



OPEN-SCS SUBSCRIPTION AGREEMENT

This agreement (“Agreement”) is entered into as of [**date**] by and between [**Company**] (the “Subscriber”) and **Open-SCS**, OPC Foundation (“Open-SCS”).

The parties hereto agree as follows:

SECTION 1. SUBSCRIPTION.

1.1 *Subscribed Products.*

Open-SCS hereby grants to the Subscriber the non-exclusive, non-transferable right to access and use the products and services identified in Schedule 1 (“Subscribed Products”) and provide the Subscribed Products to its Authorized Users (as defined herein) subject to the terms and conditions of this Agreement.

1.2 *Authorized Users/Sites.*

Authorized Users are the full-time and part-time employees of the Subscriber and individuals affiliated with the Subscriber’s locations listed on Schedule 2 (the “Sites”).

1.3 *Authorized Uses.*

Each Authorized User may:

- access, search, browse and view the Subscribed Products;
- print, download and store a reasonable portion of individual items from the Subscribed Products for the exclusive use of such Authorized User;
- not incorporate links to the Subscribed Products on the Subscriber’s intranet and internet websites;
- provide print or electronic copies of individual items from the Subscribed Products to other Authorized Users;
- access, search, browse, view, print, make electronic copies and store for the exclusive use of such Authorized;
- provide review and comment of all drafts and final versions of subscribed products;
- vote on all draft versions of subscribed products;
- vote on the priorities of the scope items addressed in each draft of subscribed products;

The Subscriber may:

- access the text online via an API at a SharePoint site to be created shortly and to continuously and automatically extract and/or process information from the Subscribed Products for use by Authorized Users
- Subscribed products online may not be accessed by vendors or other third parties retained by the Subscriber.

1.4 *Restrictions on Use of Subscribed Products.*

Except as expressly stated in this Agreement or otherwise permitted in writing by Open-SCS, the Subscriber and its Authorized Users may not:

- abridge, modify, translate or create any derivative work based on the Subscribed Products for public distribution or sale;
- remove, obscure or modify in any way any copyright notices, other notices or disclaimers as they appear in the Subscribed Products;
- substantially or systematically reproduce, retain or redistribute the Subscribed Products;
- post individual items from the Subscribed Products on social networking sites;
- allow individuals who are independent contractors or are employed by independent contractors to use the Subscribed Products only for the purposes of the contracted work for



the Subscriber under the terms of the subscription of the Authorized User. The Authorized User is responsible for any violations by their contractors.

1.5 *Intellectual Property Ownership.*

The Subscriber acknowledges that all rights, title and interest in and to the Subscribed Products remain with Open-SCS and the OPC Foundation, except as expressly set forth in this Agreement, and that the unauthorized redistribution of the Subscribed Products could materially and irreparably harm Open-SCS and the OPC Foundation. Notwithstanding anything to the contrary contained in this Agreement, more extensive usage terms might be permitted for open access content in the Subscribed Products as stated in the applicable user (e.g. CC) license.

SECTION 2. OPEN-SCS PERFORMANCE OBLIGATIONS.

2.1 *Access to Subscribed Products.*

Open-SCS will make the Subscribed Products accessible to the Subscriber and its Authorized Users from the SharePoint site once it has been established.

2.2 *Quality of Service.*

Open-SCS will use reasonable efforts to provide the Subscribed Products with a quality of service consistent with industry standards, specifically, to provide continuous service with an average of 98% up-time per year, with the 2% down-time including scheduled maintenance and repairs performed at a time to minimize inconvenience to the Subscriber and its Authorized Users, and to restore service as soon as possible in the event of an interruption or suspension of service.

2.3 *Withdrawal of Content.*

Open-SCS reserves the right to withdraw from the Subscribed Products content that Open-SCS no longer retains the right to provide or that it has reasonable grounds to believe is unlawful, harmful, false or infringing.

2.4 *Usage Data Reports.*

Open-SCS will make usage data reports on the Subscriber's usage activity accessible online on a monthly basis to the administrators employed by the Subscriber for internal use only. Such reports may be accessed by vendors or other third parties retained by the Subscriber only with the express written permission of Open-SCS and for the purpose of usage analysis of the Subscriber.

SECTION 3. SUBSCRIBER PERFORMANCE OBLIGATIONS.

3.1 *Authentication.*

Access to the Subscribed Products will be authenticated by the use of SharePoint usernames and passwords. Distribution of usernames, passwords, credentials or otherwise providing remote access to the Subscribed Products by Authorized Users who are Walk-in Users is not permitted.

