

TERMS AND CONDITIONS APPLICABLE TO USE OF SANTOVA'S PROPRIETARY SUITE OF SOFTWARE PACKAGES  
"TRADENAV" ("Terms of Use")

**I. I. DEFINITIONS**

In these Terms of Use, the following words will have the following meanings:

- I.1 "TRADENAV" means Santova's proprietary suite of software packages:
  - I.1.1 TRADENAV is a:
    - I.1.1.1 supply chain information management tool
    - I.1.1.2 logistical transaction tracking facility
    - I.1.1.3 business to business systems integration platform
  - I.1.2 TRADENAV includes the following services:
    - I.1.2.1 electronic data interchange
    - I.1.2.2 supply chain business intelligence
    - I.1.2.3 supply chain key performance metric management
    - I.1.2.4 multi party communication management
  - I.1.3 Modules within TRADENAV facilitate the following processes:
    - I.1.3.1 Order Management
    - I.1.3.2 Inventory control
    - I.1.3.3 Electronic document distribution
    - I.1.3.4 Landed Costing generation
    - I.1.3.5 Scheduling
    - I.1.3.6 Track and trace
    - I.1.3.7 Statistical reporting
    - I.1.3.8 Foreign exchange control
    - I.1.3.9 Management reporting
    - I.1.3.10 Business Intelligence
    - I.1.3.11 Forecasting
    - I.1.3.12 Quality control
    - I.1.3.13 Distribution Management
    - I.1.3.14 3rd party instructions and communication
    - I.1.3.15 Business to Business Integration
    - I.1.3.16 Business to Business Ecommerce
- I.2 "Santova" means Santova Logistics BV (Dossiernummer 24457789), a company incorporated in the Netherlands, as well as its authorised agents.
- I.3 "External Party" means any organisation dealing with Santova with approved access to TradeNav or any other Santova System.
- I.4 "Primary External User/s" means the person or entity, that has registered to use TRADENAV on behalf of the External Party, and is nominated by the External Party to be responsible for administrating the Secondary User accounts on behalf of that External Party.
- I.5 "Secondary User/s" means any person/s authorised or deemed to be authorised by the Primary External User to use TRADENAV.

- 1.6 “User/s” means any party that accesses or uses TRADENAV or which enters data into the TRADENAV system. This includes, but is not limited to, the Primary External User and the Secondary User.
- 1.7 “Password” means 6 (six) to 12 (twelve) alphanumeric (both letters and numbers) characters chosen by the Primary External User or Secondary User, as the case may be, which is used as authentication and additional security during the access procedure.
- 1.8 “User Name” means the name assigned to the Primary External User or Secondary User upon successful registration to TRADENAV and should be used to access TRADENAV in conjunction with the Password.
- 1.9 “Santova Limited Group” means the Santova Limited (Registration Number 1998/018118/06) Group of Companies and includes all of its subsidiaries.

## **2. USE OF TRADENAV SUBJECT TO CONDITIONS**

- 2.1 The use of TRADENAV is provided subject to these Terms of Use. The User and External Party acknowledge that TRADENAV will enable the User to access services and facilities (e.g. customs clearing, forwarding, transportation, etc) offered either by Santova or by other separate entities within the Santova Limited Group of Companies or by a third party and that such services and / or facilities will be governed by separate terms and conditions. (e.g. the Standard Terms of Contract which apply to the relevant entity which undertakes those Services. This may be Santova, any other entity within the Santova Limited Group of Companies or a third party entity).
- 2.2 Santova reserves the right to amend these Terms of Use from time to time.

## **3. INTERNET CONNECTION**

- 3.1 Should the User and / or External Party obtain access to TRADENAV via the Internet the User and / or External Party must register with an Internet Service Provider prior to use of TRADENAV.
- 3.2 The User and / or External Party will be solely responsible for the acquisition, installation and maintenance of the connection to the Internet and any related costs or expenses will be borne by the User and / or External Party.
- 3.3 Should the Internet software and hardware requirements be modified with a view to improving or upgrading the Internet and/or TRADENAV, the resultant cost of any hardware, software or Internet connection required for use of the system will be for the User’s and / or External Party’s own account.
- 3.4 In the event that the User and / or External Party experiences problems with the Internet and the Internet connection, it is the User and / or External Party responsibility to liaise with the Internet Service Provider prior to contacting Santova.

