

## **STICHTING CURRENT OS** **PARTNER AGREEMENT**

This Partner Agreement (“**Agreement**”) is made this [date] (“Effective Date”) by and between:

**Stichting Current OS, a foundation under the laws of the Netherlands having its registered office address at Oosteinderweg 127C, 1432 AH Aalsmeer, The Netherlands (“Foundation”)**

and

**[NAME PARTNER], a company incorporated under the laws of [COUNTRY], having its registered office address at [ADDRESS], (“Partner”)** acting on behalf of its Affiliates.

Both the Foundation and Partner being hereinafter referred to individually as “Party” or jointly as “Parties”.

### **PREAMBLE**

Incorporated under the Laws of the Netherlands, the Foundation is an open non-profit organization whose purpose is to develop and promote the adoption of the COS Rules (as this term is defined below) by as many companies as possible in order to make Current/OS a worldwide standard for electrical distribution. The Articles of Incorporation (“Articles”) and Bylaws of the Foundation (“Bylaws”) are available at the Foundation’s website <http://www.currentos.foundation> (“Website”), as such documents may be amended by the Foundation in its sole discretion from time-to-time.

The Partner has expressed its wish to support the Foundation from a technical or financial (or both technical and financial) perspective, and the Management Board of the Foundation (“Management Board”) has decided to admit the Partner.

By executing this Agreement, Partner agrees to abide to (per order of precedence) the Articles, Bylaws and the terms of this Agreement.

Status of the Partner when executing this Agreement [*tick the relevant box*]:

- Ruby; or
- Bronze; or
- Silver; or
- Gold.

Qualification of a Partner is based on the criteria as specified in Annex 1.

## **TERMS AND CONDITIONS**

### **Definitions**

Unless otherwise defined in (per order of precedence) the Articles or Bylaws, the following terms shall have the meaning set forth below:

- (i) **"Affiliate"** means, with regards to any Party, any entity that is directly or indirectly controlled by, under common control with or that controls the subject Party. For the purpose of this definition, "control" means direct or indirect ownership of or the right to exercise (a) more than fifty percent (50%) of the outstanding shares or securities entitled to vote for the election of directors or similar managing authority of the subject entity; or (b) more than fifty percent (50%) of the ownership interest representing the right to make the decisions for the subject entity; provided, however, that in each case such entity shall be deemed to be an Affiliate only for so long as such control exists.
- (ii) **"Authorized Testing Center"** means a testing center identified in the Certification Scheme and authorized by the Foundation for the testing of Licensed Product(s).
- (iii) **"Certification Body"** as defined in ISO/IEC17065:2012 is a third-party conformity assessment body operating the Certification Scheme.
- (iv) **"Certification Scheme"** means the certification scheme as defined by the Foundation in accordance with ISO/IEC17067:2013, and released from time to time on the Website.
- (v) **"COS Essential Intellectual Property Rights"** means any intellectual property rights (other than trademark rights and copyright) that, taking into account normal technical practice and the state of the art generally available at the time of publication of the COS Rules or thereafter, is necessarily infringed when making, selling, leasing, using or operating the Licensed Product(s) which comply with the COS Rules.
- (vi) **"COS Rules"** means the set of electrical distribution rules and principles defined by Foundation, which are published on the Website and updated from time to time.
- (vii) **"COS Testing Requirements"** means a set of testing requirements, such as defined in the Certification Scheme, that a product needs to successfully pass in order to be approved as conform to the COS Rules by an Authorized Testing Center.
- (viii) **"Initial Term"** means, with respect a dedicated year, the timeframe between the Effective Date and the 31<sup>st</sup> December of this same year.
- (ix) **"Field of Use"** has the meaning set forth in Annex 1.
- (x) **"Foundation Trademarks"** means all trademark applications or registrations resulting therefrom filed by the Foundation.
- (xi) **"Licensed Product"** means any products or components thereof (whether a chip, subsystem, end user product or software module) manufactured, leased and/or sold by the Partner and/or its Affiliates, which conforms to the COS Rules and falls within that Partner's Field of Use at the date of manufacturing or initial sale.
- (xii) **"Renewal Term"** has the meaning ascribed to it in **Section 5(a)** hereof.
- (xiii) **"Submission"** has the meaning ascribed to it in **Section 2.2(b)** hereof.

