

CROSS-BORDER INDIRECT TAX INDEMNITY AGREEMENT

This Cross-Border Indirect Tax Indemnity Agreement (the "Agreement") is entered into as of this _____ day of _____, 20____ (the "Effective Date"), by and between:

INDEMNIFYING PARTY:

_____ a corporation organized and existing under the laws of _____, with its principal place of business at _____

_____ (hereinafter referred to as the "Indemnifier");

and

INDEMNIFIED PARTY:

_____ a corporation organized and existing under the laws of _____, with its principal place of business at _____

_____ (hereinafter referred to as the "Indemnitee").

The Indemnifier and the Indemnitee may collectively be referred to as the "Parties" and individually as a "Party."

RECITALS

WHEREAS, the Parties have entered into a _____ Agreement dated _____, 20____ (the "Underlying Agreement"), pursuant to which goods, services, or intellectual property are supplied across borders;

WHEREAS, the transaction(s) contemplated under the Underlying Agreement may be subject to various indirect taxes, including but not limited to Value Added Tax (VAT), Goods and Services Tax (GST), consumption taxes, sales and use taxes, customs duties, tariffs, and excise duties (collectively, "Indirect Taxes") in multiple jurisdictions; and

WHEREAS, the Parties wish to allocate the liability, risk, and administrative responsibilities associated with such Indirect Taxes and establish an indemnity mechanism to protect the Indemnitee from any unexpected Indirect Tax liabilities.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

- "Indirect Tax"** means any value added tax, goods and services tax, sales tax, use tax, consumption tax, service tax, customs duty, import duty, excise duty, or any other similar tax, levy, impost, or duty imposed by any governmental, state, federal, local, or transit tax authority, together with any interest, penalties, additions to tax, or fines associated therewith.
- "Taxing Authority"** means any government, state, municipality, or any local, state, federal, or other fiscal, monetary, regulatory, or tax authority competent to impose, collect, assess, or administer any Indirect Tax.
- "Indemnified Tax Liability"** means any Indirect Tax, including related interest, penalties, and additions to tax, assessed or levied by any Taxing Authority against the Indemnitee arising out of, in connection with, or resulting from the performance, delivery, or transactions contemplated under the Underlying Agreement.

2. TAX ALLOCATION AND INDEMNIFICATION

- General Responsibility:** The Indemnifier shall be solely responsible for, and shall pay, all Indirect Taxes legally due on the transactions contemplated under the Underlying Agreement, except to the extent specifically allocated to the Indemnitee under the terms of the Underlying Agreement.

2. **Indemnification Obligation:** The Indemnifier hereby agrees to indemnify, defend, and hold harmless the Indemnitee and its affiliates, officers, directors, employees, and agents from and against any and all Indemnified Tax Liabilities, as well as reasonable legal fees, accountant fees, and administrative costs incurred by the Indemnitee in connection with the assessment, audit, or defense of such Indirect Taxes.
3. **Withholding and Gross-Up:** All payments to be made by the Indemnifier to the Indemnitee under this Agreement or the Underlying Agreement shall be made free and clear of, and without reduction for, any taxes or withholdings. If any such deduction or withholding is required by law, the Indemnifier shall pay such additional amounts as necessary to ensure that the Indemnitee receives a net amount equal to the full amount it would have received had no such deduction or withholding been required.

3. COOPERATION AND TAX CONTESTS

1. **Notice of Claim:** The Indemnitee shall notify the Indemnifier in writing within _____ business days of receiving any communication, audit notice, assessment, or demand from a Taxing Authority regarding an Indemnified Tax Liability. Failure to give timely notice shall not relieve the Indemnifier of its obligations under this Agreement, except to the extent the Indemnifier's defense is materially prejudiced thereby.
2. **Defense of Claims:** The Indemnifier shall have the right, at its own expense, to control the defense, compromise, or settlement of any tax audit, dispute, or litigation relating to an Indemnified Tax Liability, provided that:
 - a. The Indemnifier keeps the Indemnitee fully informed of all material developments;
 - b. The Indemnitee shall have the right to participate in such defense at its own cost; and
 - c. The Indemnifier shall not settle any dispute in a manner that adversely affects the ongoing tax position or business operations of the Indemnitee without the Indemnitee's prior written consent, which shall not be unreasonably withheld or delayed.
3. **Mutual Cooperation:** The Parties agree to cooperate fully, and to cause their respective affiliates to cooperate, in any tax audit, contest, or litigation. Such cooperation shall include, but is not limited to, providing relevant transactional data, invoices, shipping documents, proof of export, and other documentation required to establish tax exemptions or mitigate tax liabilities.

4. PAYMENT PROCEDURES

1. The Indemnitee shall submit a written demand for payment of any Indemnified Tax Liability to the Indemnifier, accompanied by documentation of the assessment or payment of the Indirect Tax.
2. The Indemnifier shall pay the demanded amount in cleared funds to the bank account designated by the Indemnitee within _____ business days of receipt of the written demand.
3. Any payments not made within the specified period shall accrue interest at a rate of _____ % per annum, or the maximum rate permitted by law, whichever is lower, calculated daily from the due date until the date of actual payment.

5. TERM AND SURVIVAL

This Agreement shall commence on the Effective Date and shall survive the expiration or termination of the Underlying Agreement. The obligations of the Indemnifier under this Agreement shall remain in full force and effect until the expiration of the applicable statute of limitations in the relevant tax jurisdictions for the assessment of any Indirect Taxes covered hereunder plus a period of _____ months.

6. GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement, and any non-contractual obligations arising out of or in connection with it, shall be governed by, and construed in accordance with, the laws of _____, without regard to its conflict of law principles.

Any dispute, controversy, or claim arising out of, relating to, or in connection with this Agreement shall be referred to and finally resolved by arbitration in accordance with the rules of _____. The seat of the arbitration shall be _____. The language of the arbitration shall be _____.

7. MISCELLANEOUS

1. **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties regarding indirect tax indemnification and supersedes all prior agreements, understandings, or representations, written or oral, on this subject.
2. **Amendments:** No amendment, modification, or waiver of any provision of this Agreement shall be effective unless made in writing and signed by an authorized representative of each Party.
3. **Severability:** If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the remaining provisions shall continue in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Cross-Border Indirect Tax Indemnity Agreement to be executed by their respective duly authorized officers as of the Effective Date.

FOR THE INDEMNIFIER:

FOR THE INDEMNITEE:

Name: _____
Title: _____
Date: _____

Name: _____
Title: _____
Date: _____