## **4. OPERATION OF THE ACCOUNT**

- 4.1 The User and / or External Party authorises Santova to carry out any and all instructions given via TRADENAV, provided that the instructions are authenticated by the use of:
- 4.1.1 the User Name and Password;
- 4.1.2 any other procedures which may be agreed to in writing between the User and / or External Party and Santova.
- 4.2 The User and / or External Party accepts the limits imposed on the use of TRADENAV. These limits may be altered at any time.

## **5. DUTIES OF THE USER**

- 5.1 The User must keep its User Name and Password secret. The User must not disclose the User Name or Password, thereby giving access to any unauthorised person.
- 5.2 The User and / or External Party must take all reasonable precautions to prevent unauthorised use of TRADENAV and to prevent unauthorised access to TRADENAV. This includes the External Party and the Primary External User ensuring that the former employees and agents of the External Party have their access to TRADENAV removed immediately on termination.

- 5.3 If the User suspects that the User Name or Password has become known to someone else, the User must immediately notify Santova and immediately change the User Name and/or Password.
- 5.4 The User and / or External Party must notify Santova immediately upon identifying a breach, or potential breach, of security on TRADENAV or any Santova website or system, and provide reasonable assistance to rectify the breach.

## **6. UNAUTHORISED USE OF THE USER NAME AND PASSWORD**

- 6.1 If any unauthorised person obtains the User Name and/or Password in any manner whatsoever, such a person will be regarded as the User's and, where applicable, relevant External Party's duly authorised agent with full authority to use TRADENAV on the User's and / or External Party's behalf, unless the User or External Party is able to prove that the person has obtained the User Name and/or Password due to Santova's gross negligence or due to internal fraud within Santova. Former employees or former agents of the External Party who do not have their access removed are considered to be the External Party's (and, where applicable, the User's) duly authorised agent.

## **7. THE SECONDARY USER**

- 7.1 By requesting the creation of any users, the Primary External User and relevant External Party hereby provides Santova with the necessary authorisations in terms of which the Secondary Users are authorised to use TRADENAV.
- 7.2 The Primary External User is entitled to appoint new Secondary Users by providing Santova with amended written authorisations from time to time. Unless specifically requested otherwise, Secondary Users will be created with the same profile as the requesting Primary External User.
- 7.3 It is the Primary External User's and External Party's responsibility to control and restrict access to TRADENAV. Santova will supply the Primary External User with the means to register Secondary Users. The Secondary Users may change this Password at any time, but is entirely responsible for the secrecy of the Password.
- 7.4 Notwithstanding clause 6.1 above, it is the responsibility of the External Party to ensure that all Users of that External Party are authorised to access TRADENAV, and Santova shall not be responsible or liable for all or any damage, loss or consequential damage howsoever caused by the failure of the External Party to manage and / or remove Users.
- 7.5 The Primary External User may revoke a Secondary User's access to TRADENAV at any time by giving Santova written notice of the revocation.

## **8. LIABILITY FOR LOSS OR DAMAGE**

- 8.1 The User and External Party acknowledge that the use of TRADENAV and the Santova websites are at their own risk.
- 8.2 The User and External Party acknowledge that TRADENAV relies solely on the input of information by Users. Santova therefore cannot guarantee the accuracy of the information contained in TRADENAV.
- 8.3 Santova, and any entity within the Santova Limited Group, will not be responsible or liable for all or any damage, loss or consequential damage howsoever caused by the use of TRADENAV which includes, but is not limited to, damage which the User and / or External Party may suffer as a result of:
- 8.3.1 the inaccuracy of any information on TRADENAV or the Santova / Santova Limited Group websites;
  - 8.3.2 any malfunction or defect in the TRADENAV system, the Santova / Santova Limited Group websites or the hardware used by the User and / or External Party (which includes the personal computer);
  - 8.3.3 any defect in the software used by the User and / or External Party to gain access to TRADENAV;
  - 8.3.4 any act or omission by the Internet Service Provider or any defect in the Santova / Santova Limited Group websites or TRADENAV or any other medium by which access is gained to the system;
  - 8.3.5 TRADENAV being off-line or unavailable for any reason;
  - 8.3.6 any industrial action;
  - 8.3.7 any other circumstances not reasonably within Santova's control;
  - 8.3.8 erroneous, unauthorized, incomplete, or unlawful access and / or instructions by the User and / or External party;
  - 8.3.9 unlawful or unauthorised access by any other person(s);
  - 8.3.10 Santova's failure to send notices to the User and / or External Party; and