## 1. Dues and Fees

To the extent applicable, the contribution owed and (anytime applicable) to be paid by Partner and related payment details are specified in Annex 1 of this Agreement, as it reads from time-to-time.

Such contribution is non-refundable and may be updated at any point of time by the Foundation, in its sole discretion, in accordance with the Bylaws. Should the Foundation decide to update its contribution policy during the Initial Term or any Renewal Term (as the case may be), such updated contribution policy shall not apply to the Partner for this same Term but upon the subsequent Renewal Term (if applicable).

The Foundation shall inform the Partner no later than the 1<sup>st</sup> of October in case of modifications to the contribution policy.

## 2. Rights and Duties of Partner

### 2.1 License granted by the Foundation

- (a) **COS Essential Intellectual Property Rights.** Subject to the terms and conditions of this Agreement, the Foundation hereby grants to the Partner and its Affiliates, a non-exclusive, non-transferable, non-sublicensable, worldwide royalty-free license under the COS Essential Intellectual Property Rights it either derives from the license set forth in **Section 2.2** or owns. This license includes the right to make (including design and develop), have made (including have designed and have developed), use, import, and directly and indirectly, offer to sell, sell, lease, promote and otherwise distribute the Licensed Products.
- (b) **Copyright.** Subject to the terms and conditions of this Agreement, the Foundation hereby grants to Partner and its Affiliates, a personal, non-exclusive, royalty-free, non-transferable, non-sublicensable, worldwide, copyright license to use and reproduce any copyrightable materials as provided and amended by the Foundation from time to time. All reproductions of the copyrightable materials made by the Partner and/or its Affiliates shall include any copyright notices and disclaimers as set forth or prescribed by the Foundation at any moment, in its sole discretion.
- (c) **Foundation Trademarks.** Subject to the terms and conditions of this Agreement, the Foundation hereby grants to Partner and its Affiliates, a non-exclusive, non-transferable, worldwide license to use the Foundation Trademarks in conjunction with the Licensed Products that have been approved by an Authorized Testing Center, and any related marketing literature (e.g. packaging, marketing materials,...etc) as per the Trademark Usage Guidelines available on the Website. The Partner agrees that all goodwill associated with the use of the Trademarks shall accrue to the exclusive benefit of Foundation.

### 2.2 Partner's undertakings

- (a) **Non-Circumvention.** The Partner hereby agrees that:
  - i) neither it nor any of its Affiliates has granted any exclusive licenses under, nor has transferred, its COS Essential Intellectual Property Rights (if any);
  - ii) it shall not grant, and shall refrain its Affiliates from granting, any exclusive licenses under its COS Essential Intellectual Property Rights (if any);
  - iii) it shall not transfer, and shall refrain its Affiliates from transferring, its COS Essential Intellectual Property Rights (if any);

all items (i), (ii) and (iii) for the sole purpose of circumventing such Partner's obligations under this Agreement.

