Users</u>. Customer is responsible for use of the Services by its End Users. Customer will obtain and maintain from End Users any consents necessary to allow Administrators to engage in the activities described in the Agreement and to allow Argos to deliver the Services.

    c. <u>Customer Actions</u>. Customer will not take any action that would cause Argos to violate EU Data Protection Laws, the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.K. Bribery Act of 2010, the Swiss Criminal Code or any other applicable anti-bribery, anti-corruption, or anti-money laundering law.

3. <u>Customer Data</u>.

    1. <u>Customer Data Limitations</u>. This Agreement constitutes Customer's instructions to Argos to Process Customer Data. Argos, Argos personnel will only Process, access, use, store, and transfer Customer Data as Customer instructs in order to deliver the Services and to fulfil Argos's obligations in the Agreement. Argos will inform Customer of any legal requirement which prevents it from complying with Customer's instructions, unless prohibited from doing so by applicable law or on important

grounds of public interest. Any Argos personnel who have access to Customer Data will be bound by appropriate confidentiality obligations.

2. <u>Security Measures</u>. Argos will use industry standard technical and organizational security measures to transfer, store, and Process Customer Data that, at a minimum, will comply with the Security Measures. Argos may update the Security Measures from time to time. Argos will provide Customer with at least sixty days prior notice if Argos updates the Security Measures in a manner that materially diminishes the administrative, technical, or physical security features of the Services taken as a whole. Within five business days of receipt of this notice, Customer may elect to terminate the Agreement by providing written notice to Argos.

3. <u>Customer Data Sharing</u>. The Services may enable End Users to share Customer Data, including to other Customer End Users and to third parties. Recipients of shared Customer Data may access, view, download, and share this Customer Data, including in and through their own Services accounts. Customer understands: (a) it is solely Customer's, and its End Users', choice to share Customer Data; (b) Argos cannot control third parties with whom Customer has shared Customer Data; and (c) Customer and its End Users are solely responsible for their use of the Services, including any sharing of Customer Data through the Services.

4. <u>Data Transfers</u>.

   Customer agrees that Argos may transfer Customer Data to and access, use, and store Customer Data in locations other than Customer's country.

5. <u>Payment</u>.

   1. <u>Fees</u>. Customer will pay Argos all applicable Fees for the Services, in the currency and pursuant to the payment terms indicated in the applicable agreement between Customer and Argos. Fees are non-refundable except as required by law or as otherwise specifically permitted in the Agreement.

   2. <u>Payment</u>. Customer will pay Argos invoices on the payment interval set forth in their agreement. Argos may suspend or terminate the Services if Fees are past due. Customer will provide complete and accurate billing and contact information to Argos.

   3. <u>Taxes</u>. Fees are exclusive of taxes and Customer is responsible for all Taxes.

Withholding Taxes. Customer will pay Argos net of any applicable Withholding Taxes.

6. Suspension.

    1. Of End User Accounts by Argos. If an End User: (a) violates the Agreement; or (b) uses the Services in a manner that Argos reasonably believes will cause it liability, then Argos may request that Customer suspend or terminate the applicable End User account. If Customer fails to promptly suspend or terminate the End User account, then Argos may do so.

    2. Security Emergencies. Notwithstanding anything in the Agreement, if there is a Security Emergency, Argos may automatically suspend use of the Services. Argos will make commercially reasonable efforts to narrowly tailor the suspension as needed to prevent or terminate the Security Emergency.

7. Intellectual Property Rights.

    1. Reservation of Rights. Except as expressly set forth herein, the Agreement does not grant: (a) Argos any Intellectual Property Rights in Customer Data; or (b) Customer any Intellectual Property Rights in the Services or Argos trademarks and brand features.

    2. Limited Permission. Customer grants Argos only the limited rights that are reasonably necessary for Argos to deliver the Services.

    3. Suggestions. Argos may use, modify, and incorporate into its products and services, license and sublicense, any feedback, comments, or suggestions on the Services that Customer or End Users may send Argos without any obligation to Customer.

8. Term.

    The Agreement will remain in effect until the date of Termination.

9. Termination.

    1. Generally. Either Party may terminate the Agreement:

    (i) by providing notice to the other Party via e-mail. The Customer may use for that purpose the Unsubscribe function available on Argo's site;

(ii) if the other Party is in material breach of the Agreement; or

(iii) the other Party ceases its business operations or becomes subject to insolvency proceedings.

Argos may terminate this Agreement and suspend Customer's access to the Services if required to do so by law or for an egregious violation by Customer of Terms of Use.

2. <u>Survival</u>. The following sections will survive expiration or termination of the Agreement: 5 (Payment), 7 (Intellectual Property Rights), 9.3 (Survival), 10 (Indemnification), 11 (Disclaimers), 12 (Limitation of Liability), 13 (Disputes), and 14 (Miscellaneous).

10. <u>Indemnification</u>.

