

## **General Terms and Conditions**

### **for Sale of Products and Licensed Materials**

This document contains the standard commercial conditions of sale of **Deltatel SRL**, a company incorporated under the laws of Romania, with its principle business office at 11 Gheorghe Lazar street, Timisoara, Romania and postcode: 300081, CUI number: 15434490, J35/1133/15.05.2003, relating to supply the Business Partner (referred to as "**Partner**") with the products ("**Products**"), software as a service ("**Licensed Materials** ") and services ("**Services**") (herein together "**Products**") set out elsewhere in the General Terms and Conditions of Sale (the "**GTC**") . In case of ambiguity or contradiction with other documents forming part of the GTC, these Conditions shall prevail. It is envisaged that these GTC are integral part of the Distribution Agreement (the "**Contract**" or "**the Agreement**") between Deltatel and/or an affiliated company (together referred to as "**Deltatel**") and the Partner.

The Appendices of the GTC are:

Appendix A – Definitions;

Appendix B – Software as a Service;

Appendix C – Warranty of the Products and Licensed Materials; Terms and conditions of the Warranty;

Appendix D – Partner Program

Appendix E – Data Processing Agreement.

#### **1. SCOPE OF THE GTC**

These GTC describe the terms and conditions under which Deltatel shall furnish Products and Licensed Materials to Partner for the purposes of selling, leasing, installing, providing L1 and L2 technical support ("**Services**") or otherwise furnishing such Products and Licensed Materials by the Partner in the Territory to end-user customers. The Products and Licensed Materials which are under the scope of work shall be individualized in the Distribution Agreement.

#### **2.ASSIGNMENT AND SUBCONTRACTING**

2.1. Deltatel shall be entitled - upon prior notification to Partner - to subcontract its obligations, in whole or in part, at its own risk and under its full responsibility, to any Deltatel Affiliate or Third Party.

Partner shall not be allowed to assign, to subcontract or otherwise transfer its rights and obligations, in whole or in part, under this Agreement without the prior written agreement from Deltatel. However, subject to prior written approval by Deltatel, Partner Affiliates shall be entitled to assume the rights and obligations of this Agreement under the terms and conditions of the Adoption Agreement to be signed between Deltatel and Partner Affiliate, as further mentioned in Article .2.2 "Extended Partnership" below.

## **2.2. EXTENDED PARTNERSHIP**

Upon screening by Deltatel and at its sole discretion, Deltatel may agree to sell Deltatel Products and Licensed Materials to Partner's Affiliates. Such extended Partnership will be based - at Deltatel's option - on a separate Partner Agreement or on the signature of the Adoption Agreement .

## **2.3. RELATIONSHIP OF PARTIES**

Either Party hereby declares and represents that they are engaged in an independent business and will perform their obligations under the Contract as independent contractors. It is understood that Partner shall buy and resell the Deltatel Products and Licensed Materials in its own name and for its own account and that neither Party hereto shall be constituted as an agent or representative of the other nor shall have the power to assume or create any obligation or responsibility on behalf of or in the name of the other Party or to bind the other Party in any manner.

## **3. BUSINESS ETHICS AND COMPLIANCE MATTERS**

- a. Partner acknowledges to be fully acquainted with Deltatel's Business Ethics and Compliance rules and undertakes to apply the principles set out therein with respect to the performance of this Agreement, in particular with reference to non-discrimination of employees, combating bribery of domestic and foreign public officials, protection of international human rights and environmental responsibility. Partner recognizes that violation of such principles will be considered as a breach of the Agreement.
- b. In addition, the following compliance matters shall apply:
  - (i) Partner warrants that it as well as its directors, officers, employees and shareholders, in the Territory and other countries, have not been convicted of or pleaded guilty to an offence involving fraud, corruption or money-laundering and that is not now listed by any government authorities as debarred, suspended or otherwise ineligible for government procurement programs.
  - (ii) Partner shall not be authorised to offer, promise or give any undue pecuniary or other advantage to any public official for any purpose which may contravene any applicable laws, including but not limited to those of the Territory and such laws and regulations as may be enacted pursuant to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or the United Nations Convention against Corruption; and
  - (iii) Upon reasonable notice, Deltatel shall be given access to Partner's files, books and records to the extent they pertain to the performance of the Parties' obligations under this Agreement, notwithstanding the termination or expiry date of this Agreement.

Partner accepts that this Article constitutes a condition of the Agreement and that any violation of any of the principles indicated or referred to herein above will be considered as a material breach of the Agreement, allowing Deltatel to terminate the Agreement with immediate effect, without Deltatel incurring any liabilities in respect of such termination and without prejudice to any remedies Deltatel may have in law or in contract in respect of such breach.

#### **4. PARTNER BUSINESS PLAN, FORECAST AND REPORTING**

- a. Upon the Effective Date and further at the beginning of the third quarter of each calendar year, Partner shall provide to Deltatel an annual Business Plan detailing - per quarter of the next calendar year - at least sales projections and targets, the defined markets and size, the market trends, the focused accounts, the expected marketing and technical activities, the training requirements and resource projections for the partnership. The Partner's Business Plan - to be validated by Deltatel - is intended to be dynamic and is subject to regular reviews and updates.
- b. After a period of 3 months from signature date of the Contract, on a monthly basis (first Business Day of each month) and in a manner and format to be agreed between the Parties - Partner shall present to Deltatel following reports:
  - (i) A twelve (12) month orders Rolling Forecast broken down into categories of Products/Solutions and countries as part of the Territory; and
  - (ii) A Report presenting a snapshot with basic information about prospective projects e.g. opportunity description, opportunity probability, business value, timeline, etc.; and
  - (iii) A Sales Report supplying Deltatel with current, legible, accurate and complete records of sold Products/Solutions, including Shipment Date and/or Installation date, Product serial or Release numbers, the End-User prices offered by the Partners and full names and addresses of Customers to whom the Products/Solutions have been supplied. Partner shall allow Deltatel to audit such records at any time during normal Business Hours; and
- c. The provision of above-mentioned Business Plan and reports are an integral part of the Agreement. In case the Business Plan and/or reports are non-existing or not satisfactory to Deltatel, it will be considered as a material breach of the Agreement, allowing Deltatel to terminate the Agreement in accordance to Article -"Term and Termination" below.

#### **5. ORDERING PROCEDURE**

##### **5.1. Placement of Purchase Orders**

- a. The Partner's Purchase Order shall constitute a firm offer to purchase and shall contain the following information:
  - (i) PO number, PO date, sold-to address, billing-to address, Ship-to Location and signature by authorized signatory; and
  - (ii) The full company name of the Partner or Partners' Affiliate, the ultimate company name and address of the End-Customer for whom any Products and Licensed Materials or other Service is intended; and
  - (iii) The quantity, Part number and short description of the Deltatel Contracted Products and Licensed Materials or other Service ordered; and

- (iv) The applicable purchase price and discount of each item as per Deltatel Price List or as agreed between the Parties in writing; and
  - (v) The Ship-to Location, Incoterms and shipping instructions (in accordance with the terms of the Agreement or as explicitly agreed between the Parties in writing) and a contact person (name, telephone number and email address); and
  - (vi) Any other particulars as may have been agreed between the Parties.
- b. Purchase Orders shall be submitted - either electronically or via traditional manual methods as mutually agreed by the Parties - to Deltatel at the address shown in the preamble of this contract . Deltatel shall notify the Partner prior to any change of such address.
  - c. The terms and conditions of this Contract shall be the sole and exclusive terms and conditions governing the sale and delivery of the Deltatel Products and Licensed Materials , whether or not this is stated on the Purchase Order. No term or condition - including any pre-printed terms and conditions - on any Purchase Order or other commercial document of Partner which conflicts with the terms and conditions of this Agreement or imposes any additional or greater obligation on Deltatel shall be of any force or effect. Any other modification to the terms of this Agreement contained in a Purchase Order shall not be effective unless accepted by both Parties in writing, such acceptance not to be unreasonably withheld.