- (b) **Partner's License Grant(s).** The Partner may in its sole discretion submit to the Foundation (via the Management Board) any improvement or independent developments in relation to COS Rules (hereinafter the "Submission"), being provided that Partner shall be fully responsible to ensure that, as part of any Submissions, no information that is subject to any third party's confidentiality obligation or any restriction in terms of dissemination, is submitted to the Foundation. The Management Board will decide whether or not it qualifies to be incorporated into the COS Rules, provided that the Foundation can reject any Submission, at its sole discretion, in particular (but not only) if such Submission is (i) likely to result in risks of incompatibility or endanger the safety or the reliability of any Licensed Products, or (ii) is outside the purpose of the Foundation. Except as provided in Section 2.2(c), Partner hereby grants to the Foundation a royalty-free, non-exclusive, perpetual, irrevocable, non-transferable, sub-licensable and worldwide license on any of its (including its Affiliates') COS Essential Intellectual Property Rights that apply to its Submissions .
- (c) **Carve-out.** The license captured under Section 2.2(b) and non-assert captured under Section 2.2(d) shall not apply to any COS Essential Intellectual Property Rights infringement, claim, action or proceedings that are already ongoing when the Partner involved in such infringement, claim, action or proceedings enters this Agreement.
- (d) **Non-Assert.** Irrespective of any Partner's Submissions, the Partner hereby agrees not to bring, commence, maintain or prosecute any claim, action or proceedings against any third party based on any COS Essential Intellectual Property Rights that it (including its Affiliates) may within the term of its participation to this Agreement own or control, in relation with a Licensed Product. This Section shall remain in force for so long as this Agreement remains in effect with Partner.
- (e) **Partner's Trademarks License.** Partner hereby grants, or shall cause its Affiliates (as the case may be) to grant, to the Foundation a non-exclusive, non-sublicensable, non-transferable, worldwide license to use and display the Partner's Corporate name and logo (as provided by the Partner) on the Website and in any promotional materials of the Foundation. Said use shall comply with the written (or electronic) trademark usage guidelines provided by the Partner, as the case may be.
- (f) **Testing Procedure & Product Certification.** Prior to distributing or permitting any distribution of a Licensed Product that conforms to the COS Rules, the Partner shall successfully pass the COS Testing Requirements with regard to the Licensed Product (the "Testing Procedure") in order to obtain certification of the Licensed Product (the "Product Certification").

  - i) **Testing Procedure:** The COS Testing Requirements shall be made available to the Partner via the Website. Partner shall entirely bear the costs and expenses in relation with the performance of the Testing Procedure. Testing Procedure can only be performed by an Authorized Testing Center. Partner shall reasonably cooperate with the Authorized Testing Center during all Testing Procedure and, if requested by the Foundation, shall immediately provide tests reports issued by the Authorized Testing Center to the Foundation.
  - ii) **Product Certification:** Certificates shall be delivered by a Certification Body. Only certified products or certified components shall be authorised to bear the Current/OS certification mark and are eligible to be listed on

the Website.

### **2.3 Marketing Benefits**

The Partner shall have the marketing benefits set forth in Annex 1.

### **2.4 General Assembly**

At least once a year, Partner shall be invited to meet with all other partners to the Agreement for a General Assembly. During this General Assembly, the Management Board of the Foundation shall present, among other things, the annual accounts of the Foundation and related activities performed by the Foundation over the last twelve (12) months.

Further General Assemblies will be organized by the Foundation, if requested by at least 2/3 (two third) of the overall partners to this Agreement.

## **3. Antitrust**

The Foundation has been formed to promote Current/OS as a standard.

Consequently, the Foundation shall foster competition in the development of new products and services that comply with COS Rules, in conformance with all applicable antitrust laws and regulations. Partner shall not be restricted in any way from designing, developing, manufacturing, marketing and/or procuring products or services which claim conformance with the COS Rules. Implementation, use or adoption of Current/OS as a standard is voluntary. Partner is neither required to implement, use or adopt Current/OS as a standard, nor obligated to announce or market any products or services that conform with the COS Rules by virtue of signing this Agreement. Partner agrees to abide at any time and in all circumstances to the applicable antitrust laws.

## **4. Confidential Information**

Unless available on the publicly available portion of the Website, Partner shall maintain any and every information marked as confidential, including but not limited to the COS Rules and COS Testing Requirements, and any other information designated "confidential" or stamped with any similar marking by the Foundation (collectively the "**Confidential Information**") in strict confidence, with at least the same degree of care that it uses to protect its own confidential and proprietary information, but no less than a reasonable degree of care.

Partner shall not use, disclose or copy the Confidential Information except as necessary to its employees and contractors (under obligation of confidentiality) on a need to know basis. Partner will not, however, be liable for the disclosure of any information which is: i) rightfully in the public domain other than by the Partner's breach of a duty; ii) rightfully received from a third Party without any obligation of confidentiality; iii) rightfully known to the Partner without any limitation on use or disclosure prior to its receipt from the Foundation; iv) independently developed by employees of the Partner without using the disclosed information; v) rightfully disclosed as required by law, and provided that the Partner provides prompt written notice to the Foundation of such legal requirement; or vi) rightfully disclosed with the prior written consent of the Foundation. The Partner seeking to rely on one of the immediately foregoing six (6) exceptions shall bear the burden of proof for showing that such disclosure falls under any such exception.