1. <u>By Customer</u>. Customer will indemnify, defend, and hold harmless Argos from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of any Claim against Argos and its Affiliates regarding: (a) Customer Data;; or (b) Customer's, or Customer's End Users', use of the Services in violation of the Agreement.

2. <u>By Argos</u>. Argos will indemnify, defend, and hold harmless Customer from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of any Claim against Customer to the extent based on an allegation that Argos's technology used to deliver the Services to the Customer infringes or misappropriates any copyright, trade secret, patent, or trademark right of the third party. In no event will Argos have any obligations or liability under this section arising from: (a) use of any Services in a modified form or in combination with materials not furnished by Argos; and (b) any content, information, or data provided by Customer, End Users, or other third parties.

3. <u>General</u>. The Party seeking indemnification will promptly notify the other Party of the claim and cooperate with the other Party in defending the claim. The indemnifying Party will have full control and authority over the defense, except that: (a) any settlement requiring the Party seeking indemnification to admit liability requires prior written consent, not to be unreasonably withheld or delayed; and (b) the other Party may join in the defense with its own counsel at its own expense. THE INDEMNITIES ABOVE ARE ARGOS AND CUSTOMER'S ONLY REMEDY UNDER THE

AGREEMENT FOR VIOLATION BY THE OTHER PARTY OF A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS.

11. Disclaimer

THE SERVICES AARE PROVIDED "AS IS." TO THE FULLEST EXTENT PERMITTED BY LAW, EXCEPT AS EXPRESSLY STATED IN THE AGREEMENT, NEITHER CUSTOMER NOR ARGOS AND ITS AFFILIATES MAKE ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, OR NON-INFRINGEMENT. CUSTOMER IS RESPONSIBLE FOR USING THE SERVICESIN ACCORDANCE WITH THE TERMS SET FORTH HEREIN AND BACKING UP ANY STORED DATA ON THE SERVICES.

12. Limitation of Liability.

1. Limitation on Indirect Liability. TO THE FULLEST EXTENT PERMITTED BY LAW, EXCEPT FOR ARGOS OR CUSTOMER'S INDEMNIFICATION OBLIGATIONS, NEITHER CUSTOMER NOR ARGOS AND ITS AFFILIATES WILL BE LIABLE UNDER THE AGREEMENT FOR (I) INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR (II) LOSS OF USE, DATA, BUSINESS, REVENUES, OR PROFITS (IN EACH CASE WHETHER DIRECT OR INDIRECT), EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGES WERE POSSIBLE AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

2. **Argos is not responsible or liable in any manner whatsoever in relation to the Data entered by the Customer in the Argos platform. Argos bears likewise no legal or any other type of responsibility regarding the format and content of the standard documents available in the platform and does not guarantee their validity and enforceability under any applicable laws. It is therefore for the Customer to seek, at their discretion, for legal advice in respect thereto.**

3. Limitation on Amount of Liability. TO THE FULLEST EXTENT PERMITTED BY LAW, ARGOS'S AGGREGATE LIABILITY UNDER THE AGREEMENT WILL NOT EXCEED THE LESSER OF $ 10'000.00 OR THE AMOUNT PAID BY CUSTOMER TO ARGOS HEREUNDER DURING THE TWELVE MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

13. Disputes.

1. Informal Resolution. Before filing a claim, each Party agrees to try to resolve the dispute by contacting the other Party through the notice procedures in Section 14.6. If a dispute is not resolved within thirty days of notice, Customer or Argos may bring a formal proceeding.

2. Arbitration. Customer and Argos agree to resolve any claims relating to the Agreement or the Services through final and binding arbitration. The Lausanne Chamber of Commerce will administer the arbitration under its Swiss Arbitration Rules. The arbitration will be held in Lausanne, or any other location both parties agree to in writing. One arbitrator shall settle the dispute. Proceedings in the english language.

14. Miscellaneous.

1. Terms Modification. Argos may revise this Agreement from time to time and the most current version will always be posted on the Argos Business website. If a revision, in Argos's sole discretion, is material, Argos will notify Customer (by, for example, sending an email to the email address associated with the applicable account). By continuing to access or use the Services after revisions become effective, Customer agrees to be bound by the revised Agreement. If Customer does not agree to the revised Agreement terms, Customer may terminate by email the Services within three days of receiving notice of the change.

2. Entire Agreement. The Agreement supersedes any prior agreements or understandings between the Parties, and constitutes the entire agreement between the Parties related to this subject matter. All attachments to this Business Agreement, Customer invoices executed by the Parties, are hereby incorporated into the Agreement by this reference.

3. Interpretation of Conflicting Terms. If there is a conflict between the documents that make up the Agreement, the documents will control in the following order: the invoice,

the Services Addenda, the Business Agreement. The terms and conditions of the Agreement will be considered the confidential information of Argos, and Customer will not disclose the information to any third parties. Customer agrees that any terms and conditions on a Customer purchase order will not apply to the Agreement and are null and void. If End Users are required to click through terms of service in order to use the Services, those click through terms are subordinate to this Agreement and the Agreement will control if there is a conflict.