## **5.2. Acceptance of Purchase Orders**

- a. Unless otherwise explicitly notified - within five (5) Business Days from the receipt of the Purchase Order - by Deltatel to the Partner in writing, the issue of a Purchase Order by the Partner for Deltatel Products and Licensed Materials should be accepted by Deltatel. If Deltatel is unable to accept the Purchase Order (or part thereof), Deltatel notification shall state the modifications necessary to make it acceptable. The proposed modifications shall not be binding on either Party until accepted in writing by both Parties.
- b. Deltatel shall not incur any liability if it decides not to accept a Purchase Order.

## **5.3. Modification or cancellation of Purchase Orders**

Partner may request additions, alterations, deductions, or deviations to a Purchase Order subject to the condition that such changes and any adjustments resulting from such changes including, but not limited, to contents, Shipment Date and prices, shall be mutually agreed upon and, if so agreed, subsequently detailed by Partner in a written revision to the applicable Purchase Order.

- 5.4. **CHANGES TO ORDERS:** Partner may request changes to an Order (“Change Request”) that Deltatel has previously accepted. In response to a Change Request, Deltatel will provide written quotations, including any changes to prices, license fees, shipment, or completion dates. A Change Request will be treated as a separate Order subject to Deltatel change order process.

- 5.5. **CHANGES IN PRODUCTS OR SOFTWARE:** At any time prior to shipment, Deltatel may inform the Partner about changes to Products or Software made by the Deltatel. The Deltatel may modify the drawings, documentation or Specifications for Products or Software or substitute Products or Software of later design.

If such changes impact a Product's or Software's form, fit or function, under normal use as provided in the Specifications, Deltatel shall advise Partner at least 15 days prior to the date the change takes effect. If Partner objects to the change, Partner shall notify Deltatel within 15 days of the date of Deltatel's notice. On receipt of Partner's notice, Deltatel shall not fulfill any Orders in process with the modified Product or Software to which Partner objected.

**DISCONTINUED PRODUCTS:** Except for Products specifically manufactured, customized, and/or modified in accordance with Partner's or Partner's end-user customer's specifications or requirements, Partner may return discontinued Product(s) for credit within 30 days of the discontinued availability notification date for that particular Product(s). Such credit must be used for a future purchase of Product(s) within six months of granting or such credit will be forfeited. In the event the Partner does not return the discontinued Product(s) to Deltatel within the 30-day period, Deltatel is under no obligation to accept the discontinued Product(s) and no credit will be issued.

## 6. TITLE AND RISK OF LOSS:

6.1. Title to the Hardware Products shall pass on to and vest in the Partner upon full payment for the concerned Products and Licensed Materials. If the Partner will sign an agreement with a Customer and will be under necessity to pass further the title to Hardware and Products prior to the full payment of the concerned Products to Deltatel, the parties shall meet and negotiate this provision separately. Title to all Software, Documentation and other licensed materials provided to the Partner and/or Customer shall remain solely vested in Deltatel or its licensors.

6.2. Risk of loss or damages to Deltatel Products shall pass to the Partner upon delivery in accordance with the applicable Incoterms.

## 7. GRANT OF LICENSE:

The license for Licensed Materials with shrink-wrap licenses shall be as provided in those licenses and shall be provided by Partner in their unopened original package to the end-user customer.

For all Licensed Materials that are provided to Partner for its own use or reseller/end-customer use, Deltatel grants a personal, non-transferable, and non-exclusive license to use Licensed Materials on or with the corresponding Product(s) (on which the Software was loaded or designated by the Deltatel to be installed) in the Territory for demonstration purposes only.

Partner shall reproduce and include Deltatel's (or its licensor's) copyright and proprietary notice on all such necessary copies of Licensed Materials. Partner shall maintain records of the number and location of all copies of Licensed Materials. Partner shall not reverse engineer, de-compile or disassemble any Licensed Materials furnished as object code to generate corresponding source code.

Deltatel grants to Partner the right to sublicense Licensed Materials to its end-user customers subject to the terms and conditions of the Software as a Service set forth in Appendix B. Specifically, the Partner shall

deliver and bind its end-user customers to the requirements outlined in Appendix B, prior to the installation and use of the Software by any such end-user customer. The Deltatel may, at its discretion, electronically audit Software provided under this Agreement to verify compliance with the license provisions of this Agreement and Appendix B.

## **8.WARRANTY OF PRODUCTS AND LICENSED MATERIALS. EXTENDED WARRANTY**

### **8.1.Warranty on Products**

Deltatel hereby warrants the Equipment to be free from defects in materials and workmanship under normal use and service for a period of 12 months after the signature by both parties of the Acceptance Certificate . The Partner shall notify Deltatel of the defects in writing within fourteen (14) working days after the defects are discovered.

The defects will be remedied at Deltatel's expense by repair or replacement at Deltatel's option. Deltatel shall warrant repaired or replacement items under the same conditions as above.

The Partner accepts and undertakes to stock an additional amount of products mutually agreed by parties in order to replace fault products to be delivered to end-customer within and/or out of the warranty period.

In case the Partner wishes Deltatel to provide maintenance and support services after the expiry of the above-mentioned warranties, the Parties will enter into a separate annual maintenance and support contract of terms and conditions to be agreed.

In case of user errors such as installation of the Mobile Data Device outside authorized services, malicious use, use outside terms and conditions stated in user's manual and/or use contrary to purpose, opening the inside of the device, tampering with hardware, breaking the antenna, damages to the device due to accidents of the vehicle, required maintenance and repair shall be not covered by the warranty.

With regard to failing products which are out of warranty, Deltatel shall notify the repair price to the Partner within maximum 15 days following receipt of said device. In case Partner accepts the repair price, the device shall be repaired within reasonable time within technical possibilities and sent to the Partner. The shipping costs shall be borne by the Partner.

### **8.2.Warranty on Software**

Deltatel warrants that the Software shall be in conformity with the functions described in the Technical Specifications for a period of 12 months after the date of delivery. During the warranty period, Deltatel will, at its own expense, promptly correct or bypass, pursuant to its own standards, all reproducible malfunction and/or anomaly within a period of time to be agreed by both Parties depending on the nature and severity of malfunctions.

In case of user errors such as installation of software on computer configurations that are not suitable for the system, or other user based errors require maintenance and repair shall be not covered by the warranty.

### **8.3.Extent of warranties**

After the elapse of the warranty period, in return for a fee, the Parties agree to enter into an extension period for successive periods of 12 months additional warranty on Products and Licensed Materials, on conditions to be further agreed by the Parties.

Partner shall communicate and pass through to its end-user customers Deltatel's warranty as set forth in Appendix D. Deltatel's sole and entire liability with regard to the Products and Software sold or licensed hereunder is to attempt first to repair or replace such Product or Software without charge at its manufacturing or repair facility or, if repair or replacement is not feasible, then provide a credit or refund equal to the original purchase price. Where credit or refund of the original purchase price paid under this Agreement is Deltatel's only feasible option, Partner shall cooperate with Deltatel to facilitate the issuance of the appropriate credit or refund back to Partner's end-user customer, however, the initial intention of the Partner will be to replace any fault devices from the stock.

Except as expressly provided in this Agreement, all other conditions, warranties, terms, undertakings, statements and / or representations of any kind whatsoever, express or implied, whether by statute, common law, in any communication with Deltatel, Partner and the End User Customer or otherwise are excluded from this Agreement to the fullest extent permitted by law.