## **5. Term and Termination**

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### **(a) Term**

This Agreement shall enter into force on the date it is signed by both Parties and shall, with respect to the Partner, remain in effect until the earlier of: (i) the dissolution and winding up of the Foundation; (ii) the expiry of the Initial Term or the Renewal Term as the case may be (iii) such date as Partner withdraws from this Agreement as specified in **Section 5(b).i.**; and (iv) such date as Partner is excluded as specified in **Section 5(b).ii.**

Absent a notice in accordance to Section 5(b).i. this Agreement will automatically be renewed upon expiry of the Initial Termper subsequent twelve (12)-month periods (each a “**Renewal Term**”) subject to complying with the then-currently applicable contribution policy.

## **(b) Termination**

### **i. Withdrawal**

Partner shall have the unilateral right to withdraw from the Agreement, subject to a one (1) month prior written notice sent to the Foundation. Partner shall not be eligible to any refund in case of withdrawal.

### **ii. Exclusion**

The Management Board of the Foundation can decide to exclude and consequently terminate this Agreement with the Partner in case Partner fails to remedy any breach to this Agreement within 15 (fifteen) days upon being notified of said breach by the Foundation.

If seating at the Management Board of the Foundation at that time, Partner shall not be part of the vote to decide whether or not it should be excluded.

Partner shall not be eligible to any refund in case of exclusion.

### **iii. Failure to Pay**

If Partner fails to pay the applicable contribution in due time, this Agreement shall immediately terminates.

## **(c) Survival**

Upon expiration or termination (for any reason) of this Agreement, the following terms shall survive: **Sections 2.2(b), 2.2(c), 2.2(d), 3, 4, 5(d), 6, 7, 8 and 14** of this Agreement.

## **(d) Consequences of Termination**

Upon termination of this Agreement, all rights granted to the Partner under this Agreement shall, unless otherwise stated herein, immediately cease. Notwithstanding the immediately preceding sentence, the Partner shall be authorized to sell off its existing stocks of Licensed Products for a limited period of 6 (six) months upon termination of the Agreement, but will not be entitled to continue using the COS Rules for any purposes, or renew the Product Certification, or to pursue the manufacturing (either by itself or through third parties) of the Licensed Products.

Termination of Partner's participation in <sup>6</sup>this Agreement shall not affect the existence or enforceability of this Agreement as to all the remaining parties.

If requested in writing by the Foundation, the Partner shall destroy or return without undue delay all materials received from the Foundation.

## 6. Warranty Disclaimer

**EACH PARTY AGREES THAT ALL MATERIALS CONTRIBUTED OR MADE AVAILABLE UNDER THIS AGREEMENT ARE PROVIDED "AS IS". CONSEQUENTLY, NEITHER PARTY HERETO MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO (i) ANY SOFTWARE, DOCUMENTATION, INTERFACES, SAMPLE IMPLEMENTATIONS, SPECIFICATIONS OR ANY OTHER ITEMS PROVIDED OR MADE AVAILABLE TO EACH OTHER, OR TO ANY OTHER PARTNER TO THIS AGREEMENT, UNDER THIS AGREEMENT, OR (ii) ANY STANDARD OR INTERFACE OR SPECIFICATIONS APPROVED, PROMOTED OR ENDORSED BY THE FOUNDATION, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR ABSENCE OF MISAPPROPRIATION OF ANY THIRD PARTIES' RIGHTS AND INTERESTS.**

## 7. Limitation of Liability

The Foundation's liability is excluded to the maximum extent possible and shall, in any case, be capped to the contribution paid by the Partner for the then-current Initial Term or Renewal Term (as the case may be) when the event giving rise to liability has occurred.

The Partner and its Affiliates agree that the Foundation shall not be held liable if backward compatibility of the Licensed Products cannot be guaranteed or achieved due to the implementation of an updated version of the COS Rules.