4. Governing Law. THE AGREEMENT WILL BE GOVERNED BY SWISS LAW.

5. Severability. Unenforceable provisions will be modified to reflect the parties' intention and only to the extent necessary to make them enforceable, and the remaining provisions of the Agreement will remain in full effect.

6. Notice. Notices must be sent via email, first class, airmail, or overnight courier and are deemed given when received. Notices to Customer may also be sent to the applicable account email address and are deemed given when sent. Notices to Argos must be sent to Argos at rue du Simplon 37, 1006 Lausanne, Switzerland

7. Waiver. A waiver of any default is not a waiver of any subsequent default.

8. Assignment. Customer may not assign or transfer the Agreement or any rights or obligations under the Agreement without the written consent of Argos, except that Customer may assign the Agreement to the surviving entity in connection with a merger, acquisition, or sale of all or substantially all of its assets by providing written notice to Argos. Argos may not assign the Agreement without providing notice to Customer, except Argos may assign the Agreement or any rights or obligations under the Agreement to an Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets without providing notice. Any other attempt to transfer or assign is void.

9. No Agency. Argos and Customer are not legal partners or agents, but are independent contractors.

10. Subcontracting. Customer consents to Argos's appointment of Subcontractors, including Sub-processors, to perform the Services. Argos will remain liable for all acts or omissions of its Subcontractors or Sub-processors, and for any subcontracted obligations.

11. <u>Force Majeure</u>. Except for payment obligations, neither Argos nor Customer will be liable for inadequate performance to the extent caused by a condition that was beyond the Party's reasonable control (for example, natural disaster, act of war or terrorism, riot, labor condition, governmental action, and Internet disturbance).

12. <u>No Third-Party Beneficiaries</u>. There are no third-party beneficiaries to the Agreement. Without limiting this section, a Customer's End Users are not third-party beneficiaries to Customer's rights under the Agreement.

15. <u>Definitions</u>.

1. *Access" means the access by the Customer to the Services via the SwissID or SwissSign authentication tools.

2. "<u>Account Data</u>" means the account and contact information submitted to the Services by Customer or End Users.

3. "<u>Administrator</u>" means a Customer-designated technical End User who administers the Services to End Users on Customer's behalf, through multiple tiers.

4. "<u>Admin Account</u>" means an administrative account provided to Customer by Argos for the purpose of administering the Services.

5. "<u>Admin Console</u>" means the online tool provided by Argos to Customer for use in administering the Services.

6. "<u>Affiliate</u>" means any entity that controls, is controlled by or is under common control with a Party, where "control" means the ability to direct the management and policies of an entity.

7. "<u>Agreement</u>" means, collectively, this Business Agreement and any Services Addenda entered into by the Parties.

8. "<u>Claim</u>" means a claim by a third party, including a regulatory penalty.

9. "<u>Customer Data</u>" means Stored Data, Account Data, and messages, comments, structured data, images, and other content submitted to the Services by Customer or End Users.

10. "<u>Effective Date</u>" means the date this Business Agreement is last signed by a Party.

11. "End Users" means users of Customer's Services account. End Users may include Customer's and its Affiliate's employees and consultants.

12. "End User Account" means an Argos hosted account established by Customer through the Services for an End User.

13. "Fees" means the amounts invoiced to Customer by Argos for the Services.

14. "Intellectual Property Rights" means current and future worldwide rights under patent, copyright, trade secret, trademark, moral rights, and other similar rights.

15. "Personal Data, "Process," and "Processing"" have the meaning given to those terms in the Swiss Data Protection Laws.

16. "Security Emergency" means: (i) use of the Services that do or could disrupt the Services, other customers' use of the Services, or the infrastructure used to deliver the Services; or (ii) unauthorized third-party access to the Services..

17. "Services" means the services ordered by Customer on the _____

18. "Service Limits" means rate, storage, End User or other limits on Customers use of the Services.

19. "Stored Data" means the files uploaded to the Services using the Software by Customer or End Users.

20. "Subcontractor" means an entity to whom Argos subcontracts any of its obligations under the Agreement.

21. "Sub-processor" means an entity who agrees to Process Customer Data on Argos's behalf, or on behalf of another Argos sub-processor, in order to deliver the Services.

22. "Taxes" means any sales, use, value added, goods and services, consumption, excise, local stamp, or other tax, duty or other charge of any kind or nature excluding tax that is based on Argos's net income, associated with the Services or Software, including any related penalties or interest.

23. "Withholding Taxes" mean any income taxes that are imposed on Argos or Customer's reseller in which Customer is required by law to withhold or deduct on the payment to Argos or Customer's reseller.