## **9. INFRINGEMENT:**

9.1. In the event of any Infringement Claim, subject to the conditions and exceptions stated below, Deltatel, at its expense, will defend Partner; will reimburse Partner for any cost, expense or attorneys' fees incurred at Deltatel's written request or authorization; and will indemnify Partner against any liability assessed against Partner in a final judgment.

9.2. If Partner's use is enjoined or in Deltatel's opinion is likely to be enjoined or subject to a Infringement Claim, Deltatel, at its expense and at its option, (i) will replace such Product or Licensed Materials furnished pursuant to this Agreement with a suitable substitute free of any infringement; (ii) will modify them so that they will be free of the infringement; (iii) will procure for Partner a license or other right to use them; or (iv) procure for Partner a right to sell it. If none of the foregoing options are practical, Deltatel will remove the enjoined Product or Licensed Materials and refund to Partner any amounts paid to Deltatel for them less a reasonable charge for any actual period of use by Partner.

9.3. Partner shall give Deltatel prompt notice of all Infringement Claims, and Deltatel shall have full and complete authority to assume the sole defense of them, including appeals, and to settle same. Partner shall, upon Deltatel's request and at Deltatel's expense, furnish all information and assistance available to Partner and cooperate in every reasonable way to facilitate the defense and settlement of any Infringement Claim.

## **10. DELIVERY PROCEDURE**

### **10 Delivery terms**

a. Unless the Parties mutually agree otherwise, Deltatel shall pack the Products for transportation in accordance with its commercial standards and apply the Incoterms for shipments. Prices are expressed in Euro , Incoterms Ex Works Timisoara.

- b. Deltatel's Shipment Date shall be based on standard delivery lead times for the concerned Deltatel Products/Solutions as communicated between the Parties. The delivery time shall be determined from the acceptance by Deltatel of Partner's Purchase Order and be subject to the issuance of any necessary export/import permits and licenses and fulfillment by the Partner of its payment obligations. Exceptionally and upon request from the Partner for a deviation from the said standard delivery lead times, Deltatel shall use reasonable commercial efforts to meet Partner's requested Shipment Date.
- c. Upon prior notification by Deltatel and upon written acceptance by the Partner, Deltatel may apply partial shipments in fulfillment of any Purchase Order.
- d. Deltatel may restrict or suspend - wholly or partially - the supply of the Products in spite of any Purchase Order placed by the Partner in the event of any breach of the Partner's obligations or failure of the Partner to meet its obligations and liabilities under this Agreement
- e. The Parties shall notify the other Party promptly of any event that is likely to cause a delay or rescheduling in the delivery of Deltatel Products. The new Shipment Date shall be agreed on by the Parties as soon as possible.
- f. In no event shall Deltatel be liable for damages of any kind whatsoever to Partner or any other entity for failure to deliver or for any delay or error in delivery of Products. Delay in delivery of any shipment pursuant to a specific Purchase Order issued by Partner hereunder shall not relieve Partner of its obligation to accept remaining deliveries.

## **11. PARTNER DEPLOYMENT SERVICES**

- a. Unless otherwise agreed between the Parties, the Deployment Services shall be carried out by the Partner.
- b. The Partner shall ensure that - at all times during the term of this Agreement - its Installation and Commissioning personnel are skilled and knowledgeable of Deltatel Products/Solutions about their concept, use, Installation and Commissioning as prescribed by Deltatel in the Documentation and/or Specifications. Such competences can be acquired through Deltatel training courses and/or Certification programs.
- c. As a reference, the Deployment Services shall include without limitations following typical tasks:
  - (i) Inspection of the Site status and/or Site preparation (e.g. technical installations, cabling, connections, power supply, air-conditioning); and
  - (ii) Verification that the delivered Hardware and/or Software Products are in accordance with the Current Version; and
  - (iii) Mounting and fixing of racks/cabinets, assembly of equipment devices, connecting with power supplies and peripheral devices (if applicable); and
  - (iv) Network integration and Software data configuration or reconfiguration; and
  - (v) Installation of any mandatory Patch Release as instructed by Deltatel (if applicable); and



- (vi) Set-up and testing of the mandatory Remote Access infrastructure (to be defined and agreed between the Parties); and
- (vii) Performing Hardware and/or Software field testing; and
- (viii) Removal and disposal of packing material at an ecologically justified manner and/or obsolete equipment or in accordance to the WEEE provisions as outlined in Article 14 ["Environmental Provisions"] below.

### **Acceptance of deliveries without deployment by Deltatel**

- a. Unless the Parties mutually agree otherwise, the Partner shall be responsible to carry out the Deployment Services as stated in Article 11.2. ["Partner Deployment Services"].
- b. Prior to the shipment of any Deltatel Products to the Partner or Customer, Deltatel shall inspect the Products in accordance with Deltatel's standard inspection procedures to ensure that the Products comply in all respects with the Specifications.
- c. Upon the arrival of the Products and during the unpacking, the Partner shall check:
  - (i) The packing for any visible external damage and in case of damage or deemed damage, Deltatel must be informed immediately in writing as to safeguard all rights versus the forwarder and/or the insurance company; and
  - (ii) The packing list(s) and ensure that the shipment(s) are complete and correct. In case of any anomaly, the Partner shall immediately notify Deltatel in writing thereof and the Parties shall agree on the shortest possible delivery time to replace the defective Deltatel Products, deemed rejected by Partner, and/or the additional Deltatel Products for the missing Parts.
  - (iii) A Certificate of Acceptance of Products and License Materials will be signed by the Parties no later than 5 days after the shipment date. In case The Partner does not sign the Acceptance Certificate without justifying reasons, Deltatel shall be entitled to sign unilaterally the Acceptance Certificate, and such signature will confer legal effect to the unilateral Acceptance Certificate as if it was signed by both parties .

## **12. PARTIES' OBLIGATIONS:**

### **(a) Deltatel's Obligations:**

Deltatel shall:

- (i) Provide or arrange for technical assistance and training Deltatel requires of Partner with regard to sales of the Products, Licensed Materials, and Services. In such case, Partner will provide for related lodging and transportation expense for its employees. If Partner requests additional technical assistance or training, Deltatel will provide or arrange for it upon such terms, conditions and prices as the parties shall mutually agree;
- (ii) At its expense, and at its discretion, during the Term of this Agreement, furnish Partner with such quantities, as shall be determined by Deltatel, of its standard information relating to the Products, Services and Licensed Materials. Upon the request of Partner, Deltatel shall furnish additional quantities at Deltatel's then Applicable Prices, and where possible, Deltatel shall provide such materials to Partner on Deltatel- provided Internet web sites;

(iii) Provide or arrange for in-warranty and out-of-warranty repair services in accordance with its standard procedures; and

(b) Partner's Obligations:

Partner shall:

- (i) Use best efforts to promote, market and expand the selling or furnishing of Products, Licensed Materials and Services within the Territory, including maintaining a sales organization capable of demonstrating to its end-user customers the use and capabilities of the Products and Licensed Materials and their applications, and that actively and effectively solicits Orders within the Territory;
- (ii) Provide its personnel with all training that Deltatel reasonably determines to be necessary for Partner to maintain a staff of competent sales and technical personnel conversant in the specifications, features and advantages of Products, Services and Licensed Materials. Partner shall participate in any training programs that Deltatel recommends and provides at no charge to Partner. Partner shall also have the option to participate in other relevant training sessions provided for a fee;
- (iii) Obtain and maintain all government licenses, permits and approvals which are necessary or advisable for performance of Partner's obligations under this Agreement;
- (iv) Meet and maintain the Minimum Purchase Objective(s). This Objective shall be offset solely by purchases made under this Agreement;
- (v) Refrain from taking any action which would cause Deltatel to be in violation of any law, statute, rule, regulation, or code of any jurisdiction;
- (vi) Provide Deltatel with a monthly point-of-sale report in a format acceptable to Deltatel ;
- (vii) Offer technical support and training to end-user customers in the effective use of the Products and Licensed Materials, including providing instructional material furnished by Deltatel;
- (viii) Maintain an advertising program and participate in trade shows for the Products and Licensed Materials and utilize and distribute any promotional materials (e.g., advertising, sales literature and brochures) which Deltatel provides;
- (ix) Allow or arrange for access by Deltatel's personnel to Partner's and/or its end-user customer's sites and to the Products and Licensed Materials as necessary for Deltatel to perform its obligations hereunder;
- (x) Minimum Purchase Volume – as per the option expressed and included in Appendix D, Partner will be categorized on one of the partner levels (Bronze, Silver, Gold) per rules and criterias defined in Appendix D – Partner Program.