3.2 *Protection from Unauthorized Access and Use.*

The Subscriber will use reasonable efforts to:

- limit access to and use of the Subscribed Products to Authorized Users and notify all Authorized Users of the usage restrictions set forth in this Agreement and that they must comply with such restrictions;
- issue any passwords or credentials used to access the Subscribed Products only to Authorized Users, not divulge any passwords or credentials to any third party, and notify all Authorized Users not to divulge any passwords or credentials to any third party; and
- promptly upon becoming aware of any unauthorized use of the Subscribed Products, inform Open-SCS and OPC Foundation who will take appropriate steps to end such activity and to prevent any recurrence.



In the event of any unauthorized use of the Subscribed Products, Open-SCS and OPC Foundation may suspend the access and/or require that the Subscriber suspend the access from where the unauthorized use occurred upon notice to the Subscriber. The Subscriber will not be liable for unauthorized use of the Subscribed Products by any Authorized Users provided that the unauthorized use did not result from the Subscriber's own negligence or willful misconduct and that the Subscriber did not permit such unauthorized use to continue after having actual notice thereof.

SECTION 4. FEES AND PAYMENT TERMS.

The Subscriber will pay to Open-SCS and OPC Foundation the fees set forth in Schedule 1 (the "Fees") within NET thirty (30) days of date of invoice. The Fees will be exclusive of any sales, use, value added, withholding or similar tax and the Subscriber will be liable for any such taxes in addition to the Fees if applicable.

SECTION 5. TERM.

5.1 Term.

The term of this Agreement will commence upon receipt of payment of invoice for the period designated in the invoice's terms.

5.2 Renewal.

This Agreement will be renewed at the end of period. Subscribers will be notified 60 days prior to end of term.

SECTION 6. OPEN-SCS WARRANTIES AND INDEMNITIES.

6.1 Warranties.

Open-SCS warrants that use of the Subscribed Products in accordance with the terms and conditions herein will not infringe the intellectual property rights of any third party.

6.2 Indemnities.

Open-SCS will indemnify, defend and hold harmless the Subscriber and its Authorized Users from and against any loss, damage, costs, liability and expenses (including reasonable attorneys' fees) arising from or out of any third-party action or claim that use of the Subscribed Products in accordance with the terms and conditions herein infringes the intellectual property rights of such third party. If any such action or claim is made, the Subscriber will promptly notify and reasonably cooperate with Open-SCS. This indemnity obligation will survive the termination of this Agreement.

6.3 Disclaimer.

EXCEPT FOR THE EXPRESS WARRANTIES AND INDEMNITIES STATED HEREIN AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SUBSCRIBED PRODUCTS ARE PROVIDED "AS IS" AND OPC FOUNDATION, OPEN-SCS AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND WITH REGARD TO THE SUBSCRIBED PRODUCTS AND ANY OTHER DATA, DOCUMENTATION OR MATERIALS PROVIDED IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ERRORS, INACCURACIES, OMISSIONS, OR DEFECTS CONTAINED THEREIN, AND ANY IMPLIED OR EXPRESS WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

6.4 Limitation of Liability.

Except for the express warranties and indemnities stated herein and to the extent permitted by applicable law, in no event will OPC Foundation, Open-SCS or its suppliers be liable for any indirect, incidental, special, consequential or punitive damages including, but not limited to, loss of data,

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business interruption or loss of profits, arising out of or in connection with this Agreement, nor will the liability of OPC Foundation, Open-SCS and its suppliers to the Subscriber exceed a sum equal to the Fees paid by the Subscriber hereunder during the twelve (12) month period immediately preceding the date on which the claim arose, even if OPC Foundation, Open-SCS or any supplier has been advised of the possibility of such liability or damages.

SECTION 7. GENERAL.

7.1 *Force Majeure.*

Neither party's delay or failure to perform any provision of this Agreement as a result of circumstances beyond its control (including, but not limited to, war, strikes, fires, floods, power failures, telecommunications or Internet failures or damage to or destruction of any network facilities or servers) will be deemed a breach of this Agreement.

7.2 *Severability.*

The invalidity or unenforceability of any provision of this Agreement will not affect any other provisions of this Agreement.

