

# **Dicentral™ CORPORATION**

## **Online Subscriber Service Agreement**

Dicentral Corporation ("Dicentral") is engaged in the business of developing business-to-business ecommerce software and provides electronic data interchange ("EDI") solution known as Dicentral Services ("Services"). Dicentral offers Services to Subscriber primarily via the World Wide Web at <http://www.dicentral.com/>. By completing this Online Subscriber Service Agreement ("Agreement") and using the Services, the Subscriber agrees to be bound by all of the terms in this Agreement.

### **I. TERMS AND CONDITIONS**

- a. Subscriber must have the capability of sending or receiving data electronically using either EDI or other agreed format via access on the Internet provided by a third party Internet Service Provider ("ISP").
- b. This Agreement shall become effective on the date of registration and shall continue for a minimum period of 90 days. Subscriber may terminate the Services (i) at any time after this minimum period upon a thirty-day prior written notice to Dicentral, or (ii) in the event of default by Subscriber not cured within fifteen days after Subscriber receives from Dicentral written notice of such default.
- c. Subscriber shall be allowed to use Services to exchange, view, transmit, and/or receive data in pre-defined standardized formats. Access to Subscriber's working area will require a valid user ID and password ("access codes") provided by Dicentral. In using the Services, it is the Subscriber's responsibility to secure its own access codes and monitor the use of these access codes.
- d. Dicentral shall use reasonable efforts to maintain the Services to be operated continuously with the exception of the time necessary for scheduled and unscheduled hardware and software maintenance.
- e. Subscriber shall be responsible for complying with all the data requirements of its trading partner(s). Subscriber shall promptly notify Dicentral of any change to these requirements.
- f. Dicentral shall publish, and update from time to time, a directory of current Subscribers ("Dicentral Subscriber Directory"). Dicentral makes no representation or warranty as to the accuracy or completeness of the information therein. Subscriber agrees to allow its name, address, contact information and products/services to be listed in the Dicentral Subscriber Directory unless otherwise requested in writing.
- g. Subscriber agrees to pay for charges posted in the Subscriber's account for the use of the Services via the credit card information provided to Dicentral, or a

previously approved payment method. Pricing and all pricing changes for the Services will be listed in the DCentral website. Subscriber agrees to pay all charges invoiced (including applicable taxes) on account of Subscriber's use of Services, referenced under the Subscriber's access codes, upon receipt of the invoice by Subscriber. DCentral reserves the right to modify the Services pricing from time to time upon thirty-day written notice of any such modification.

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j 0""Subscriber will be responsible for all charges resulting from its uses of the Services, including any unauthorized use. Subscriber agrees to notify DCentral, in writing, of any unauthorized uses, and to immediately change its access codes and take other security measures to prevent further unauthorized uses.

k0""DCentral may, in its sole discretion, suspend without notice, or terminate with notice, Subscriber's use of the Services in the event of a breach of this Agreement, including, but not limited to, failure to pay service charges, an extended period of inactivity, or verification that a third party's rights are being interfered with or infringed upon.

l0 ""Invoices are due and payable upon receipt by Subscriber, and a late fee will be assessed, in addition to the amount due, if payment is received more than twenty one days after the date of the invoice. The parties agree that the late fee imposed upon Subscriber shall be five percent (5%) per month on the accruing outstanding balance. Any question or dispute concerning invoices must be submitted in writing within thirty days of the date of invoice. In the event of non-payment of charges for twenty one days after invoice dates, DCentral may terminate this Agreement and the Services provided for hereunder without further notice. Once terminated under this provision, Subscriber will have to pay a reinstatement fee of two hundred and fifty dollars (\$250) in addition to the amount due and interests thereof if Subscriber would like to reactivate its account.

m0""DCentral acknowledges that all data provided to DCentral by Subscriber or by Subscriber's trading partner is confidential. DCentral shall use reasonable efforts to keep this data, while it exists within DCentral's facility, confidential. DCentral will not use such data for any purpose and will not disclose such data to any persons except

- (1) Subscriber's trading partner for data sent to DCentral by Subscriber; and
- (2) Subscriber for data sent by Subscriber's trading partner to which such data was intended to be transmitted. Notwithstanding the foregoing, DCentral may disclose confidential information which (i) was in DCentral's possession prior to the disclosure of

that information to DCentral by Subscriber and Subscriber's trading partners; (ii) is or becomes generally known to members of the general public through no fault of DCentral; (iii) is rightfully received by DCentral from a third party that does not impose a duty of confidentiality upon DCentral; (iv) is independently developed by DCentral without violating any duty of confidentiality to Subscriber or to any of Subscriber's trading partner; or (v) DCentral had received the prior written consent of both Subscriber and Subscriber's trading partners.