### **13. REGULATORY APPROVALS**

The Partner shall ensure compliance with all applicable requirements of federal, regional, state and local laws, ordinances, administrative rules and regulations. If applicable, the Partner shall be responsible - at its expense - for obtaining from such competent authorities in the Territory any approval or administrative authorization required for the introduction, sale and operation of the Products and Licensed Materials in the Territory .

#### **14. ENVIRONMENTAL PROVISIONS**

The Partner shall be responsible - at no cost for Deltatel - for the proper collection, disposal/recycling of the waste of any Hardware Product(s) supplied by Deltatel or the obsolete Hardware Product(s) being replaced by the Hardware Product(s) supplied by Deltatel under this Agreement in accordance with the applicable laws.

#### **15. USE OF CONFIDENTIAL INFORMATION**

All Confidential Information shall belong to the Party disclosing it. The disclosing Party grants the receiving Party the right to use Confidential Information only for purposes expressly permitted in this Section. Deltatel shall use Partner's Confidential Information only to perform Deltatel's obligations under this Agreement. Partner shall use Deltatel's Confidential Information only to Order, evaluate, market, or provide service with respect to, the Products, Licensed Materials, and Services furnished hereunder. The receiving Party (i) shall not reproduce or copy the disclosing Party's Confidential Information, in whole or in part, except as authorized in this Agreement or in writing by the disclosing Party; (ii) shall return or destroy (at the disclosing party's option) the Confidential Information (including any full and partial copies) when no longer needed or when requested to do so by the disclosing Party; (iii) shall hold the Confidential Information in confidence; (iv) shall disclose Confidential Information only to those employees and independent contractors who have a need to know and use the Confidential Information for the permitted purposes, provided that the independent contractors have agreed in writing to maintain the confidentiality of the information and are not employees of any competitor of Deltatel. The receiving Party shall provide the disclosing Party, at its request, with a copy of such writing. The foregoing restrictions and obligations shall not apply to information that the receiving Party can demonstrate: (a) was independently developed by or for the receiving Party without reference to the disclosing Party's Confidential Information; (b) has become publicly known through acts not attributable to the receiving Party; (c) was in the receiving Party's possession or was known by the receiving Party at the time of disclosure, free from restriction; or (d) was received without restriction from another party.

#### **16. CONFIDENTIALITY OF AGREEMENT**

Notwithstanding the Section "Use of Confidential Information", each Party shall keep confidential all provisions of this Agreement and any Order except as reasonably necessary for a Party to perform and except as required by applicable laws or regulations. In the latter case, the Party required to disclose this Agreement or any Order shall promptly inform the other Party prior to disclosure and shall make all reasonable efforts to obtain a protective Order or other confidential treatment and to limit disclosure only to those portions necessary to comply with the applicable law or regulation.

#### **17. EXPORT**

Partner acknowledges that the transfer, distribution, and use of Products, Licensed Materials, and technical information and the performance of Services outside the country of origin are subject to export control laws and regulations. Partner shall not directly or indirectly use, distribute, transfer, or transmit the Products, Licensed Materials, or technical information (even if incorporated into other products) except in compliance with all applicable export control laws and regulations. At Deltatel's request, Partner shall sign written assurances and other export-related documents as may be required for Deltatel to comply with all

applicable export control regulations. Partner will indemnify Deltatel for any losses, costs, liability, and damages, including reasonable legal fees, incurred by Deltatel as a result of failure by Partner to comply with this Section. The obligations stated above in this Section will survive the expiration, cancellation or termination of this Agreement or any other related Agreement.

## **18. TRADEMARKS**

Products, Licensed Materials, and Services procured hereunder and the packaging therefore may bear certain trade names, trademarks, trade devices, logos, codes, or other symbols of Deltatel (herein "Marks"). Deltatel hereby grants Partner permission to use Marks in Partner's marketing and advertising of, and in Partner's publicity relating to, the Products and Licensed Materials, PROVIDED such use conforms to Deltatel standards and guidelines relating thereto which Deltatel may furnish from time to time. Partner may not conduct business under Deltatel's name or logo. Partner may not use any of Deltatel's Marks or variations thereof to identify Partner or Partner's products or services, and Partner may not use any of Deltatel's Marks in a manner that is likely to confuse the public concerning the relationship of the parties.

## **19. TERMINATION: EVENT OF DEFAULT**

(a) Termination by Deltatel: Upon the occurrence of any one or more of the following events, Deltatel shall have the right, by notice to Partner and in its sole discretion and without prejudice to any other rights or remedies which it may have under this Agreement or at law or in equity, to immediately terminate this Agreement in its entirety and to suspend performance hereunder (including suspension of performance of all outstanding Orders), without any further obligation or liability to Partner except with respect to Products or Licensed Materials already shipped and Services already performed:

(i) Partner breaches its obligation to, or otherwise fails to make payment of any amount when due to Deltatel, whether such amount results from an invoice, fee or charge due under the terms of this Agreement, and whether or not a portion of the invoice is subject to a Dispute Notice, and such breach or default continues for a period of 10 days after Partner's receipt of notice thereof; or

(ii) Partner otherwise breaches of any of its obligations under this Agreement and such breach continues for a period of 30 days after Partner's receipt of notice thereof; or

(iii) Partner breaches any term or condition of any Software license or its obligations under "Use of Confidential Information" above and that breach continues for a period of 10 days after receiving notice thereof; or

(iv) Partner or any of its affiliates breaches any of the terms of any other agreement, as such breach is defined by such agreement, between Partner or any of its subsidiaries or affiliates and Deltatel or any of its subsidiaries or affiliates

Each of the events described in subparagraphs (i), (ii), (iii) and (iv) above, constitutes an "Event of Default". If Deltatel terminates this Agreement as a result of an Event of Default, Partner will pay to Deltatel, in addition to all other sums that may then be due, all Losses incurred by Deltatel in the enforcement of its rights under this Agreement.

(b) Termination by Partner: If Deltatel breaches any of its obligations under this Agreement, and such breach continues for a period of 30 days after receiving Partner's notice thereof, then Partner shall have the right, upon written notice to Deltatel, and in Partner's sole discretion and without prejudice to any other rights or remedies which it may have under this Agreement, to immediately terminate this Agreement in its entirety without any further obligation or liability to Deltatel except with respect to Partner's payment obligations respecting Orders for Products or Licensed Materials already shipped and Services already performed.

(c) Termination for Convenience: Either party may terminate this Agreement without cause or reason whatsoever upon 7 months written notice to the other party or such longer notice as may be required by applicable law. Upon termination of this Agreement without cause pursuant to this subsection, neither party shall be liable to the other, either for compensation or for damages of any kind or character whatsoever, whether on account of the loss by Deltatel or Partner of present or prospective profits on sales or anticipated sales, or expenditures, investments or commitments made in connection therewith or in connection with the establishment, development or maintenance of Partner's business, or on account of any other cause or thing whatsoever, provided that termination shall not prejudice or otherwise affect the rights or liabilities of the parties with respect to Products, Licensed Materials, and Services theretofore sold hereunder, or any indebtedness then owing by either party to the other.

