

# InterTrade Autologue Vendor End-User Agreement (VenA)

Policy Last Modified: August 23, 2011

## CONTEXT

AUTOLOGUE COMPUTER SYSTEMS HAS CONTRACTED WITH INTERTRADE SYSTEMS INC TO PROVISION AND SUPPORT THE EXCHANGE OF EDI TRANSACTIONS BETWEEN ITS CUSTOMERS AND THEIR VENDORS IN OCTOBER 2010. INTERTRADE IS RESPONSIBLE TO COMPLETE TRANSPORT OF FILES FOR THE AUTOLOGUE CUSTOMERS IN A STANDARD X.12 FORMAT WHICH IS PUBLISHED IN THE AUTOLOGUE EDI GUIDE AND TO WHICH VENDORS MUST COMPLY.

IF THE VENDOR YOU REPRESENT IS NOT AN AUTOLOGUE CUSTOMER VENDOR, THAT IS A SUPPLIER EXCHANGING PRE-DETERMINED EDI DOCUMENTS WITH AUTOLOGUE CUSTOMERS, YOU AND THE VENDOR YOU REPRESENT ARE NOT AUTHORIZED TO ACCESS OR USE THE SERVICE AND YOU AND THE VENDOR YOU REPRESENT HAVE NO RIGHTS UNDER THIS VenA AGREEMENT.

## 1. ACKNOWLEDGMENT AND ACCEPTANCE OF TERMS OF SERVICE

1.1 All services provided by InterTrade Systems Inc. ("InterTrade") are provided to the company you represent (the "Vendor") under the Terms and Conditions set forth in this Vendor End-User Agreement ("VenA") and any other operating rules and policies set forth by InterTrade from time to time. BY COMPLETING THE REGISTRATION PROCESS AND CLICKING THE "Accept" BUTTON, VENDOR IS INDICATING ITS AGREEMENT TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THE VenA. IF VENDOR DOES NOT AGREE WITH ANY OF THE TERMS, DO NOT COMPLETE THE ACTIVATION PROCESS.

1.2 The Service will be activated upon payment of the fees by the Vendor and continues until this Agreement is terminated or expired (see TERMINATION). The Service is provided in accordance with the annual rates identified to Vendor upon placing the order for the Service. Fees do not include applicable taxes. In any renewal term, InterTrade reserves the right to change the fees, upon a thirty (30) days notice to Vendor before the end of the term.

## 2. GENERAL TERMS AND CONDITIONS OF YOUR USE OF THE SERVICE

2.1 Access and License. Provided the Vendor complies with all the terms and condition of this VenA, InterTrade grants to the Vendor a non-exclusive and non-transferable license to connect to Autologue's Customers through InterTrade's VAN ("InterTrade Network") and solely for the integrated exchange of business documents ("the Service"). The Vendor hereby grants to InterTrade a non-exclusive, transferable, royalty-free license to reproduce any information and data transmitted through the InterTrade Service by the Vendor and to store such information and data, to the extent necessary to allow InterTrade to perform the Service and to support the Autologue Customers but for no other purpose or use by InterTrade.

2.2 Restrictions. The Service shall only be accessed and used by the Vendor pursuant to the terms and conditions set forth in this VenA and for the sole purpose expressly stated in paragraph 2.1. Vendor undertakes that it will not distribute or share access to the Service in any way with any third party. Except as expressly authorized in this VenA, the Vendor shall not (i) rent, lease, sublicense, distribute, transfer or timeshare the Service or any portion thereof, or (ii) attempt or permit any third party to attempt to access, decompile, decipher, disassemble, reverse engineer or otherwise determine or access

the source code for the Service or any portion thereof. The Vendor agrees not to demonstrate or disclose the results of any testing or bench-marking of the Service to any third party, without InterTrade's prior written permission.