## **II. DISCLAIMER OF WARRANTIES**

Given the large number of data sources and the inherent danger of electronic distribution, delays, omissions, and/or inaccuracies may occur in such information and the Services.

DICENTRAL, ITS AFFILIATES, SUBSIDIARIES, AGENTS, AND LICENSORS CANNOT AND DO NOT WARRANT THE ACCURACY, COMPLETENESS, CURRENTNESS, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE INFORMATION TRANSMITTED THROUGH THE SERVICES, OR THE SERVICES ITSELF.

DICENTRAL EXPRESSLY DISCLAIMS RESPONSIBILITY FOR ERRORS OR OMISSIONS IN SAID INFORMATION, AND THE RESULTING DAMAGES FROM THE USE OF SUCH INFORMATION, OR FOR THE INTERRUPTION OF THE USE OF SERVICES. DICENTRAL DOES NOT DETERMINE THE LEGALITY OF INFORMATION TRANSMITTED THROUGH THE SERVICES NOR DOES DICENTRAL EVALUATE WHETHER THE TRANSMITTED INFORMATION OR USE OF THE SERVICES INFRINGES UPON THE RIGHTS OF ANY THIRD PARTY.

DICENTRAL DOES NOT ACT AS ARBITER OF DISPUTES BETWEEN SUBSCRIBER AND THIRD PARTY COMPLAINANTS ARISING OUT OF THE USE OF THE SERVICES.

## **III. INDEMNIFICATION**

Subscriber agrees to indemnify and hold DCentral harmless from all losses, damages, claims, actions or causes of action, expenses, judgments, penalties, and other liabilities arising from:

- a. The unauthorized access to Subscriber's working area provided by the Services, or access codes, by any third party,
- b. Errors or omissions in data supplied by Subscriber or its trading partners through the Services

- c. Delays or errors in transmission of data, and the failure to function, or malfunction, of the Services,
- d. Intellectual property (patent, trademark, service mark, trade-name, trade secret, or copyright) infringement or dilution on account of information provided through the Services,
- e. Tortious interference with contract or prospective business advantage, unfair competition, defamation or injury to business reputation, or
- f. Use, negligent use, or fraudulent use of the Services by Subscriber, or any other authorized or unauthorized third party.

#### **IV. DISCLAIMER AND LIMITATION OF LIABILITY**

The Subscriber agrees that the liability of DCentral, its affiliates, subsidiaries, agents, and licensors, if any, arising out of any kind of legal claim (whether in contract, tort, or otherwise) in any way connected with the Services, or the information transmitted by and through the Services, shall not exceed the amount paid to DCentral for the transmission of the particular information in question. In the event of failure of the system, DCentral's total responsibility will be to use its best efforts to correct any such failure or malfunction.

In no event will DCentral, its affiliates, subsidiaries, agents, or licensors be liable to the Subscriber or anyone else for any decision made or action taken by the Subscriber in reliance on such information or for any consequential, special, incidental, indirect, or similar damages.

Neither DCentral, any of its affiliates, subsidiaries, agents, or licensors shall be liable to the Subscriber or anyone else for any loss or injury caused in whole or part by its negligence or contingencies beyond its control in procuring, compiling, interpreting, reporting, or delivering the Subscriber's or Subscriber's trading partners' data, and any information transmitted through the Services.

#### **V. TITLE and LICENSE**

Subscriber understands that certain proprietary software belonging to DCentral may reside on Subscriber's facilities (the "Software") during periods of connection of those facilities to the Services. Subscriber acknowledges and agrees that, subject to the limited license provided herein, all rights and interest in the Software remain with DCentral and no title or interest in the Software is transferred to Subscriber under this Agreement.

DCentral hereby grants Subscriber a single-user, non-exclusive, non-transferable limited license to use the Software via DCentral site for purposes of this Agreement only and in the regular course of its business. Subscriber agrees not to transfer, adapt, modify, otherwise copy, reverse assemble, reverse compile or otherwise translate or distribute the

Software or rent, lease, assign or attempt to license it. The license shall terminate with the termination of the Agreement.

