



**MODEL AGREEMENT  
RELATING TO *tScheme*  
REGISTERED APPLICANTS**

Ref. tSd0253

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**MODEL AGREEMENT  
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REGISTERED APPLICANTS**

(Document reference: tSd0253)

An Agreement between

**tScheme Limited**

and an

Electronic Trust Services Provider

regarding

Specified Electronic Trust Services

## Agreement Made Between

[ ]

and

**tScheme Limited**

on [dd mmm yyyy]

### A. DEFINITIONS

#### 1. In this Agreement:

"Approval" means the formal ratification by tScheme that the Service meets the requirements of a tScheme approval profile and that the Supplier has entered into an agreement with tScheme in regard to its future conduct of the named service.

"tScheme" means the company incorporated under the name tScheme Limited under company number 04000985 whose registered office is at 15 Court Lodge, Shorne, GRAVESEND, Kent, DA12 3EQ, United Kingdom.

"Code of Conduct" means the guiding principles, mandated from time to time by tScheme, for the regulation of the conduct of itself, its members and electronic trust services providers operating electronic trust services approved by tScheme, the extant version being appended to this agreement.

"Service" means the electronic trust service or services offered by the Supplier and described in Schedule A.

"Supplier" means the provider of electronic trust services known as [ ] whose registered office is at [ ] and whose address for the service of notices is [ ].

Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, digital representation and other modes of representing or reproducing words in an intelligible form.

References to Schedules, Appendices and Clauses are references to schedules, appendices and clauses of this agreement.

Where tScheme is required to give notice of a change of scale of fees, Code of Conduct or other arrangement generally applicable to all agreements of this type, it shall be sufficient for tScheme to post such on its public Web site, provided that tScheme also sends an electronic alert to the Supplier. The notice period shall commence on the day when tScheme transmits the alert.

Words importing the singular number only shall include the plural number and vice versa. Words importing the masculine gender only shall include the feminine gender and words importing persons shall include corporations.

## B. GRANTS

2. tScheme grants to the Supplier on receipt of the Clause 7 payment and for the duration of this agreement:

- (a) a non-transferable, non-exclusive licence to claim "tScheme Registered Applicant" status in regard to the Service, including on the Supplier's Web site or sites relating to the Service, and to display any mark which tScheme uses to indicate such status;
- (b) the inclusion of the Supplier's and the Service's names and descriptions on tScheme's Web site as having "tScheme Registered Applicant" status or equivalent; and
- (c) reasonable access to expert advice and guidance on the achievement of tScheme Approval for the Service as described in Clause 10.

## C. UNDERTAKINGS

3. The Supplier undertakes:

- (a) to complete a specification of the Service in the form of a tScheme "Preparing for Assessment" document;
- (b) to appoint a tScheme Accredited Assessment Body; and
- (c) to commence assessment of the Service

within the periods described in the timetable appended to this agreement, as varied by mutual agreement in writing.

4. The Supplier undertakes to subscribe to the tScheme Code of Conduct appended to this agreement for the duration of this agreement.

5. The Supplier undertakes not to use any tScheme mark or to make any claim in regard to tScheme Approval or otherwise of the Service, of itself or any other of its

services which does not comply with its contractual rights under this or any other agreement with tScheme.

6. The Supplier undertakes to display any tScheme mark, whether on its Web site or elsewhere, in strict compliance with tScheme's standards as published from time to time.

D. PAYMENT

7. The Supplier will pay tScheme the agreed registration fee on commencement of this agreement.
8. tScheme agrees to reduce any subsequent Approval fee for the Service by an equal amount, providing that the Supplier adheres to the timetable appended to this agreement, or as varied by mutual agreement, and providing that such Approval fee falls due within twelve months of the date of this agreement.
9. The registration fee is non-refundable.

E. ADVICE AND GUIDANCE

10. For the purposes of providing advice and guidance under Clause 2 (c), tScheme will at its discretion:
  - (a) answer at no further charge relevant questions submitted to it in writing or by telephone;
  - (b) meet at no further charge with the Supplier's representatives at tScheme's premises for the purposes of discussing Approval of the Service; and
  - (c) introduce the Supplier to other independent experts on tScheme who may then charge the Supplier for their services.
11. tScheme does not accept liability for the accuracy or appropriateness of any advice and guidance given, except where this is specifically stated in writing at the time of the giving of that advice or guidance, and does not accept liability for failing to provide advice or guidance within any particular time.
12. tScheme reserves the right to decline to provide advice and guidance but undertakes not unreasonably to decline.

F. TERMINATION AND EXTENSION

13. This agreement shall terminate on the date shown in the appended timetable or earlier by thirty days' notice in writing by either party, unless extended by mutual agreement in writing.