(d) The Parties acknowledge that their rights and obligations under this Agreement, including but not limited to Partner's payment obligations, and except for rights or obligations relating to entering into and carrying out new Orders, shall survive the termination or expiration of this Agreement; provided that Partner's rights under "Grant of License" or "Use of Confidential Information" shall not survive if Partner's breach of either of those Sections gave rise to the termination.

(e) Termination for inconsistency of interest

a. The Agreement may be terminated upon written notification by Deltatel to the other Party if:

- (i) The Partner becomes an Affiliate of a Deltatel competitor; and/or
- (ii) The Partner acquires any shares in a competitor of Deltatel or merges with a Deltatel competitor; and/or
- (iii) The Partner becomes involved in activities that are in conflict with Deltatel's interest and the Parties did not agree on a solution to solve the conflict within thirty (30) Business Days from written notice of Deltatel specifying the nature of the conflict of interest; and/or
- (iv) The Partner sells the majority of its business, or a majority of Partner's shareholders sell the majority of their shares in the Partner by means of a transaction (a) that is, in Deltatel opinion, reasonable to believe that the Partner or its business will become insolvent or bankrupt or (b) that could materially prejudice Deltatel's reasonable expectations regarding its ability to receive payment under the Agreement and to maintain a stable relationship with the third party thus introduced into the relationship.

For clarification, Partner has declared and is not considered as an Affiliate of an Deltatel competitor at the Effective Date of this Agreement

(e) Upon termination or non-renewal of this Agreement, Partner shall immediately:

(i) Discontinue any and all use of Marks except to identify the Products and Licensed Materials remaining in Partner's inventory;

(ii) Remove and return to Deltatel, or destroy at Deltatel's request, any and all promotional material supplied without charge by Deltatel;

(iii) Cease holding itself out, in any other manner, as a Partner of the Products and Licensed Materials; and

(iv) Notify and arrange for all publishers and others who may, at the initiation of Partner, identify, list or publish Partner's name as a Partner of the Products and Licensed Materials (including but not limited to publishers of telephone directories, yellow pages and other business directories), to discontinue such listings.

## **20. FORCE MAJEURE**

Except for payment obligations, neither Party shall be responsible for any delay or failure in performance to the extent such delay or failure is caused by fire, strike, embargo, explosion, earthquake, flood, war, water, the elements, labor dispute, government requirements, acts of God, inability to secure raw materials or transportation facilities, acts or omissions of carriers or Deltatels, acts of terrorism, or other causes beyond a Party's reasonable control.

## **21. ASSIGNMENT**

Except as provided in this Section, neither Party shall assign this Agreement or any right or interest, or delegate any work or obligation to be performed, under this Agreement without the other Party's prior written consent in each instance, which consent may be granted, granted subject to conditions or withheld in the consenting Party's sole discretion. Any attempted assignment in contravention of this Section shall be void and ineffective and shall constitute an Event of Default hereunder. Notwithstanding the foregoing, Deltatel may assign this Agreement or assign its rights or delegate its duties under it, in whole or in part, at any time and without Partner's consent, to any present or future affiliate. Deltatel shall give Partner prompt notice of such assignment. Deltatel's right to receive payment under this Agreement or any portion thereof may be freely assigned without prior notice to or the consent of Partner. Nothing shall preclude a Party from employing a subcontractor in carrying out its obligations under this Agreement. A Party's use of such subcontractor shall not release the Party from its obligations under this Agreement.

## **22. GDPR**

Deltatel, in its quality of data controller, will process the personal data needed for the execution of the contract, according to the provisions of Regulation UE 2016/679 (General Data Protection Regulation) regarding the protection of personal data of physical person and free movement of data, as well as those provisions from the applicable law with respect to personal data protection. Detailed information on particularities of processing operations made by Deltatel can be found in the Informative Note for contractual partners of Deltatel, accessing the following link: [https://deltatelgroup.com/wp-content/uploads/2021/02/Nota-de-informare-parteneri-contractuali-Deltatel\\_12.01.2021-EN.pdf](https://deltatelgroup.com/wp-content/uploads/2021/02/Nota-de-informare-parteneri-contractuali-Deltatel_12.01.2021-EN.pdf)

## APPENDIX A

### Definitions

For the purpose of this Agreement, the following terms and their definitions shall apply:

- (i) "Applicable Price" means the list price in effect on the date of Deltatel's receipt of Partner's Order, subject to any Deltatel price plan or policy which may serve to modify the list price;
- (ii) "Confidential Information" means all nonpublic information in whatever form, including, without limitation, specifications, drawings, documentation, know how, Licensed Materials, technical information, and confidential business information, including end-user customer information and pricing information disclosed by either party, which bears a legend restricting its use or dissemination or which either party otherwise indicates is confidential or proprietary;
- (iii) "Infringement Claim" means a claim, action, proceeding or suit brought by a third party alleging an infringement of any duly registered patent, copyright or trademark, or a violation of any trade secret by reason of use, in accordance with Deltatel's Specifications, of any Product manufactured by Deltatel or Licensed Materials developed by Deltatel and furnished under this Agreement.
- (iv) "Licensed Materials" means the Software (whether or not listed in Appendix B) and related user and technical documents for which licenses are granted by Deltatel under this Agreement; no source code versions of computer programs are included in Licensed Materials;
- (v) "Minimum Purchase Objective(s)" means the annual minimum monetary amount for Products, Licensed Materials and Services the Partner must purchase under this Agreement;
- (vi) "Order" means a written (paper or electronic) purchase Order issued by Partner to Deltatel, which refers to this Agreement and any applicable firm price quote and includes, but is not limited to, (i) the quantity and type of Products, Licensed Materials and Services being ordered and their applicable prices, charges or fees; (ii) accurate "ship to" and "bill to" addresses; (iii) the requested delivery date consistent with Deltatel's standard interval between acceptance of an Order and delivery; and (iv) if Deltatel is installing, the requested date of installation complete consistent with Deltatel's standard intervals. An electronic Order shall be effective despite the absence of Partner's signature.
- (vii) "Product(s)" means equipment and parts thereof, but the term does not mean Licensed Materials whether or not such Licensed Materials are part of firmware;
- (viii) "Producer" means manufacturer of the Products and Licensed Materials
- (ix) "Services" means engineering, installation, maintenance, and other services provided by or on behalf of Deltatel in support of Product sales;
- (x) "Software" means the object code or machine readable version of computer programs delivered by Deltatel under this Agreement, excluding source code and all related development documents. Software may be delivered electronically or in a variety of media, including firmware, disks, or tape, but does not include such media. Software may include embedded third party object code;

## APPENDIX B

### SOFTWARE SERVICES

The following terms govern end-user customer's use of the Software except to the extent a particular program (a) is the subject of a separate written agreement with the Producer or (b) includes a separate "click wrap" license agreement as part of the installation and/or download process. In the event of a conflict between the provisions of the foregoing documents, the order of precedence shall be (1) the written agreement, (2) the click-wrap agreement, and (3) this Software License.