## **VI. MISCELLANEOUS**

- a. The laws of the State of Texas, United States shall govern this Agreement. Also, all parties agree to bring any action against the other in connection with this Agreement in a federal or state court located in the jurisdiction of Houston, Texas, United States. All parties consent to the jurisdiction of such courts, and waive any right to have any proceeding transferred from such courts on the ground of improper venue or inconvenient forum.
- b. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law, or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole.
- c. This Agreement, as amended, constitutes the complete and exclusive Agreement between the Subscriber and DCentral regarding the Services. This Agreement supersedes and governs all prior proposals, agreements, or other communications between the Subscriber and DCentral.
- d. By completing the bottom section of the online registration process, the Subscriber's signatory certifies that they are authorized to legally bind the Subscriber to the Agreement, and that the Subscriber agrees to the enclosed terms and conditions, and that the Subscriber agrees to be bound by the online registration as if the Agreement was executed in hard copy.

**APPENDIX: DCentral Corporation Customer Registration Form**

**ACCOUNT SETUP INFORMATION**

**\*denotes required field**

**Date:** \_\_\_\_\_ **Supplier/Vendor Number:** \_\_\_\_\_  
(if applicable or available)

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

**\*Company Address:** \_\_\_\_\_

**\*Company City:** \_\_\_\_\_

**\*Company State/Province:** \_\_\_\_\_

**\*Company Postal Code:** \_\_\_\_\_

**\*Company Country:** \_\_\_\_\_

**\*Company Phone:** \_\_\_\_\_

**\*Company Fax:** \_\_\_\_\_

**UCC Company Prefix:** \_\_\_\_\_

(if applicable or available)

**Please list retailers (trading partners) that you want to be setup with?**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**\*Primary Contact First Name:** \_\_\_\_\_

**\*Primary Contact Last Name:** \_\_\_\_\_

**Primary Contact Title:** \_\_\_\_\_

**\*Primary Contact Email:** \_\_\_\_\_

**\*Primary Contact Phone:** \_\_\_\_\_

**Primary Contact Fax:** \_\_\_\_\_

**\*Secondary Contact First Name:** \_\_\_\_\_

**\*Secondary Contact Last Name:** \_\_\_\_\_

**\*Secondary Contact Email:** \_\_\_\_\_

**\*Secondary Contact Phone:** \_\_\_\_\_

**\*Password:** \_\_\_\_\_ (6-10 characters only letters or numbers)

## PRICING

### ONE-TIME SETUP FEE

Account Setup Fee:	\$200
Retailer (trading partner) Setup Fee:	\$250 per Retailer
AS2 (i.e. Wal-Mart) Setup Fee:	\$250 per Retailer

### MONTHLY SERVICE FEE

Monthly Software License and Support Fee: \$10 each retailer (trading partner)			
Monthly Service Plan Selected	Kbytes of Transaction**	Monthly Fee	Over Limit Per Kbytes
_____	Up to 15	\$30	\$2.00
_____	Up to 50	\$70	\$1.40
_____	Up to 100	\$100	\$1.00
_____	Up to 250	\$175	\$0.70
_____	Up to 500	\$300	\$0.60
_____	Up to 1,000	\$550	\$0.55
_____	Up to 2,500	\$1,300	\$0.52
_____	Up to 5,000	\$2,500	\$0.45

*Note: \*\*One Kbytes = 1,000 Characters. VAN fee is included in all prices.*

**PAYMENT WITH CREDIT CARD AUTHORIZATION**

Please Circle Type of Credit Card:

VISA            MASTER CARD            DISCOVER            AMERICAN EXPRESS

Card Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

SECURITY CODE: \_\_\_\_\_

(The security or CVV2 code **MUST BE PROVIDED**. For Visa, Master Card & Discover cards, this number is located after the credit card number on the signature strip. For American Express cards, this code is located on the front of the card above the account number.)

Cardholder's Name: \_\_\_\_\_

Cardholder's Street Address: \_\_\_\_\_

(Use address that credit card bills are sent to.)

\*Company City: \_\_\_\_\_

\*Company State/Province: \_\_\_\_\_

Country: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Amount: \_\_\_\_\_

I HEREBY AUTHORIZE DICENTRAL CORPORATION TO CHARGE MY ABOVE CREDIT CARD FOR THE TRANSACTION INDICATED ABOVE.

Signed: \_\_\_\_\_

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

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