3.3 Proprietary Rights of InterTrade. The Service, InterTrade Application and the InterTrade Network are covered by InterTrade's copyright and other intellectual property rights conferred by all applicable laws and treaties and the rights of its licensors, as applicable. The Vendor shall have no rights whatsoever with respect to the Service, except as provided by InterTrade in paragraph 2.1 of this VenA. InterTrade reserves all rights not expressly granted to the Vendor. Without limitation on the generality of the foregoing, all right, title and interest, including without limitation all rights to inventions, discoveries, methods, patents, designs, industrial designs, works, concepts, copyrights, data, codes, confidential information, trade names, logos, trademarks, registered or not, and any right in and to application for registration of same and any other rights, in and to the Service, InterTrade Application, the InterTrade Network and related documentation shall remain exclusively with InterTrade and its licensors, as applicable. The foregoing excludes any right in and to the data of Vendor.

### 3. VENDOR RESPONSIBILITIES AND UNDERTAKINGS

3.1 The Vendor is solely responsible for and must (1) own all equipment necessary for its own Internet connection, including computer and communications, (2) be capable of connecting and communicating transactions with its own VAN to the InterTrade Network, and (3) maintain all security precautions, procedures or systems as required to preclude any virus, hacker attacks or any similar event to threaten the Service or the InterTrade Network.

3.2 The Vendor is solely responsible for the contents of Vendor's use of the Service. InterTrade may, at its sole discretion, immediately terminate the Service should the Vendor's conduct fail to conform to the terms and conditions of the VenA. The Vendor's use of the Service is subject to all applicable laws and regulations. The Vendor agrees, represents and warrants that it will: (1) comply with all laws regarding the transmission of technical data exported through the service; (2) not use the Service for illegal purposes; (3) not use the Service in a manner so as to infringe or violate any third party's rights, including intellectual property rights, privacy rights, right of publicity or any other rights of any person or entity; (4) not interfere with or disrupt networks connected to the Service, not attempt to gain unauthorized access to other computer systems, not interfere with another Vendor's use and enjoyment of the Service or another entity's use and enjoyment of similar services; (5) comply with all regulations, policies, and procedures of networks connected to the Service; (6) not use the Service for illegal software, illegal pornography, spamming or any use of distribution lists to any person who has not given specific permission to be included in such a process; and (7) not transmit through the service any unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind or nature or any material that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable law or regulation. The Vendor acknowledges that InterTrade has no obligation to monitor the Vendor's use of the Service, but, in the event that InterTrade becomes aware that any Vendor's use of the Service does or may violate the warranty and representation set forth in this Section, the Vendor agrees that InterTrade shall have the right to remove any infringing item pending resolution and to transfer such infringing item to any judicial or governmental authority. A cleanup fee of \$150.00/hour (minimum 4 hours) may be assessed by InterTrade for violation of these terms, without prejudice to any other rights, remedies or recourses which InterTrade may have pursuant to this VenA at law or in equity.

3.3 The Vendor is responsible to pay the one-time and monthly charges invoiced by InterTrade within 30 days. Failure to pay said fees will result in traffic suspension until fees have been paid.

### 4. MODIFICATIONS TO THE VenA

4.1 InterTrade reserves the right to change the terms and conditions of this VenA as necessary. InterTrade expects the Vendor to actively ensure that it agrees to the current VenA, and a modification date will be posted on any and all copies of the VenA. Please note that the Vendor's use of the Service constitutes an acknowledgement by the Vendor to follow and be bound by the VenA and any modifications. InterTrade may broadcast notices or messages through the Service to inform the Vendor of changes to the VenA, the Service or other substantive changes; such broadcasts shall constitute notice to the Vendor.

## 5. DISCLAIMER OF WARRANTIES

THE VENDOR EXPRESSLY AGREES THAT THIS SERVICE IS AT THE VENDOR'S SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. INTERTRADE EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. INTERTRADE MAKES NO WARRANTY THAT THE SERVICE WILL MEET THE VENDOR'S REQUIREMENTS, OR THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE; NOR DOES INTERTRADE MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE OR AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE SERVICE OR THAT DEFECTS IN THE SOFTWARE WILL BE CORRECTED. THE VENDOR UNDERSTANDS AND AGREES THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT THE VENDOR'S OWN DISCRETION AND RISK AND THAT THE VENDOR WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO THE VENDOR'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA. INTERTRADE MAKES NO WARRANTY REGARDING ANY GOODS OR SERVICES PURCHASED OR OBTAINED THROUGH THE SERVICE OR IN ANY TRANSACTIONS ENTERED INTO THROUGH THE SERVICE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY THE VENDOR FROM INTERTRADE OR THROUGH THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO THE VENDOR.