14. tScheme reserves the absolute right to refuse to extend this agreement.
15. The Supplier acknowledges that each extension will require the payment of a further registration fee by the Supplier to tScheme at the rates then in force, unless waived by tScheme at its discretion.
16. Where the Supplier pays extension fees, only the most recent fees apply in abating subsequent Approval fees for the Service.
17. tScheme shall be entitled to terminate this agreement and the licence granted hereunder by written notice to the Supplier in the event of:
  - (a) any material breach by the Supplier of any of its obligations under this agreement which, being a breach capable of remedy, is not remedied within thirty days of notice to the Supplier specifying the breach and requiring its remedy (and for this purpose non-payment of fees under Clause 7 shall constitute a remediable, material breach);
  - (b) the Supplier challenging tScheme's title to any Mark;
  - (c) any meeting of the Supplier's creditors being held or any arrangement or any composition with or for the benefit of its creditors (including any voluntary arrangement as defined in the Insolvency Act 1986) being proposed or entered into by or in relation to the Supplier;
  - (d) a supervisor, receiver, administrator, administrative receiver or other encumbrancer taking possession of or being appointed over or any distress execution or other process being levied or enforced (and not being discharged with seven days) upon the whole or any substantial part of the Supplier's assets;
  - (e) the Supplier ceasing or threatening to cease to carry on business or being or becoming or appearing unable to pay its debts within the meaning of Section 123 or 268 of the Insolvency Act 1986;
  - (f) a petition being presented or a meeting being convened for the purpose of considering a resolution for the making of an administration order or the winding up, bankruptcy or dissolution of the Supplier; or
  - (g) any event analogous to any of the foregoing occurring in any jurisdiction.

G. GENERAL

18. This agreement together with any documents to which it refers constitutes the whole agreement between the parties relating to its subject matter.

19. No variation of this agreement shall be effective unless made in writing.
20. If any provision of this agreement shall be held to be illegal, void, invalid or unenforceable under the laws of any jurisdiction, the legality, validity and enforceability of the remainder of this agreement in that jurisdiction shall not be affected and the legality, validity and enforceability of the whole of this agreement shall not be affected in any other jurisdiction.
21. No failure to exercise nor any delay in exercising any right, power, privilege or remedy under this agreement, by either party to this agreement, shall impair or operate as a waiver of such right, power, privilege or remedy.
22. Any notice required to be given under this agreement or in connection with the matters contemplated in it shall, except where otherwise specifically provided, be in writing and be:
  - (a) personally delivered, in which case it shall be deemed to have been given upon delivery at the relevant address of the party in question specified in this agreement or notified for the purpose of this agreement, or if delivered outside business hours on the next business day;
  - (b) sent by first class, pre-paid post to the relevant address, in which case it shall be deemed to have been given forty eight hours after posting;
  - (c) sent by facsimile, in which case it shall be deemed to have been given when dispatched subject to confirmation by transmission report of uninterrupted transmission, or if sent outside business hours on the next business day; or
  - (d) sent by electronic mail, in which case it shall be deemed to have been given one hour after dispatch by the sender, subject to no notification of non-delivery being reported to the sender, or if sent outside business hours on the next business day.
23. Nothing in this agreement shall constitute or be deemed to constitute a partnership between the parties nor, except as expressly provided, shall it constitute or be deemed to constitute either party being or becoming the agent of the other party for any purpose.
24. The rights of the Supplier under this agreement are personal and the Supplier shall not be entitled to assign, transfer, delegate, sub-contract or sub-license any of the rights or obligations under this agreement without the prior written consent of tScheme.
25. The Supplier shall notify tScheme forthwith should the Supplier undergo a change of control in respect of itself or its holding company or ultimate holding company or any change in managerial control that might be prejudicial to tScheme or to

tScheme's belief in the Supplier's ability to comply with the terms of this agreement.

H. LIMITATION OF LIABILITY

- 26. Neither party shall be liable to the other party for any indirect or consequential loss (including, without limitation, loss of profits, business interruption and loss of information) whether arising from negligence, breach of contract or otherwise, whether or not the other party notified the first party of the possibility of such loss.
- 27. tScheme shall have no liability in relation to the conduct of Assessors.

I. LAW AND JURISDICTION

- 28. Except as otherwise expressly agreed in this agreement, nothing in this agreement confers any rights on any person (other than the parties hereto) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 29. This agreement shall be governed by and construed in accordance with the laws of England and Wales and each of the parties irrevocably submits to the non-exclusive jurisdiction of the Courts of England and Wales and waives any objection to the proceedings in such courts of venue or on the grounds that the proceedings have been brought in an inconvenient forum.

In witness whereof this Agreement has been entered into on the date set out above.

Signed by .....

duly authorised for and on behalf of .....

Signed by .....

duly authorised for and on behalf of tScheme Limited

## **Schedule A**

[Identifying description of the Service – outline S3A]

## Timetable

Event	Period after agreement date
Complete the specification of the Service in the form of a tScheme "Specification of Service Subject to Assessment" document	P
Appoint a tScheme Accredited Assessment Body	Q
Commence assessment of the Service	R
Submission of assessment Report with a formal application for tScheme approval	S
Agreement termination unless superseded	T

## Appendix 1

### **The *tScheme* Code of Conduct**

Participants in the electronic trust services industry strive:

- to act in an honest, fair, reasonable and trustworthy manner;
- not to bring electronic trust services into disrepute;
- to provide clear information about what each electronic trust service provides, including limitations and exclusions, to those who rely on that service;
- to meet service commitments and obligations;
- to be proactive in identifying and correcting faults and deficiencies in electronic trust services;
- to operate in accordance with appropriate standards;
- to act promptly in resolving complaints relating to electronic trust services.