7.3 *Entire Agreement.*

This Agreement contains the entire understanding and agreement of the parties and replaces and supersedes any and all prior and contemporaneous agreements, communications, proposals and purchase orders, written or oral, between the parties with respect to the subject matter contained herein.

7.4 *Modification.*

No modification, amendment or waiver of any provision of this Agreement will be valid unless in writing and signed by the parties.

7.5 *Assignment.*

The Subscriber will not assign, transfer or license any of its rights or obligations under this Agreement unless it obtains the prior written consent of Open-SCS, which consent will not unreasonably be withheld.

7.6 *Privacy.*

Open-SCS will not, without the prior written consent of the Subscriber, transfer any personal information of any Authorized Users to any non-affiliated third party or use it for any purpose other than as described in this Agreement and in the online privacy policy for the relevant online service.

7.7 *Notices.*

All notices given pursuant to this Agreement will be in writing and delivered to the party to whom such notice is directed at the address specified below or the electronic mail address as such party will have designated by notice hereunder.

If to Open-SCS: Open-SCS, OPC Foundation, 16101 N. 82nd Street, Suite 3B, Scottsdale, AZ 85260, USA.

If to the Subscriber: All correspondence to Subscriber will be sent to the Primary Contact as specified in Schedule 2.

7.8 *Confidentiality.*

The Subscriber and its employees, officers, directors and agents will maintain as confidential and not disclose to any non-affiliated third party without Open-SCS's prior written consent or except as required by law the financial terms and commercial conditions of this Agreement.

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7.9 *Execution.*

This Agreement and any amendment thereto may be executed in counterparts, and signatures exchanged by facsimile or other electronic means and are effective to the same extent as original signatures.

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective, duly authorized representatives as of the date first written above.

[Company Name]

Name:

Title:

OPC Foundation Open-SCS

Name:

Title:

Signature

Signature



Schedule 1: Subscribed Products/Access/Fees

Subscribed Products

1. Packaging Serialization User Requirement Specification, v. 2015 0920
2. Packaging Serialization EPCIS Functional Requirement Specification, v. 2015 0920
3. Packing Serialization OPC-UA-ISA-95 Functional Requirement Specification, v 2015 09920

Access

Access to the Subscribed Products will begin upon receipt of the Subscription Fees at OPC Foundation. The subscription period will in accordance with the subscription, either one or two years.

Total Fees

SUBSCRIPTION TERMS AND PRICING

Member Subscription Program offers each member flexibility and choice with initial terms of one and two years. Upon request, three year or longer terms bring the additional benefits of deeper discounts and price predictability for the agreement term.

1 Year Subscription \$13,000.00 USD

2 Year Subscription \$24,000.00 USD

Option to Refund Withdrawn Subscribed Titles

The Subscriber may withdraw at any time upon notice to Open-SCS and OPC Foundation. Open-SCS will not refund to the Subscriber any amount of the Fees paid for the Subscription.

Post Termination Access to Subscribed Titles

Upon termination of the Subscriber's subscription, the Subscriber may, at its option, use all or part of its Subscribed Work Products for the publication periods paid for in accordance with the usage provisions of this Agreement, which provisions will survive the termination of the Agreement.



Schedule 2: Sites/Authentication/Contacts

Subscriber: [[Company Name](#)]

Number of Authorized Users:

Authorized Users:

Site/Location:

- 1.
- 2.
- 3.

For the avoidance of doubt, other institutions and organizations that reside or do business at the above locations (including without limitation companies that are owned wholly or in part by, or affiliated with, the Subscriber) are not Sites, unless expressly stated above.

The Subscriber will promptly notify Open-SCS of any material changes in the number of Authorized Users, which changes may result in Open-SCS terminating the Agreement at the end of the year for which the Fees were paid unless the parties are able to agree to appropriate fee adjustments for any subsequent years of the term, and may add, withdraw or substitute authentication mechanisms upon mutual agreement of the parties in writing.

Primary Contact

Company Name:
Contact Name:
Title:
Address 1:
Address 2:
City:
State/Province:
Zip/Postal Code:
E-mail:
Phone:

Billing Contact (if different from Primary Contact)

Company Name:
Contact Name:
Title:
Address 1:
Address 2:
City:
State/Province:
Zip/Postal Code:
E-mail:
Phone:

Upon submission of this Subscription Agreement, an invoice from the OPC Foundation will be sent to the Primary Contact above or to the Billing Contact above with info copy to the Primary Contact.

The Subscriber will promptly notify Open-SCS of any changes to any of the contact information above.