## 6. LIMITATION OF LIABILITY

INTERTRADE SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, RESULTING FROM THE USE OR THE INABILITY TO USE THE SERVICE OR FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES OR FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY GOODS OR SERVICES PURCHASE OR OBTAINED OR RESULTING FROM UNAUTHORIZED ACCESS TO OR ALTERATION OF THE VENDOR'S TRANSMISSIONS OF DATA, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, USE, DATA, OR OTHER INTANGIBLE, EVEN IF INTERTRADE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW FOR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO THE VENDOR.

## 7. INDEMNIFICATION

7.1 The Vendor agrees to indemnify and hold InterTrade, its parents, subsidiaries, affiliates, officers and employees, and its licensors, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of the Vendor's use of the Service, the violation of this VenA by the Vendor, or the infringement by the Vendor, or other user of the Service using the Vendor's computer, of any intellectual property or any

other right of any person or entity.

## 8. TERMINATION

- 8.1 This VenA granted hereunder shall remain in effect until terminated or expired. Vendor may terminate this VenA at any time. InterTrade may end this VenA without notice if Vendor fails to comply with any of its terms and conditions or fails to pay the invoiced fees. Upon expiration or termination of the Service, the Vendor's right to remotely access and use the Service immediately ceases. The following provisions will survive any termination or expiration of this VenA: 2.3 ("Proprietary Rights of InterTrade"), 5 ("Disclaimer of Warranties"), 6 ("Limitation of Liability"), 7 ("Indemnification"), 8 ("Termination").
- 8.2 Should the Vendor object to any terms or conditions of the VenA or any subsequent modifications thereto or become dissatisfied with the Service in any way, the Vendor's only recourse is to immediately: (1) discontinue use of the Service; (2) terminate the Vendor's membership; and (3) notify InterTrade of the Vendor's termination.

## 9. GENERAL

- 9.1 Severability. If any provision of this VenA is held illegal, invalid or unenforceable by any competent authority in any jurisdiction, such illegality, invalidity or unenforceability shall not in any manner affect or render illegal, invalid or unenforceable such provision in any other jurisdiction, nor the remainder of the said provision or any other provision of this Agreement in any jurisdiction.
- 9.2 No assignment. This VenA is not assignable by the Vendor without the prior written consent of InterTrade.
- 9.3 Applicable laws and Jurisdiction. This VenA shall be construed in accordance with the laws of The Province of Quebec, Canada, without regard to any conflict of law provisions. Any disputes arising under this VenA shall be resolved exclusively by the state and courts of the Province of Quebec, district of Montreal.

## 10. FEES

- 10.1 Document Validation Compliance. InterTrade has been mandated by Autologue to ensure vendor compliance on data and file formats being exchanged to and from Vendors. As such, each Vendor must comply to each document type being exchanged with any of the Autologue Customers through a series of tests with InterTrade. Each document type will be tested once to the EDI Guide published format. There is no need to test for each Customer separately as Autologue will take care of the mapping functions to the Customers' unique file format.
- 10.2 Account Setup Fee. Each Vendor account setup on the InterTrade Service carries a one-time administrative fee of \$100 payable to InterTrade. The fees will be invoiced to Vendor upon in service confirmation with the first Autologue Customer to be set in production.
- 10.3 Transactional Fees. Once in production, all traffic exchanged with an Autologue Customer will be invoiced monthly to Vendors to the rate of \$0.09 per

kilo character.

10.4 All Fees are in USD Currency and payable net 30 days. Invoices will be sent by email only. Vendors are solely responsible to maintain their information profile and appropriate billing and technical contacts with InterTrade.

**Accepted and Agreed:**

**Company Name:** \_\_\_\_\_

**By:** \_\_\_\_\_  
Authorized Signature

**Printed Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_