**1. Ownership and Grant of License.** (a) Title to Licensed Materials will not pass to end-user customer, but will remain with the Producer or its suppliers, as the case may be; (b) Upon delivery of Licensed Materials and subject to end-user customer's payment of the applicable license fee and compliance with the provisions of this Agreement, Producer grants to end-user customer a personal, nontransferable and nonexclusive license to use the Licensed Materials on or with the corresponding products (on which the Software was loaded or designated by the Producer to be loaded) for end-user customer's own internal use in the Territory. (c) If the product(s) on which the Software was loaded or designated by the Producer to be loaded becomes inoperative, end-user customer may use the Software temporarily on a backup processor until the original processor is restored; (d) All Licensed Materials and all copies thereof made by end-user customer, including translations, compilations, and partial copies are and will remain the property of the Producer. End-user customer will reproduce and include Producer's copyright and proprietary notice on all such necessary copies of the Licensed Materials. End-user customer will also mark all media containing such copies with a warning that Licensed Materials are subject to restrictions contained in an agreement between the Producer and end-user customer and that they are the property of the Producer; (e) end-user customer will maintain records of the number and location of all copies of Licensed Materials. The Producer may, at its discretion, electronically audit Software provided under this software license to verify compliance with the license provisions of this software license agreement; (f) end-user customer may add to, delete from, or modify Software as contemplated in the documentation accompanying Software. Such changes or modifications, however extensive, will not affect Producer's title to the Licensed Materials. The Producer will have no liability for end-user customer's errors in making such changes or modifications; (g) If end-user customer's license is canceled or terminated, or when end-user customer no longer uses the Licensed Materials, end-user customer shall return or destroy the Licensed Materials and all copies and certify to the Producer that it has done so.



## APPENDIX C

### PRODUCTS AND SOFTWARE WARRANTY .TERMS AND CONDITIONS OF THE WARRANTY

(a) Deltatel warrants that during the Warranty Period described in subsection (b) below:

(i) Products designed and manufactured by the Producer or purchased by it pursuant to the Producer procurement specifications will be free from defects in material and workmanship, and will conform to the Producer specifications;

(ii) Software developed by the Producer will be free from those defects which materially affect performance in accordance with Producer's specifications; and

(iii) With respect to Products and Software not covered in (i) and (ii), Deltatel, to the extent permitted, does hereby assign to Distributor and/or end-user customer the warranties given to it by its vendor of such Products.

(a) The term "Warranty Period" means the period of time that a particular Product is warranted, as listed in the Table, Warranty Periods, which, for Products covered in paragraph (a)(i) and Software, commences on the date of shipment of the Product or Software from Distributor to Distributor's end-user customer or 90 days after Deltatel's shipment of the Product or Software to Distributor (to accommodate Distributor's stocking interval or pipeline), whichever occurs earlier.

(b) The following time for repair/replacement of defective Products or Licensed Materials shall be observed by Deltatel:

The initial approach of the parties will be to reimburse the defective Products to end-customer from Distributor's stock.

Deltatel will replace the defective Products and send them to Distributor within the next possible shipment within 60 days following the completion of the test procedure

#### The Software SLA:

Severity Level	Description
1 - Critical	Customer is unable to use the Licensed Software, resulting in critical impact on Customer's Operations.
2 - Serious	Customer is able to use the Licensed Software, but Customer's Operations are severely affected.
3 - Defect	Customer is able to use the Licensed Software with the exception of a specific function that is not critical to Customer's overall operations and a Workaround can be readily achieved.
4 - Informational	Customer can circumvent the Error, without any impact to Customer's operations.

<b>Severity Level</b>	<b>Intervention time</b>
1	four (4) work hours
2	eight (8) work hours
3	two (2) business days
4	one (1) business week

## **APPENDIX D – PARTNERSHIP PROGRAM**

### **BRONZE BUSINESS PARTNER**

A Bronze Business Partner shall be considered the Business Partner opting - at the moment of acceptance of Offer, including General Terms and Conditions of Sale , or at the moment of Distribution Agreement Signature – for a quota of annual sales up to 10.000 euro/year.

A Bronze Business Partner will benefit of the following:

1. Promotions and Incentives;
2. Web-based/ webcast technical training;
3. Lead registration program;
4. Welcome package;
5. Use of Deltatel Partner Logo;
6. Introduction to Deltatel
7. Sales target - annual

The discounts granted to a Bronze Business Partner are 10% and shall be applied on the prices of the Price catalogue.

The Trade credit limit for a Bronze Business Partner is 3000 Euro.

## **APPENDIX D – PARTNERSHIP PROGRAM**

### **SILVER BUSINESS PARTNER**

A Silver Business Partner shall be considered the Business Partner opting - at the moment of acceptance of Offer, including General Terms and Conditions of Sale, or at the moment of Distribution Agreement Signature – for a quota of annual sales between 10.000 -100.000 euro/year.

A Silver Business Partner will benefit of the following:

1. Promotions and Incentives;
2. Competitive Information;
3. Web-based/ webcast technical training;
4. Web-based sales training;
5. Lead registration program;
6. Qualified sales leads;
7. Field sales support;
8. Welcome package;
9. Joint lead generation support;
10. Promotional campaign collateral;
11. Discounted demo package;
12. Co-branding option;
13. Use of Deltatel Partner Logo;
14. Partner discount;
15. Introduction to Deltatel;
16. Sales resource certified – 1
17. Technical resource certified – 1
18. Sales and marketing activities- minimum 2 per year
19. Joint success plan – every six months;
20. Forecast review – every six months;
21. Sales targets – every six months

The discounts granted to a Silver Business Partner are 20% and shall be applied to the prices stated in the Price catalogue, retroactively from the moment when the threshold of 10.000 Euro Sales is reached.

The Trade credit limit for a Silver Business Partner is 5.000Euro.

## **APPENDIX D– PARTNERSHIP PROGRAM**

### **GOLD BUSINESS PARTNER**

A Gold Business Partner shall be considered the Business Partner opting - at the moment of acceptance of Offer, including General Terms and Conditions of Sale, or at the moment of Distribution Agreement Signature – for a quota of annual sales between 100.000 -500.000 euro/year.

A Gold Business Partner will benefit of the following:

1. Promotions and Incentives;
2. Competitive Information;
3. Web-based/ webcast technical training;
4. Web-based sales training;
5. Lead registration program;
6. Qualified sales leads;
7. Field sales support;
8. Dedicated channel manager;
9. On-sites sales training;
10. Project Based flexible pricing;
11. Welcome package;
12. Joint lead generation support;
13. Promotional campaign collateral;
14. Discounted demo package;
15. Co-branding option;
16. Use of Deltatel Partner Logo;
17. Company introduction on Deltatel website;
18. Bid and tender support;
19. Partner discount;
20. Prioritized shipment;
21. Introduction to Deltatel
22. Sales resource certified – 2
22. Technical resource certified – 2
23. Sales and marketing activities- minimum 4 per year
24. Joint success plan – every quarter;
25. Forecast review – monthly;
26. Sales targets – quarterly
27. Provide pre-sales and post-sales support

The discounts granted to a Gold Business Partner are 30% and shall be applied on the prices stated in the Price catalogue, retroactively from the moment when the threshold of 100.000 Euro Sales is reached.

The Trade credit limit for a Gold Business Partner is 10.000 Euro.