8.3.11 the negligence or gross negligence of Santova, any entity within the Santova Limited Group of Companies, and its employees and / or agents.

## **9. INDEMNITY AND WARRANTY BY THE USER**

- 9.1 The External Party and the User indemnify Santova against any damage, loss and / or consequential damage that Santova may suffer as a result of their actions or omissions.
- 9.2 The External Party and the User hereby warrant to Santova that they have the required legal capacity and are duly authorised to enter into and be bound by these Terms of Use.

## **10. CHARGES AND FEES**

- 10.1 Santova may vary the charges, fees, costs, taxes, commission charges and levies in respect of TRADENAV by giving reasonable notice of such amendments to the User and / or External Party.

## **11. INTELLECTUAL PROPERTY**

- 11.1 Santova retains ownership of all copyright and other intellectual property rights in TRADENAV and well as in all material, including logos, programming code, programming tools and other graphics and multimedia works published on or through TRADENAV and the Santova / Santova Limited Group websites.
- 11.2 The logos and trademarks shown on TRADENAV and the Santova / Santova Limited Group websites are Santova's registered and unregistered trademarks, or that of another entity within the Santova Limited Group, or that of third parties.
- 11.3 Nothing on TRADENAV or any Santova / Santova Limited website should be construed as granting any license or right to use any trademark without Santova's prior written consent and/or the prior written consent of the relevant entity within the Santova Limited Group and/or third parties, as the case may be. The User and / or External Party may not, without Santova's prior written consent, use Santova's intellectual property, the intellectual property of any other entity within the Santova Limited Group or the intellectual property of third parties, for any purposes whatsoever.
- 11.4 The User and / or External Party is prohibited from spoofing, linking and framing any part of the website.

## **12. TERMINATION, SUSPENSION OR WITHDRAWAL OF TRADENAV**

- 12.1 Santova is entitled, at its discretion and with a timely advance notice, to terminate all or part of TRADENAV at any time Santova deems it necessary.
- 12.2 In order to protect the User and / or External Party, Santova is entitled to immediately suspend or withdraw all or part of TRADENAV if:
- 12.2.1 TRADENAV is being used contrary to the Terms of Use of this agreement and Santova has provided a reasonable term to remedy such breach and the relevant breach has not been remedied within such term;
  - 12.2.2 Santova has reasonable grounds to believe that the TRADENAV may be used negligently, illegally or fraudulently and Santova has provided a reasonable term to remedy such breach and the relevant breach has not been remedied within such term; or
  - 12.2.3 Santova believes that the security of the systems used to provide TRADENAV may be compromised.
  - 12.2.4 Santova is of the view that TRADENAV is no longer a viable or feasible tool.
- 12.3 In the event of the User not utilising TRADENAV for a period of 6 (six) months or longer Santova reserves the right, but is not compelled, to terminate that User's access to TRADENAV without prior notice. The User may reapply for TRADENAV at any time.
- 12.4 Santova shall at all times and for whatever reason, have the sole and exclusive right to suspend or terminate TRADENAV without any prior notification and without providing any reason for such termination or suspension.
- 12.5 The User and / or External Party acknowledge and accept that TRADENAV may become unavailable from time-to-time due to various circumstances, including:

- 12.5.1 Technical failure or problems with TRADENAV,
- 12.5.2 Infrastructure: technical problems with third party information technology systems,
- 12.5.3 Unavailability of telecommunication or electricity services,
- 12.5.4 Other circumstances which are beyond the control of Santova.

### **13. CONFIDENTIALITY AND SECURITY**

- 13.1 Santova cannot be held responsible for the confidentiality of information uploaded to TRADENAV.
- 13.2 The User and External Party acknowledge that information transmitted through the Internet or any other communication system, including wireless communication system, is susceptible to unlawful access, distortion and monitoring and that the User and External Party uses TRADENAV at its own risk.