Subject to **Section 8**, neither Party shall be liable to the other (including its Affiliates) for any indirect, special, exemplary, consequential, special or punitive damages, including without limitation, lost profits even if advised of the possibility of such damages.

The Foundation shall not be liable to Partner and its Affiliates for any direct, indirect, incidental, consequential, special or punitive damages including, without limitation, lost profits, sustained or incurred by Partner which are not attributable to the actions or inactions of the Foundation under this Agreement.

## 8. Indemnification

Partner shall indemnify, defend and hold harmless the Foundation and its directors, officers, employees, representatives, agents, attorneys, successors and assigns (collectively, the "**Indemnified Parties**") from and against any and all claims, suits, proceedings, liabilities, obligations, judgments, causes of action, costs and expenses (including reasonable attorneys' fees) to the extent arising out of or resulting from Partner's failure to materially comply with any of its obligations under this Agreement. The Indemnified Parties shall without undue delay notify Partner of any such claims, suits or proceedings and, at Partner's sole cost and expenses, reasonably cooperate with Partner in the defence of such claims, suits or proceedings. Partner's cumulative liability pursuant to this **Section 8** shall not exceed a full Term undiscounted contribution.

## 9. Notices

Any written notice required or permitted to be <sup>7</sup>delivered pursuant to this Agreement shall be made in writing and shall be deemed duly delivered, upon the earlier of the following: (a) delivery if delivered in person; or (b) three (3) business days upon sending, when sent by registered or

certified mail; or (c) by email to Partner's email address on file, which notice shall be deemed received when sent, to the following address:

➤ If to Partner:

by mail: **[The Contact/Representative at the address identified in this Agreement]**

by email: **[Email address]**

➤ If to the Foundation:

by mail : Stichting Current OS at the address identified in this Agreement, or  
by email : [info@currentos.foundation](mailto:info@currentos.foundation) or to such any other individual or address that may be provided by either Party during the Term of this Agreement.

## 10. Binding Nature – Assignment

This Agreement shall be binding upon the Parties and their successors and assigns.

Partner shall not assign or otherwise transfer this Agreement, or any part hereof, whether by operation of law, change of control (including a merger, exchange of stock or otherwise) or otherwise, without the prior written consent of the Foundation. Any assignment or transfer by Partner in violation of the terms of this **Section 10** shall be null and void and of no force or effect.

## 11. Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which together shall be deemed to form one and the same instrument.

## 12. Severability

If any provision of this Agreement or its Annex(e)s hereto is found by a court of competent jurisdiction to be invalid or unenforceable, that provision will, to that extent, be deemed omitted and the remainder of the Agreement or applicable Annex will remain in full force and effect.

## 13. Waiver

No delay or omission by either Party to exercise any right occurring upon any non-compliance or default by the other Party with respect to any of the terms of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the Parties hereto of any of the covenants, conditions or agreements to be performed by the other shall not be construed to be a waiver of any succeeding breach thereof or of any covenant, condition or agreement herein contained.

## 14. Governing Law & Dispute Resolution

This Agreement shall be governed by, interpreted, construed, and enforced in accordance with the laws of the Netherlands.

Any dispute concerning the validity, interpretation and/or performance of this Agreement shall first be discussed in good faith between the Parties in order to try to find an amicable solution. Absent any amicable settlement of the dispute by the expiry of the then-current Initial or Renewal



Term, the Agreement shall be terminated.

**15. Relationship of Parties**

Nothing set forth in this Agreement shall be deemed or construed to render the Parties as joint venturers, or employer or employee of each other. Neither Party shall be entitled to act on behalf of and/or to bind the other Party.

**16. Entire Agreement – Modifications**

This Agreement sets forth the entire agreement between the Parties as to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, between the Parties. This Agreement may be modified only pursuant to a written document executed by one or several authorized representatives of the Parties.

[INTENTIONNALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS]

**SIGNATURE PAGE**

<p>Date: Company: Name: Function:</p> <hr/>	<p>Date: Company: Name: Function:</p> <hr/>
<p>Date: Stichting Current/OS: Name: Function:</p> <hr/>	<p>Date: Stichting Current/OS: Name: Function:</p> <hr/>