**APPENDIX E**  
**CONTROLLER-PROCESSOR DATA PROTECTION AGREEMENT**

**Deltatel SRL**, limited liability company, incorporated and functioning under Romanian law, with registered office at 11 Gh. Lazar street, zip code 300081, Timisoara, Romania, registered with the Trade Registry under no. J35/1133/2003, fiscal registration number RO 15434490, represented by Mr. Gelu Crasnic, in his capacity as Director, hereinafter referred to as „**Deltatel**” or the "**Controller**"

and

**The Partner**, hereinafter referred to as the "**Processor**";

Hereinafter individually referred to as the "Party" and collectively as the "Parties"

**WHEREAS**

- (A) The Parties have concluded the Partner Agreement, (hereinafter referred to as the "**Contract**").
- (B) In connection with the performance of its obligations under the Contract, the Processor will have access to Personal Data, as defined at Annex no. 1 to this Agreement;
- (C) In order to secure the processing of this Personal Data in compliance with the Regulation (EU) 2016/679 dated April 27, 2016 (hereinafter referred to as the "**GDPR**") and the relevant Romanian data protection legislation, as amended from time to time (hereinafter referred to as the "**Relevant Data Protection Legislation**"),

**The Parties hereby agree as follows:**

**1. Definitions**

The capitalized terms which are not otherwise defined in this Agreement shall have the meaning ascribed to them below:

- "**Agreement**" means this document and its appendices;
- "**Controller**" means the entity determining the purposes and means of the Personal Data processing (for the purposes of this Agreement - **Deltatel SRL**);
- "**Processor**" means the entity acting under the authority and instructions of the Controller (for the purposes of this Agreement);
- "**Data Protection Authority**" or "**DPA**" means a supervisory authority controlling the processing of Personal Data because: (a) the Controller or Processor is established on the territory of the Member State of that supervisory authority; (b) data subjects residing in the Member State of that supervisory authority are substantially affected or likely to be substantially affected by the Processing; or (c) a complaint has been lodged with that

- supervisory authority;
- **"Data Protection Officer"** or **"DPO"** shall mean the person designated by the Controller or the Processor in compliance with Article 37 of the GDPR;
  - **"Personal Data"** means any information relating to an identified or identifiable natural person (hereinafter referred to as **"Data Subject"**); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;
  - **"Personal Data Breach"**: means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed;
  - **"Processing"** shall mean any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
  - **"Purpose of Processing"** shall mean the reasons for which the Personal Data are being processed or the goal to be achieved through the Processing;
  - **"Transfer of Personal Data"** shall mean any transfer of Personal Data from an entity to another entity. A transfer can be carried out via any communication, copy, transfer or disclosure of Personal Data through a network, including remote access to a database or transfer from one medium to another, whatever the type of medium (for instance from a computer hard disk to a server).

## **2. Purpose of the Agreement**

The provisions of this Agreement shall serve as an amendment to the Contract, specifically with respect to the obligations of the Processor concerning the Processing operations as described in Appendix 1, the security and the confidentiality of the Personal Data in compliance with the GDPR and the Relevant Data Protection Legislation. The Processor shall inform the Controller of any change of the information provided in Appendix 1.

In the context of their contractual relationships, the Parties undertake to comply with the GDPR and where necessary, to the Relevant Data Protection Legislation.

All provisions of the Contract which are not explicitly amended by this Agreement shall remain fully applicable between the Parties.

## **3. Duration of the Agreement**

The Agreement shall remain applicable for the entire duration of the Contract.

## **4. Obligations of the PROCESSOR**

### **4.1 General Obligations**

The Processor shall:

- comply with all obligations incumbent upon the data processors, as provided by the GDPR

and the Relevant Data Protection Legislation;

- comply with the Controller's guidelines, in particular without limitation those guidelines which are necessary to ensure the Controller is in compliance with the GDPR and the Relevant Data Protection Legislation;
- process the Personal Data solely in order to perform its obligations under the Contract, only pursuant to the terms and conditions of this Agreement and/or in accordance with the instructions of the Controller, except where the Processor is required to have a specific conduct pursuant to GDPR or the Relevant Data Protection Legislation. In such a case, the Processor shall inform the Controller of the relevant legal requirement before Processing unless the relevant law prohibits such notification on important grounds of public interest;
- promptly inform the Controller i) of its inability to comply with the provisions of the Agreement and/or ii) if, in its opinion, an instruction of the Controller infringes the GDPR or any other Relevant Data Protection Legislation; and
- provide the Controller with the contact details of the Processor's Data Protection Officer, should such Data Protection Officer is appointed in compliance with Article 37 of the GDPR.

#### **4.2. Security and Confidentiality Obligations**

The Processor shall preserve the security and confidentiality of the Personal Data and implement all adequate measures to ensure the level of security of the Controller's Personal Data are appropriate.

The Processor undertakes to implement all reasonably necessary and appropriate technical and organizational measures using generally accepted state-of-the-art technology to protect the Personal Data it processes under the Contract against unauthorized or accidental access, alteration, transmission, disclosure, deletion or destruction and in particular all the measures mentioned in Appendix 2.

The Processor shall review and adapt such measures regularly to comply with the state of the art and applicable regulations, namely security measures, necessary to ensure the conservation and integrity of the Personal Data processed during the performance of the Contract (for instance to secure the access to computers, to install antivirus, to perform regular backups on removable media and to increase the employees and suppliers' awareness to security measures);

Without limiting the generality of the foregoing, the Processor shall comply with the following obligations and shall ensure that its employees and/or its suppliers will also comply with them:

- The Processor shall process the Personal Data only in accordance with the Controller's instructions and to the extent such processing is necessary to carry out the Processor's obligations in connection with the performance of the Contract;



- The Processor will not use the Personal Data for any other purposes, nor will the Processor retain this data for any longer than required by the Controller;
- The Processor will only use personnel who: (i) has a need to process the Personal Data in order to fulfill the Processor's obligations under the Contract, (ii) has entered into confidentiality agreement; (iii) has received adequate training regarding the protection of Personal Data and (iv) has been informed of any special data protection requirements arising from this Agreement and of the limitation of the use of the Personal Data for specific purposes as instructed. The Processor also undertakes to communicate to the Data Controller, upon request, the list of persons so entitled;
- The Personal Data shall not be disclosed to any third party, whether individual or legal person, public or private entity without prior approval of the Controller, (in such case the Processor shall maintain a record of any disclosure of Personal Data to a third party and make such report available to the Controller, promptly upon request);
- The Processor shall not sell, assign, rent and more generally transfer the Personal Data for any reason without the prior written approval of the Controller;
- The Processor is not allowed to make copies or duplicate of the Personal Data without the prior written consent of the Controller, unless such copies or duplicates are necessary for the fulfillment of its obligations under the Contract.

#### **4.3. Personal Data Breach Notification**

The Processor shall notify the Controller of any Personal Data Breach without undue delay and in writing after it becomes aware of such Personal Data Breach. Such notification shall at least contain the following information:

- the nature of the Personal Data Breach including where possible, the data categories and approximate number of Data Subjects concerned.
- the name and contact details of the Data Protection Officer or other contact point where additional information can be obtained;
- a description of the likely consequences of the Personal Data Breach;
- a description of the measures taken or proposed to be taken to address the Personal Data Breach, including, where appropriate, measures to mitigate its possible adverse effects.

Where, and in so far as, it is not possible to provide the information at the same time, the information may be provided in phases without undue further delay.

The Processor also undertakes to provide the Controller with reasonable assistance and cooperation to notify the Personal Data Breach to the competent Data Protection Authority and to communicate such Personal Data Breach to the Data Subjects, in compliance with Articles 33 and 34 of the GDPR and any Relevant Data Protection Legislation.

**The Provider shall design and implement procedures for managing and reporting such Personal Data Breach to the Controller.**

#### **4.4. Exercise of Data Subjects' rights**

The Processor shall provide the Controller, taking into account the nature of the Processing, with reasonable assistance and co-operation, to allow the Controller to respond (i) to requests presented by Data Subjects for exercising their rights, or (ii) to requests of the competent Data Protection Authorities in relation with the Processing of Personal Data. In particular, the Processor shall implement appropriate technical and organizational measures in order to promptly satisfy in writing, within 5 working days, any request for information from the Controller.

The Processor may only grant access to, correct, delete, block, restrict the Processing of, or communicate to the Data Subject the Personal Data processed on behalf of the Controller in a structured, commonly used and machine-readable format, when instructed to do so by the Controller.