### **14. DOMICILIUM AND COMMUNICATION**

- 14.1 The User's and External Party's physical addresses, as provided to Santova, are the addresses (domicilium citandi et executandi) which the User and External Party choose as the address where any process of court may be served on the User and / or External Party ('domicile address'). The User's and External Party's mail address (be it residential, postal or electronic) will be used to forward statements, notices or other communications.
- 14.2 If the User and / or External Party moves to another physical address, changes the mail address or wish to give Santova any notice, the User and / or External Party must inform Santova in writing.
- 14.3 Notices given by Santova will be regarded as having been received by the User and / or External Party:
  - 14.3.1 by prepaid post to the User and / or External Party mail address, 7 (seven) days after posting;
  - 14.3.2 by hand, on the date of delivery;
  - 14.3.3 by telefax, at the time of transmission;
- 14.4 An e-mail message will be deemed to be sent:
  - 14.4.1 by the User and / or External Party, at the time at which Santova is capable of accessing such message;
  - 14.4.2 by Santova, at the time shown on the message as having been sent, or if not so shown, at the time shown on Santova's computer system as having been sent.
- 14.5 An e-mail message is deemed to be received:
  - 14.5.1 by the User and / or External Party once it becomes capable of being retrieved by the User and / or External Party;
  - 14.5.2 by Santova, once Santova has confirmed receipt thereof to the User and / or External Party, or responded thereto, whichever is the earlier.
- 14.6 An e-mail message shall be attributed:
  - 14.6.1 to the User and / or External Party, if it purports to have originated from the User and / or External Party, irrespective of the fact that someone else may have impersonated the User and / or External Party or whether the message sent to Santova resulted from an error or malfunction in the communication system;
  - 14.6.2 to Santova, if it has been sent by a duly authorised representative and such representative acted within the scope of such authority or by an automated system programmed by Santova and such system operated without error or malfunction.

### **15. GENERAL**

- 15.1 This agreement, and the relevant Standard Terms of Contract referred to in clause 2.1 above, constitute the sole record of the agreement between the parties in regard to the subject matter thereof.
- 15.2 No addition to, variation or consensual cancellation of this agreement shall be of any force or effect unless in writing and signed by or on behalf of all the parties.
- 15.3 No indulgence which any of the parties ("the grantor") may grant to any other or others of them ("the grantee(s)") shall constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee(s) which might have arisen in the past or which might arise in the future. If Santova, for any reason or purpose, does not immediately enforce or implement any of Santova's rights in terms of these Terms of Use, it does not mean that Santova has abandoned or waived any of those rights.

- 15.4 The User and External Party shall not be entitled to cede, assign or otherwise transfer all or any of its rights, interest or obligations under and in terms of this agreement. Santova shall be entitled to cede, assign or otherwise transfer all or any of its rights, interest or obligations under and in terms of this agreement.
- 15.5 Notwithstanding the provisions of any legislation or other law regulating electronic communications and transactions, Santova shall only be deemed to have received electronic data and/or messages when such electronic data and/or messages have been retrieved, processed and read by the addressee. Under no circumstances whatsoever and howsoever arising (including negligence on the part of Santova or its employees) shall Santova be liable for any loss or damage arising from or consequent upon the provision by Santova to the User and / or External Party in whatever manner and/or form, of incorrect information, including electronically communicated information or data, where such incorrect information or data has been generated by and provided to Santova by any person with whom Santova conducts business, and/or any other third party. Santova shall furthermore under no circumstances whatsoever be liable for any loss or damage arising from or consequent upon any failure and/or malfunction, for whatever reason, and regardless of negligence in whatever degree or part of Santova, of Santova's computer systems and/or software programmes, provided and/or operated by Santova and/or by any person with whom Santova conducts business, and/or any 3<sup>rd</sup> party, and which systems shall include, but not be limited to, Santova's suite of software packages or electronic automated information service to the User and / or External Party.
- 15.6 This agreement shall be interpreted and implemented in accordance with the law of the Netherlands.