If a Data Subject would apply directly a request or a complaint to the Processor, the Processor shall forward this request or complaint to the Controller without undue delay, at [office@deltatelgroup.com](mailto:office@deltatelgroup.com)

#### **4.5. Subcontracting**

The Processor is not allowed to disclose, assign, or otherwise communicate Personal Data to any subcontractor (whether located within the EU or outside the EU) without informing and obtaining the specific prior written consent of the Controller in this respect, except otherwise required by a legal or regulatory mandatory provision. In such a case, the Processor shall inform the Controller of that legal requirement before the processing, unless that legal mandatory provision prohibits such information on important grounds of public interest.

The Processor shall impose on its subcontractor by way of a contract or other legal act, the same legal requirements as the Processor itself undertakes in the Agreement, in particular the obligation to provide sufficient guarantees in relation with the Processing by implementing appropriate technical and organizational measures. Where the subcontractor fails to fulfil its data protection obligations, the Processor shall remain fully liable towards the Controller for the performance of that subcontractor's obligations.

A list of subcontractors currently employed by the Processor in relation with the Processing of Personal Data is attached at Appendix 1. The Processor shall inform the Controller in case of change in such list.

#### **4.6. Transfers of Personal Data outside the EEA**

The Processor undertakes to:

- a. comply with the Controller's instructions in relation to Data Transfers carried out outside the EEA not carry out a Transfer of Personal Data outside the EEA without the prior written consent of the Controller, except where the Processor is required to transfer Personal Data outside the EEA pursuant to applicable legislation. In such a case, the Processor shall inform the Controller of the relevant legal requirement unless the relevant law prohibits such notification on important grounds of public interest;
- b. ensure that its own subcontractors, the persons acting under the authority or on behalf of the Processor, do not carry out any Transfer of Personal Data concerning Controller's Personal Data information outside the EEA without the prior written consent of the Controller;
- c. inform the Controller in case of change of the location of any Personal Data Processing sites, whatever the nature of the Processing operation (hosting, back-up, maintenance, administration, help-desk), as detailed in Appendix 1;
- d. if the Processor appoints a subcontractor, located outside the EEA, the Processor shall also ensure, before any Transfer of Personal Data, that the transfer will be carried out in compliance with the GDPR and the Relevant Data Protection Legislation (for instance, by ensuring that the EU Standard Contractual Clauses approved by the EU Commission on February, 10, 2010 (c2010/0593) will be signed between the Controller and the subcontractor, if the latter is located in a country which does not provide for an adequate level of protection of Personal Data).
- e. The Processor will access the data to provide maintenance or related services from its Headquarters located in Turkey,

#### **4.7. Data Protection Impact Assessment**

The Processor undertakes to provide the Controller with reasonable assistance and co-operation to carry out an assessment of the impact of the Personal Data Processing operations carried out under this Agreement on the protection of Personal Data and to consult the competent data protection authorities, where necessary.

### **5. RECORDS OF PROCESSING ACTIVITIES**

The Processor undertakes to maintain a record of its Personal Data Processing activities carried out on behalf of the Controller, including the following information:

- a. the name and contact details of the Controller, the potential subcontractors and, where applicable, of the Data Protection Officer;
- b. the categories of Processing carried out on behalf of the Controller;

- c. where applicable, Transfers of Personal Data to a third country, including the documentation of suitable safeguards;
- d. where possible, a general description of the technical and organizational security measures implemented to protect the Personal Data.

## **6. DOCUMENTATION AND AUDIT rights of the Controller**

The Controller is entitled to audit or to have audited by a third party, which is accepted by both parties, the technical and organizational measures implemented by the Processor, at regular intervals, in order to verify whether the Processor complies with the provisions of this Agreement.

The Processor shall cooperate for the purposes of such audit. In addition, the Processor shall under a prior written notice sent by the Controller to the Processor, without undue delay i) grant the Controller free access to premises, records and personnel and/or ii) provide the Controller (or the third party auditor) with all information, files and other documents within the scope of this agreement requested in relation to the Processing of the Personal Data as necessary to perform the audit and/or to demonstrate compliance with the obligations laid down in the Agreement.

Any issues, errors or irregularities that are identified, and brought to the Processor's attention, will be promptly remedied by the Processor without delay. The Processor will assist the Controller with any data protection audits or controls enforced by a Data Protection Authority or other competent public authority if these audits or controls concern data Processing within the scope of the Agreement.

The Controller undertakes to comply with any confidentiality provisions, policies and/or rules the Processor may notify to the Controller in the context of the audit.

## **7. RETENTION, RETURN OR DELETION OF DATA**

During the execution of the Agreement, the Processor undertakes to implement adequate technical and organizational measures to comply with data retention periods applicable to Controller's Personal Data processed under the Agreement where requested by the Controller.

Upon expiry or termination of the Contract, the Processor shall at the Controller's request, either (i) return all Personal Data processed and the copies thereof to the Controller or (ii) destroy all the Personal Data and certify to the Controller, in writing that it has done so, subject however to any regulatory obligations concerning the retention of the Personal Data applicable to the Processor. In such a case the Processor shall inform the Controller, in writing about such obligations.

## **8. LIABILITY AND INDEMNIFICATION**

Pursuant to the provisions of Article 82 of the GDPR, Processor shall indemnify, defend and hold the Controller harmless from any and all any claims asserted by any Data Subject, Data Protection Authority or any third party with respect to a breach of any of the Processor's obligations under

this Agreement, to the extent the Processor is responsible for the event giving rise to any such claim.

## **9. TERMINATION**

This Agreement shall automatically terminate upon the termination of the Contract.

In the event the Processor is in breach of any of its obligations under this Agreement, the Controller may:

- 9.1. *suspend the transfer of Personal Data to the Processor until the breach is repaired to the Controller's reasonable satisfaction or the Contract is terminated; or***
- 9.2. *terminate the Contract, after first giving the Processor thirty (30) days prior written notice of its decision to terminate the Contract. If, during this thirty-day notice period, the Processor remedies the breach to the Controller's reasonable satisfaction, the Contract will remain in effect.***

DRAFT FOR DISCUSSION PURPOSES ONLY

**APPENDIX 1**

**Personal Data Processing activities/**

Object of the Contract/Services provided in accordance with the Contract	Reselling of Products and Licensed Materials
Purpose(s) of Processing	Performance of contractual obligations , according to the provisions of the contract.
Category/ies of Personal Data	Name, e-mail address, website, comment made; - social media user, preference related to the page liked; - the name of the company represented, telephone number, the message sent by the data subject; - other Personal Data as generically defined in GDPR
Duration of Processing operations	Duration of the Contract
Identity of the sub-contractor(s)	-

APPENDIX 2

**Technical and Organizational Security Measures in order to ensure protection Personal Data and/or adherence by the Processor to an approved code of conduct or to an approved certification mechanism**

*Having sufficient resources available to ensure the continued confidentiality, integrity and availability of processing systems and services;*

- *Execution of the preliminary risk analyses regarding the processed personal data, with the cooperation of the Beneficiary;*
  - *Ensuring that all personal data are collected, stored, or processed only for the specific purpose for which they were collected, only for the time required to meet the purposes for which they were collected*
  - *ensuring that only authorized employees access the data have the technical possibility of accessing them;*
  - *overseeing the access of employees, employees, subcontractors to personal data received from the Beneficiary or accessed in any way on the occasion of providing the services covered by the Contracts*
  - *documenting and adopting procedures for the allocation of access rights, roles in IT applications and systems accessed by employees, collaborators, subcontractors, etc.*
  - *notifying the Beneficiary without delay of any breach of security with respect to personal data*
- Having adequate resources available to ensure that availability and access to personal data are restored in a timely manner in the event of a technical or physical incident;